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NOTICE

FREQUENTLY ASKED QUESTIONS REGARDING THE NATURAL GAS WASTE RULES

PART THREE

September 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 third FAQ document published. Going forward, OCD intends to release updated FAQs as appropriate.

Please continue to submit questions to: 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.

ACO

Question #78: What options do operators have for the wells which were not in compliance between May 25th (when the rule took effect) and OCD’s issuance of an ACO?

OCD is working with operators who have submitted an ACO request to address compliance issues between the effective date of the rule and OCD’s issuance of an ACO.

Question #79: Who at the NMOCD will approve or deny the new Flare ACOs?

The Director of OCD. The opportunity to requests an ACO expired on July 9th.

ALARM

Question #80: How will OCD determine the amount of ALARM credit?

The rule specifies the requirements to obtain an ALARM credit. See 19.15.27(.9)(B)(1)(d) NMAC. Additional guidance is forthcoming specific to ALARM.

Question #81: Will OCD approve ALARM technologies, and if so, how does an operator or interested person apply for such approval?

OCD intends to publish a list of approved ALARM technologies. An operator or interested person seeking approval of an ALARM technology should send OCD a proposal describing the technology, explaining why it qualifies as an "advanced leak and repair monitoring technology for detecting natural gas leaks or releases that is not required by applicable state or federal law, rule, or regulation," and describing how it will reduce natural gas waste. Additional guidance is forthcoming specific to the submission of ALARM applications to OCD

AVO INSPECTIONS

Question #82: Under 19.15.28.8.C(4) and (5) NMAC, when is an operator required to begin the weekly and annual inspections?

See FAQ2, Question #61.

Question #83: Under 19.15.28.8.C(5) NMAC, when is an operator required to conduct the first annual monitoring of the gathering pipeline?

See FAQ2, Question #61.

Question #84: Under 19.15.28.8.C(4) NMAC, is there a repair requirement?

Yes. Operators must repair leaks discovered during an AVO inspection pursuant to 19.15.29.8 NMAC which states in part: "...B. Initial response. The responsible party must take the following immediate actions unless the actions could create a safety hazard that would result in injury. (1) Source elimination and site security. The responsible party must take appropriate measures to stop the source of the release and limit access to the site as necessary to protect human health and the environment."

Question #85: How should operators record AVO inspections, for instance, by component?

At a minimum the operator must record the well or facility and date of AVO inspection and note any deficiencies.

Question #86: Regarding FAQ 1 - Question 13, what is considered standard documentation?

See FAQ #85.

Question #87: On AVOs, are we required to keep records for repairs?

Repair records are required if a leak or release meets the criteria for filing Form C-129, in which case the operator must identify the corrective actions taken.

Question #88: When is the annual pipeline survey due?

See FAQ2, Question #61.

C-129 REPORTING

Question #89: When filing a termination notice in the C-129, if an event lasts longer than the 15 days allowed to file the C-129, does the operator file the C-129 without an end date and then open the existing C-129 and add an end date?

OCD is revising C-129 to allow the operator to identify an end date.

Question #90: What forms should be used to report gas and liquid releases?

Form C-129 should be used for gas releases only. Form C-141 should be used for releases that include liquids. The forms are available on [OCD's website](#) by accessing this [link](#).

Question #91: Are operators required to file Form C-129 for all venting and flaring events greater than 50 MCF or just for venting and flaring events caused by emergencies and malfunctions that are greater than 50 MCF?

All venting and flaring events that release more than 50 MCF for 8 hours cumulatively within any 24-hour period and events caused by emergencies and malfunctions, must be reported on Form C-129.

Question #92: Is the 50 MCF threshold measured by well, facility, or piece of equipment, e.g., coupling, gasket, or tank?

The 50 MCF threshold is measured per event per day.

Question #93: How current must the gas analysis filed with Form C-129 be?

See FAQ 2, Question #71.

Question #94: Must an operator that vents or flares less than 50 MCF during an event that is not caused by an emergency or malfunction submit Form C-129?

No.

Question #95: If a flare is continuously combusting natural gas from storage tanks at a rate less than 50 Mcf/day, do we need to file a C-129 form every day?

No. See Question #91.

Question #96: Must an operator routinely flare more than 50 MCF of natural gas from storage tanks file a form C-129?

See question #93.

Question #97: Can an operator request a pre-authorization to flare due to a nearby completion operation. If so, must the operator submit a gas composition analysis with the request or after the well has flared?

No, there is no mechanism within the rule to grant flaring pre-authorization.

CALCULATIONS

Question #98: Under 19.15.27.F(5) NMAC, if an operator estimates vented or flared gas, how does it ensure that its method can be independently verified?

Operators should use an established industry, regulatory or manufacturer method and maintain records for validation of the calculations.

Question #99: For the proposed C-115B, how is the natural gas produced volume calculated?

For Part 27, the natural gas volume calculation will be the same as the current form.

Question #100: For vented and flared volumes estimated on the C-115B, must OCD approve the estimation methodology in advance?

No. The operator must identify the method on the C-115B, and per 19.15.27.9(C) NMAC, OCD may request that an operator retain a third party to verify the data and method.

COMPRESSORS & SEPARATORS

Question #101: How does an operator measure or estimate the volume of natural gas used for beneficial uses, such as fuel gas used for compression?

See FAQ2, Question #74.

Question #102: Does the rule require measurement of natural gas from separators to tanks?

No. However, operators may measure or estimate volumes of natural gas vented or flared from a tank or tank battery and report those volumes on C-115B

Question #103: Does the rule require natural gas vented or flared from pressure relief devices on separators to be measured or estimated?

Yes.

CUSTODY TRANSFER

Question #104: Are infield gathering lines and central tank batteries regulated under Part 28?

Custody transfer occurs at the sales meter at which taxes and royalties are paid. Gathering lines and tank batteries upstream of the sales meter are regulated under Part 27; gathering lines and batteries downstream of the sales meter are regulated under Part 28.

EMERGENCY

Question #105: Section 19.15.27.E(8) NMAC requires operators to resolve emergencies as quickly and safely as possible. What does “quickly and safely” mean in this context?

“Quickly and safely” will vary by the emergency and the response should be managed by the operator as appropriate. However, OCD will review the emergency reporting and evaluate if it meets the standards on a case-by-case basis.

FLARE STACKS

Question #106: Part 28 refers to the use of a portable flare in several places. Is a permanent flare allowed?

Yes, a permanent flare is allowed if more feasible.

Question #107: Is an enclosed flame combustor that has a destruction efficiency as good or better than a flare acceptable for use? If acceptable, must the combusted natural gas volumes be reported under flaring?

Yes, an enclosed flame combustor with the required destruction efficiency is acceptable, and the operator must report the combusted volumes of natural gas under flaring because the natural gas is not being sold or used for beneficial use.

Question #108: Is the continuous manning of a flare part of the rule or a condition of approval?

No.

Question #109: What is the purpose of the 60 MCF exemption on Flare Stacks in 19.15.27.8.E(3)(c) NMAC?

A well producing 60 MCF or less is defined as a “stripper well.” The rule’s exemption allows flexibility for these marginally producing wells. A well or facility that produces less than 60 MCFD must install an auto-ignitor only if a flare stack is replaced. Other wells or facilities must retrofit flare stacks installed before May 25, 2021 with an automatic ignitor, continuous pilot, or technology that alerts the operator that the flare may have malfunctioned within 18 months after May 25, 2021.

FLARING

Question #110: How is technical feasibility or infeasibility determined for using a flare instead of venting?

The Operator must determine feasibility of the use of a flare within the design criteria of the flare stack which must be designed to standards described in 19.15.27.8(E) NMAC. Feasibility is not determined based on cost. OCD may review and evaluate if it meets the standards on a case-by-case basis.

Question #111: Under what circumstances is flaring during completion or recompletion operations allowed?

During completion or recompletion operations, an operator must route flowback fluids into a completion vessel or storage tank if technically feasible, and must commence operation of a separator as soon as it is technically feasible for a separator to function. Flaring of natural gas from the separation equipment is prohibited starting 31 days after initial flowback commences except as specified in 19.15.27.8(C)(2)(b) or (3) NMAC.

FLARING DURING THIRD-PARTY MAINTENANCE

Question #112: Can an upstream operator flare or vent gas during a third-party midstream maintenance event, so it does not have to shut its wells in or use the produced gas for beneficial use?

Upstream operators are not allowed to vent or flare natural gas as a result of a scheduled midstream maintenance event. An upstream operator may vent or flare for up to 8 hours after being notified of a midstream emergency, malfunction, or unscheduled maintenance event. The operator must report any venting or flaring volumes after 8 hours on a C-115B, and those volumes will be factored into the operator's gas capture percentage. 19.15.27.8.G(2)(k), NMAC.

GAS CAPTURE

Question #113: What are the North and South Reporting Areas?

The North and South Reporting Areas are measured at the Township 10 North line, and define the two areas for compliance with the operator's natural gas capture requirements. 19.15.27.9(A) NMAC.

Question #114: Can an operator vent or flare natural gas produced with very low GOR oil if the gas volumes are too low to tie into a sales line?

Routine flaring or venting is prohibited and there is no exception for low volumes of gas produced with low GOR oil.

GAS MANAGEMENT PLAN

Question #115: Will OCD provide an updated process and natural gas management plan to replace the plan in place prior to the effective date of the rules?

Yes. OCD recently released a [Notice](#) describing the process and attaching the new form.

Question #116: If an operator is currently flaring gas from wells due to a lack of gas takeaway but has plans to install a new gas sales line before the end of the year, is it required to shut in the wells?

An operator that submitted a request for an ACO before July 9, 2021 may be allowed to flare gas for a limited period of time. All other operators must shut-in their wells.

Question #117: In regards to federal wells, how do operators file the Natural Gas Management Plan for recompletions?

Operators can attach the Natural Gas Management Plan to the Electronic filing when they upload the APD or Recompletion Application into OCD's system.

Question #118: Do injection well APDs require a Natural Gas Management Plan?

An APD for a well that is permitted under 19.15.26 NMAC ("UIC Well") and that will not produce oil or does not require a Natural Gas Management Plan.

GIS MAPPING

Question #119: What information are operators required to submit for the GIS map other than “the pipeline size and construction material type”? Will OCD provide instructions to ensure the GIS map data submitted by operators are useable by OCD?

OCD recently released the GIS requirements and provided a [Notice](#) of requirements.

METERING

Question #120: What is the timeline for installation of meters under NMAC 19.15.28.8(E)(2) NMAC?

Meter requirements went into effect upon the effective date of the rule, May 25, 2021. Meters must be installed on natural gas gathering systems unless it is impracticable to install a meter due to circumstances such as low flow rate or low pressure.

Question #121: Is the measurement for a VRU equipment in 19.15.27.8(F)(2) NMAC required upstream or downstream of the unit?

Measurement equipment typically should be located downstream of a VRU.

MIDSTREAM OPERATIONS PLANS

Question #122: Must OCD approve the midstream operations plan before it can be implemented by the operator?

No.

NATURAL GAS COMPOSITION

Question #123: If an operator is unable to connect to a sales pipeline due to pipeline specifications, can the operator use a Draeger tube test, or must it analyze the gas in a laboratory with speciation to C6+?

A gas analysis that meets the gathering company’s requirements for transporting the gas will meet the requirement.

Question #124: Does the definition of natural gas in NMAC 19.15.28.7.K include gas vented from storage tanks or process equipment?

Yes.

Question #125: Where can the representative gas compositional analyses be taken?

The compositional analysis must be representative of the gas stream regardless of where 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. Also see Question #71 in FAQ No. 2.

Question #126: Does the new C-129 online system require the constituents of the natural gas compositional analysis to be reported for every filing?

Yes, the natural gas constituents must be reported on the C-129 for every filing pursuant to 19.15.27.8(G)(1)(b)(iv) NMAC.

Question #127: Are natural gas pipeline specifications required to be reported on all C-129s?

No. Pipeline specifications must be reported only when natural gas is being vented or flared because the gas does not meet pipeline specifications.

NOTIFICATION

Question #128: When and how often must operators notify royalty owners of the volumes of vented and flared gas?

Beginning June 15, 2022, operators must provide a copy of the C-115B to the New Mexico State Land Office on a monthly basis. In addition, in June 2022, operators must notify all royalty owners that they can obtain venting and flaring information from OCD's website; they do not need to provide subsequent notice.

PRODUCTION OPERATIONS

Question #129: Is there a maximum time or volume of natural gas that can be flared because it does not meet pipeline specifications?

No, there is no maximum time or volume limit on flaring natural gas that does not meet gathering pipeline specifications during production operations. Operators must comply with 19.15.27.8(D)(4)(I) NMAC, including sampling the gas twice per week to determine whether the specifications have been met and routing the natural gas into a gathering pipeline as soon as the specifications are met.

REPORTING

Question #130: In 19.15.28.8(F)(2)(d) NMAC, for the combustion of natural gas in a heater or an engine, should the flare category be used?

The combustion of natural gas in a heater or engine is considered to be a beneficial use and is neither vented nor flared, and so would not be reported on the C-115B. For midstream operators who do not file C-115 forms, the volume of natural gas would be reported under a category described in 19.15.28.8(F)(2)(d) NMAC.

Question #131: Will OCD be providing a draft Form C-115B?

Yes, OCD is developing a new form C-115B that will be available for stakeholder review and comment before April 2022 when the first monthly reports must be submitted.

Question #132: What are the differences between the quarterly report and the C-115B?

Beginning on October 1, 2021, operators must gather data to file quarterly reports of the volumes of vented and flared natural gas as required by 19.15.27.8(G) and 19.15.28.8(F) NMAC. Quarterly reports must be filed for the fourth quarter of 2021 and the first quarter of 2022. Thereafter, operators must report monthly on the Form C-115B.

Question #133: How do operators report venting or flaring volumes during completion operations prior to the separation phase?

Volumes of natural gas flared or vented during completion prior to the separation phase that meet the requirements in 19.15.27.8(C) NMAC are not reported.

Question #134: Does venting or flaring of heater-treater gas need to be reported on a C-129?

Yes, if the venting or flaring exceeds the reporting threshold. See 19.15.27.8(G)(1) NMAC.

Question #135: Does the rule require reporting of venting volumes from atmospheric oil/water storage tanks during normal operations?

Yes, pursuant to 19.15.27.8(G)(2) NMAC.

TANK EMISSIONS

Question #136: Are operators required to report and evaluate, for C-129 reporting, vented or flared tank vapors that are not prohibited by other state or federal rules and are not the result of an improperly closed or maintained tank thief hatch? If tank vapors are controlled by a flare, does an operator need to report volumes of natural gas vented during a flare outage on a C-129?

Under 19.15.27.8(G)(1)(a) NMAC, operators are required to report on Form C-129 vented and flared volumes that exceed 50 MCF and result from an emergency or malfunction or last more than eight hours cumulatively within any 24 hour period. Under 19.15.27.8(G)(2)(f) NMAC, operators are required to report on Form C-115B any volumes of gas vented or flared from storage tanks. It is the operator's obligation to determine the proper reporting and estimation method for such volumes.

Question #137: The reference in 19.15.28.10(B) NMAC to "Subparagraph (a) of Paragraph (3) of Subsection F of 19.15.27.8 NMAC" is a reference to a non-existent subparagraph.

The proper cross-reference is 19.15.28.8(F)(3)(a) NMAC.

Question #138: How will APD denial for non-compliance be handled?

The operator will not receive approval for the APD.

Question #139: Can the OCD define "high pressure" and "low pressure"?

No. Different operating circumstances will influence "high" or "low" pressure thresholds.