

State of New Mexico  
Energy, Minerals and Natural Resources Department

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**Michelle Lujan Grisham**  
Governor

**Sarah Cottrell Propst**  
Cabinet Secretary

**Todd E. Leahy, JD, PhD**  
Deputy Secretary

**Adrienne Sandoval**, Division Director  
Oil Conservation Division



## **NOTICE**

# **FREQUENTLY ASKED QUESTIONS REGARDING THE NATURAL GAS WASTE RULES**

## **PART TWO**

**June 23, 2021**

As part of ongoing stakeholder engagement, the Oil Conservation Division (“OCD”) answers Frequently Asked Questions (“FAQs”) regarding the Natural Gas Waste Rules, 19.15.27 and 19.15.28 NMAC, which went into effect on May 25, 2021. This is the second FAQ document published, OCD intends to continue to issue FAQs as appropriate.

The first FAQ document released on May 17, 2021 can be found [here](#). Additional questions regarding the C-129 form and the Natural Gas Management Plan can be found [here](#).

Please continue to submit questions to: [EMNRD.Wasterule@state.nm.us](mailto:EMNRD.Wasterule@state.nm.us)

### **Disclaimer**

These FAQs are guidance only. They are not legally binding, do not create any rights or obligations in any person, and cannot be cited as legal authority in any civil, criminal, or administrative action or proceeding. OCD reserves the right to amend these FAQs at any time, for any reason, and without notice.

### **AVO INSPECTIONS**

**Question #61: When must operators begin to perform weekly AVO inspections under 19.15.27.8.E(5)(b) and 19.15.28.C(4) NMAC? When must operators begin to perform annual AVO inspections under 19.15.28.C(5) NMAC?**

The requirements under 19.15.27.8.E(5)(b) went into effect on May 25, 2021, the effective date of the Waste Rules. To be in compliance with requirements under

19.15.28.C(4) operators must perform the initial annual AVO inspections no later than May 25, 2022 and continuing annually after the initial inspection. Operators must make and keep a record of each AVO inspection and annual monitoring for no less than five years and make such records available for inspection by the division upon request.

**Question #62: Is an AVO inspection required for satellite pads if the only equipment on such a pad is a wellhead?**

Yes.

## **EMERGENCY**

**Question #63: If an operator experiences more than four events related to recurring equipment failure within a single reporting area, does the operator report all events or just the first four events on Form C-129?**

19.15.28.7(F) NMAC requires the operator to report each venting and flaring event caused by an emergency, malfunction, or of long duration on Form C-129 if it meets the volumetric thresholds, regardless of whether there have been four prior events. When calculating the natural gas capture rate, the operator may deduct the volumes of natural gas vented or flared only from the first three events that qualify as an "emergency" under 19.15.27.8(F)(3) NMAC.

**Question #64: Can an operator choose which of multiple recurring events not to count as lost gas events?**

No. The operator may exclude only the first three events, in chronological order, from its lost gas calculation.

**Question #65: Does a release from a process relief device (such as a PSV) count as an emergency or malfunction?**

A release from a process relief device may constitute an emergency or malfunction if it meets the applicable definition in 19.15.27 or 19.15.28 NMAC.

## **FLARING AND FLARE STACKS**

**Question #66: Are combustors, incinerators, and thermal oxidizers considered flares that are required to have a continuous pilot or automatic igniter under 19.15.27.8(E)(3) NMAC?**

Any equipment that is used to combust natural gas, per the definition of flare in 19.15.27.7.I or 19.15.28.7.F is subject to the requirements of 19.15.27.8(E) NMAC.

**Question #67: Does the division consider the lack of a permanent or portable flare stack to constitute “technical infeasibility” under 19.15.27.8(A) or 19.15.28.8(A) NMAC?**

No. An operator’s decision not to use a permanent or portable flare stack required by Part 27 or Part 28 does not constitute “technical infeasibility.” After May 25, 2021, operators must flare rather than vent “except when flaring is technically infeasible or would pose a risk to safe operations or personnel safety and venting is a safer alternative than flaring.”

**Question #68: If an operator installs a flare stack at a production facility or tank battery rather than the wellhead, do the flaring requirements in 19.15.27.8(B-D) NMAC apply at the production facility or the wellhead?**

The flaring requirements apply at all facility types where a flare stack is physically located. Flaring (or venting) is only allowed as provided in 19.15.27.8 (B-D) NMAC.

**Question #69: Is there a de-minimis volume of natural gas that does not require use of a flare, for example a low-pressure pig barrel that is 12” in diameter and 10’ long?**

If the volume and pressure of the vented natural gas are insufficient for a flare to operate a flare may be technically infeasible.

**Question #70: Does 19.15.28.8(C)(2-3) NMAC require an operator to flare rather than vent natural gas from a facility-which is covered by an air quality permit issued by NMED?**

Yes. 19.15.27.8(A) and 19.15.28.8(A) NMAC requires an operator to flare rather than vent natural gas except when flaring is technically infeasible or would pose a risk to safe operations or personnel safety, and venting is a safer alternative than flaring, regardless of whether NMED has issued an air quality permit.

## **COMPOSITIONAL ANALYSIS**

**Question #71: For the compositional analysis submitted with Form C-129, how old can the analysis be?**

The compositional analysis must be representative of the gas stream regardless of when the operator takes the sample. If the gas analysis is not representative of the gas stream, then the operator must take a new sample or be subject to enforcement action.

## **PRODUCTION THRESHOLD**

**Question #72: What is the averaging period for the “average daily production greater than 60,000 cubic feet” in 19.15.27.8(F)(2) NMAC?**

See the definition of “average daily well production” and “average daily facility production”.

## REPORTING

**Question #73: Is an operator required to measure natural gas combusted at a heater treater?**

The volume must be measured or estimated pursuant to 19.15.27.8(F) NMAC. However, this volume is considered to be a beneficial use that does not count against the operator’s gas capture percentage requirement.

**Question #74: Can an operator deduct storage tank vapors from the total volume of flared natural gas?**

No. The operator must report all flared volumes, including natural gas flared from storage tanks under 19.15.27.8(G)(2) NMAC.

**Question #75: Section 19.15.27.8.G(1) requires reporting on the C-129 within 15 days. The rule does not specify if the 15 days are calendar vs. business days. Can OCD clarify if reporting is based on calendar or business days?**

Calendar days

## TANKS

**Question #76: If a storage tank previously installed at a location is moved to a new location after May 25, 2021, is the change in location considered a new installation for purposes of 19.15.27.8(E) NMAC.?**

Yes. See *also* Question #54 from FAQs Part I (May 17, 2021).