

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

**IN THE MATTER OF PROPOSED
AMENDMENTS TO THE COMMISSION'S
RULE ON NATURAL GAS GATHERING SYSTEMS,
19.15.28 NMAC.**

CASE NO.

APPLICATION FOR RULEMAKING

The State of New, Mexico Energy, Minerals and Natural Resources Department, Oil Conservation Division (Division) hereby applies to the Oil Conservation Commission (Commission) to amend rule 19.15.28 NMAC.

The Division states that

- (1) the proposed rule changes:
 - (a) amend 19.15.28.8(F)(3) NMAC to correct an inaccurate lost natural gas calculation; and
 - (b) amend 19.15.28.10(B) NMAC to correct an internal citation and clarify a provision's application to gathering systems;
- (2) a draft of the proposed rule change is attached as Exhibit A to this Application for Rulemaking (Application);
- (3) the applicant for this rulemaking is the Division;
- (4) the contact for the applicant is:

Cheryl L. Bada, Deputy General Counsel
1220 South St. Francis Drive
Santa Fe, NM 87505
cheryl.bada@state.nm.us
(505) 660-0738;
- (5) a proposed legal notice is attached as Exhibit B.

The Division requests that the Commission, at a meeting held no sooner than 15 days and no later than 60 days from the submittal of this Application, grant a hearing on the proposed rule

changes and issue an order pursuant to 19.15.3.8(C) NMAC specifying procedures to conduct the rulemaking.

Respectfully submitted,

OIL CONSERVATION DIVISION

A handwritten signature in blue ink that reads "Cheryl L. Bada". The signature is written in a cursive style and is positioned above a horizontal line.

Cheryl L. Bada, Deputy General Counsel
Energy, Minerals and Natural Resources
Department
1220 South St. Francis Drive
Santa Fe, NM 87505
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This is an amendment to 19.15.28 NMAC, Sections 8 and 10, effective xx/xx/xxxx.

19.15.28.8 VENTING AND FLARING OF NATURAL GAS:

A. Venting or flaring of natural gas from a natural gas gathering system that constitutes waste as defined in 19.15.2 NMAC and is prohibited. The operator has a general duty to maximize the gathering of natural gas by minimizing the waste of natural gas through venting and flaring. The operator may vent or flare natural gas only as authorized in Subsection B of 19.15.28.8 NMAC. In all circumstances, the operator shall 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.

B. The operator shall not flare or vent natural gas except:

- (1) during an emergency or malfunction; or
- (2) during the following activities unless prohibited by applicable state and federal law, rule or regulation for the emission of hydrocarbons and volatile organic compounds:
 - (a) repair and maintenance, including blowing down and depressurizing equipment to perform repair or maintenance;
 - (b) normal operation of a gas-activated pneumatic controller or pump;
 - (c) normal operation of dehydration units and amine treatment units;
 - (d) normal operation of compressors, compressor engines and turbines;
 - (e) normal operation of valves, flanges and connectors that are not the result of inadequate equipment design or maintenance;
 - (f) normal operation of a storage tank or other low-pressure production vessel, but not including venting from a thief hatch that is not properly closed or maintained on an established schedule;
 - (g) gauging or sampling a storage tank or other low-pressure vessel;
 - (h) loading out liquids from a storage tank or other low-pressure vessel to a transport vehicle;
 - (i) normal operations of valves, flanges or connectors that are not the result of inadequate equipment design or maintenance;
 - (j) blow down to repair a gathering pipeline;
 - (k) pigging a gathering pipeline;
 - (l) purging a gathering pipeline; or
 - (m) commissioning of pipelines, equipment or facilities only for as long as necessary to purge introduced impurities from the pipeline or equipment.

C. Performance standards.

(1) The operator shall take all reasonable actions to prevent and minimize leaks and releases of natural gas from a natural gas gathering system and shall implement an operations plan to minimize the waste of natural gas for each non-contiguous natural gas gathering system. The plan should include procedures to reduce leaks and releases, such as a routine maintenance program, cathodic protection, corrosion control, liquids management and integrity management. The operator shall file its operations plan with the division:

- (a) for a natural gas gathering system placed into service after May 25, 2021, within 60 days following the date the natural gas gathering system is placed into service;
- (b) for a natural gas gathering system in place on or before May 25, 2021, within 90 days following May 25, 2021; and
- (c) for a natural gas gathering system to which the operator added a new gathering pipeline during the calendar year or changed the operations plan, an updated operations plan no later than March 31 of the following year.

(2) During scheduled maintenance, replacement or repair of a new or existing natural gas gathering system, the operator shall not vent natural gas during blowdown and shall route natural gas to a portable flare stack which complies with the flare stack standards, inspection and recordkeeping requirements in Subsection E of 19.15.27.8 NMAC.

(3) During unscheduled maintenance, replacement or repair of a new or existing natural gas gathering system, to the extent that it is technically feasible and would not pose a risk to safe operations or personnel safety, the operator shall not vent natural gas during blowdown and shall route natural gas to a portable flare stack which complies with the flare stack standards, inspection and recordkeeping in Subsection E of 19.15.27.8 NMAC.

(4) The operator shall conduct a weekly AVO inspection of the compressors, dehydrators and treatment facilities associated with a natural gas gathering system to confirm those components are operating properly and there are no leaks or releases except as allowed in Subsection B of 19.15.28.8 NMAC.

(a) During an AVO inspection the operator shall inspect all components, including flare stacks, thief hatches, closed vent systems, pumps, compressors, pressure relief devices, valves, lines, flanges, connectors and associated piping to identify defects, leaks and releases by:

- (i) comprehensive external visual inspection;
- (ii) listening for pressure and liquid leaks; and
- (iii) smelling for unusual and strong odors.

(b) The operator shall make and keep a record of an AVO inspection for no less than five years and make such records available for inspection by the division upon request.

(c) Subject to the division's prior written approval, the operator may use a remote or automated monitoring technology to detect leaks and releases in lieu of an AVO inspection.

(5) The operator shall perform an annual monitoring of the entire length of a gathering pipeline using an AVO technique, ALARM technology, aerial visual inspections or other valid method to detect leaks and releases. The operator shall record and, upon the division's request, report the date and time of the monitoring, the method and technology used. The operator shall retain records of monitoring for at least five years. Personnel conducting inspections shall be knowledgeable on the methods and technology being used.

(6) For facilities constructed after May 25, 2021, facilities shall be designed to minimize waste.

(7) Operators have an obligation to minimize waste and shall resolve emergencies as quickly and safely as is feasible.

D. Reporting to affected upstream operators.

(1) No less than 14 days prior to the date of scheduled maintenance, replacement or repair of a natural gas gathering system, the operator shall provide written notification to each upstream operator whose natural gas is gathered by the system of the date and expected duration that the system will not gather natural gas.

(2) As soon as possible but no more than 12 hours after discovery of an emergency or malfunction, or the need for unscheduled maintenance of a natural gas gathering system, the operator shall provide verbal notification to each upstream operator whose natural gas is gathered by the system of the date and expected duration that the system will not gather natural gas, and shall provide written confirmation of the verbal notification, including the date, time, person and telephone number to whom verbal notification was given no later than 24 hours after discovery.

(3) The operator shall make and keep a record of each notification for no less than five years and make such records available for inspection by the division upon request.

E. Measurement or estimation of vented and flared natural gas.

(1) The operator shall measure or estimate the volume of natural gas that it vents, flares or beneficially uses regardless of the reason or authorization for such venting or flaring.

(2) The operator shall install equipment to measure the volume of natural gas flared from a natural gas gathering system.

(3) Measuring equipment shall conform to an industry standard such as American Petroleum Institute (API) Manual of Petroleum Measurement Standards (MPMS) Chapter 14.10 Measurement of Flow to Flares.

(4) Measuring equipment shall not be designed or equipped with a manifold that allows the diversion of natural gas around the metering element except for the sole purpose of inspecting and servicing the measuring equipment.

(5) If metering is not practicable due to circumstances such as low flow rate or low pressure venting and flaring, the operator shall estimate the volume of vented or flared natural gas using a methodology that can be independently verified.

F. Reporting of vented or flared natural gas.

(1) Venting or flaring caused by an emergency, a malfunction, or of long duration.

(a) The operator shall notify the division of venting or flaring that exceeds 50 MCF in volume and either results from an emergency or malfunction or lasts eight hours or more cumulatively within any 24-hour period from a single event by filing a form C-129 in lieu of a C-141, except as provided by Subparagraph (d) of Paragraph (1) of Subsection G of 19.15.27.8 NMAC, with the division as follows:

(i) for venting or flaring that equals or exceeds 50 MCF but is less than 500 MCF from a single event, notify the division in writing by filing a form C-129 no later than 15 days following discovery or commencement of venting or flaring; or

(ii) for venting or flaring that equals or exceeds 500 MCF or otherwise qualifies as a major release as defined in 19.15.29.7 NMAC from a single event, notify the division verbally or by e-

mail as soon as possible and no later than 24 hours following discovery or commencement of venting or flaring and provide the information required in form C-129. No later than 15 days following the discovery or commencement of venting or flaring, the operator shall file a form C-129 that verifies, updates or corrects the verbal or e-mail notification; and

(iii) no later than 15 days following the termination of venting or flaring, notify the division by filing a form C-129.

(b) The operator shall provide and certify the accuracy of the following information in the form C-129:

- (i) operator's name;
 - (ii) name and type of facility;
 - (iii) equipment involved;
 - (iv) compositional analysis of vented or flared natural gas that is representative of the natural gas gathering system;
 - (v) date(s) and time(s) that venting or flaring was discovered or commenced and terminated;
 - (vi) measured or estimated volume of vented or flared natural gas;
 - (vii) cause and nature of venting or flaring;
 - (viii) steps taken to limit the duration and magnitude of venting or flaring;
- and
- (ix) corrective actions taken to eliminate the cause and recurrence of venting or flaring.

(c) At the division's request, the operator shall provide and certify additional information by the specified date.

(d) The operator shall file a form C-141 instead of a form C-129 for a release which includes liquid during venting or flaring that is or may be a major or minor release under 19.15.29.7 NMAC.

(2) Monthly reporting of vented and flared natural gas. For each natural gas gathering system at which venting or flaring occurred, the operator shall separately report the volume of vented natural gas and the volume of flared natural gas for each month in each category listed below. Beginning October 1, 2021, the operator shall gather data for quarterly reports in a format specified by the division and submit by February 15, 2022 for the fourth quarter of 2021 and May 15, 2022 for the first quarter of 2022. Beginning April 2022, the operator shall submit a form C-115B monthly on or before the 15th day of the second month following the month in which it vented or flared natural gas. The operator shall specify whether it estimated or measured each reported volume. In filing the initial report, the operator shall provide the methodology (measured or estimated using calculations and industry standard factors) used to report the volumes on the form, and shall report changes in the methodology on future forms. The operator shall make and keep records of the measurements and estimates, including records showing how it calculated the estimates, for no less than five years and make such records available for inspection by the division upon request. The categories are:

- (a) emergency;
- (b) non-scheduled maintenance or malfunction, including the abnormal operation of equipment;
- (c) routine repair and maintenance, including blowdown and depressurization;
- (d) beneficial use, including pilot and purge gas, fired equipment and engines;
- (e) gathering pipeline blowdown and purging;
- (f) gathering pipeline pigging;
- (g) storage tanks;
- (h) venting as a result of normal operation of pneumatic controllers and pumps;
- (i) improperly closed or maintained thief hatches; and
- (j) other surface waste as defined in Subparagraph (1) of Paragraph (b) of

Subsection W of 19.15.2.7 NMAC that is not described above.

(3) Upon submittal of the C-115B report, the division will compile and publish on the division's website an operator's vented and flared natural gas information for each month on a volumetric and gas capture percentage basis.

(a) To calculate the lost natural gas on a volumetric basis, the operator shall [~~deduct~~] sum the volume of natural gas [~~used for beneficial use and vented or flared during an emergency, or vented as a result of normal operation of pneumatic controllers and pumps~~] from the volume of natural gas gathered reported

~~on its form C-115B~~ reported under Subparagraphs (b), (c), (e), (f), (g), (i) and (j) of Paragraph (2) of Subsection F of 19.15.28.8 NMAC.

(b) To calculate the natural gas captured on a percentage basis, the operator shall deduct the volume of lost gas calculated in Subparagraph (a) of Paragraph (3) of Subsection F of 19.15.28.8 NMAC from the total volume of natural gas gathered and divide by the total volume of natural gas gathered.

(4) Upon the New Mexico environment department's request, the operator shall promptly provide a copy of any form filed pursuant to 19.15.28 NMAC.
[19.15.28.8 NMAC – N, 05/25/2021; A, / /]

19.15.28.10 STATEWIDE NATURAL GAS CAPTURE REQUIREMENTS:

A. Statewide natural gas capture requirements. Commencing April 1, 2022, the operator of a natural gas gathering system shall reduce the annual volume of vented and flared natural gas in order to capture no less than ninety-eight percent of the natural gas gathered in each of two reporting areas, one north and one south of the Township 10 North line, by December 31, 2026. The division shall calculate and publish on the division's website each operator's baseline natural gas capture rate based on the operator's fourth quarter 2021 and first quarter 2022 quarterly reports as per Paragraph (2) of Subsection G of 19.15.28.8 NMAC. In each calendar year between January 1, 2022 and December 31, 2026, the operator shall increase its annual percentage of natural gas captured in each reporting area in which it operates based on the following formula: (baseline loss rate minus two percent) divided by five, except that for 2022 only, an operator's percentage of natural gas captured shall not be less than seventy-five percent of the annual gas capture percentage increase (2022 baseline loss rate minus two percent divided by five times 0.75), and the balance shall be captured in 2023.

(1) The following table provides examples of the formula based on a range of baseline natural gas capture rates.

Baseline Natural Gas Capture Rate	Minimum Required Annual Natural Gas Capture Percentage Increase
90-98%	0-1.6%
80-89%	>1.6-3.6%
70-79%	>3.6-5.6%
0-69%	>5.6-19.6%

(2) If the operator's baseline capture rate is less than sixty percent, the operator shall submit by the specified date to the division for approval, a plan to meet the minimum required annual capture percentage increase.

(3) An operator's acquisition or sale of a natural gas gathering system from another operator shall not affect its annual natural gas capture requirements. No later 60 days following the acquisition or sale, the operator may file a written request to the division requesting to modify its annual gas capture percentage requirements for good cause based on its acquisition or sale. The division may approve, approve with conditions or deny the request in its sole discretion.

(4) Operators that are affiliated shall consolidate their natural gas capture reporting and compliance obligations.

B. Accounting. No later than February 28 of each year beginning in 2023, the operator shall submit a report certifying compliance with its statewide gas capture requirements. The operator shall determine compliance with its statewide gas capture requirements by deducting any ALARM credits approved pursuant to ~~[this subsection]~~ Subsection B of 19.15.28.10 NMAC from the aggregated volume of lost gas calculated for each month during the preceding year pursuant to Subparagraph (a) of Paragraph (3) of Subsection F of ~~[19.15.27.8]~~ 19.15.28.8 NMAC, deducting that aggregated volume of lost gas from the aggregated volume of natural gas ~~[produced]~~ gathered for each month during the preceding year, and dividing that volume by the aggregated volume of natural gas ~~[produced]~~ gathered for each month during the preceding year.

(1) An operator that used a division-approved ALARM technology to monitor for leaks and releases may obtain a credit against the volume of lost natural gas if it discovered the leak or release using the ALARM technology, and the operator:

(a) isolated the leak or release within 48 hours following field verification;

(b) repaired the leak or release within 15 days following field verification or another date approved by the division;
(c) timely notified the division by filing a form C-129 or form C-141; and
(d) used ALARM monitoring technology as a routine and on-going aspect of its waste-reduction practices.

(i) For discrete waste-reduction practices such as aerial methane monitoring, the operator must use the technology at least twice per year; and

(ii) for waste-reduction practices such as automated emissions monitoring systems that operate routinely or continuously, the division will determine the required frequency of use.

(e) The division shall publish a list of division-approved ALARM technologies on the division's website.

(2) An operator may file an application with the division for a credit against its volume of lost natural gas that identifies:

(a) the ALARM technology used to discover the leak or release;
(b) the dates on which the leak or release was discovered, field-verified, isolated and repaired;

(c) the method used to measure or estimate the volume of natural gas leaked or released;

(d) a description and the date of each action taken to isolate and repair the leak or release;

(e) visual documentation or other verification of discovery, isolation and repair of the leak or release;

(f) a certification that the operator did not know or have reason to know of the leak or release before discovery using ALARM technology; and

(g) a description of how the operator used ALARM technology as a routine and on-going aspect of its waste-reduction practices.

(3) For each leak or release reported by an operator that meets the requirements of Paragraphs (3) and (4) of Subsection B of 29.15.28.10 NMAC, the division, in its sole discretion, may approve a credit that the operator can apply against its reported volume of lost natural gas as follows:

(a) a credit of forty percent of the volume of natural gas discovered and isolated within 48 hours of discovery and timely repaired; and

(b) an additional credit of twenty percent if the operator used ALARM technology no less than once per calendar quarter as a routine and on-going aspect of its waste-reduction practices.

(4) A division-approved ALARM credit shall:

(a) be used only by the operator who submitted the application pursuant to Paragraph (2) of Subsection B of 29.15.28.10 NMAC;

(b) not be transferred to or used by another operator, including a parent, subsidiary, related entity or person acquiring the natural gas gathering system;

(c) be used only once; and

(d) expire 24 months after division approval.

(5) The division will publish a list of approved ALARM technology.

C. Third-party verification. The division may request that an operator verify any data or information collected or reported pursuant to this part, make recommendations to correct or improve the collection and reporting of data and information, submit a report of the verification and recommendations to the division by the specified date and implement the recommendations in the manner approved by the division. If the division and the operator cannot reach agreement on the division's request, the operator may file an application for hearing before the division. The operator, at its own expense, shall retain a third party approved by the division to conduct the activities agreed to by the division and the operator or ordered by the division following a hearing.

[19.15.28.10 NMAC – N, 05/25/2021; A, / /]

NOTICE OF PUBLIC HEARING FOR PROPOSED RULEMAKING

The State of New Mexico through the Oil Conservation Commission (OCC) hereby gives notice that the OCC will hold a public hearing to consider amendments to the rules that regulate the venting and flaring of natural gas from natural gas gathering and processing facilities. The public hearing will be held on-line and by telephone on December 2, 2021, at 9:00 a.m., and will be continued to the following day(s) if not completed.

Purpose of Proposed Rules. The proposed amendments correct an inaccurate lost natural gas calculation, correct an internal citation, and clarify a provision's application to gathering systems.

Summary of Proposed Rules. The Oil Conservation Division (OCD) proposes to amend two sections of 19.15.28 NMAC rule, which establishes requirements for operators of natural gas gathering systems, including gathering pipelines, to report and reduce the venting and flaring of natural gas, 19.15.28.8(F)(3) NMAC and 19.15.28.10(B) NMAC.

Legal Authority. The proposed amendments are authorized by the Oil and Gas Act, Sections 70-2-1 through 70-2-38 NMSA 1978, including Section 70-2-6 (authorizing the OCC to exercise jurisdiction, authority, and control of and over all persons, matters, and things necessary or proper to enforce the statute), Section 70-2-11 (authorizing the OCC to make rules to prevent waste, protect correlative rights, and to do whatever may be reasonably necessary to implement the statute), and Section 70-2-12 (enumerating the powers of the OCC and OCD). The public hearing is governed by the OCC's rule on rulemaking proceedings, 19.15.3 NMAC.

Availability of Proposed Rules. The full text of the proposed rules is available on the OCD's website, emnr.dnm.gov/ocd, or by contacting the OCC Clerk, Florene Davidson at florene.davidson@state.nm.us.

Written Comments. Any person may submit written comments on the proposed amendments no later than December 2, 2021, at 9:00 a.m., unless extended by the OCC, by mail, email, or delivery to the OCC Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or florene.davidson@state.nm.us.

Public Hearing. The public hearing will be held online and by telephone on December 2, 2021, at 9:00 a.m., and will be continued to the following day(s) if not completed. The public hearing will be transcribed and recorded. To access the public hearing on-line via the Webex platform and by telephone:

Online access code: [xxx xxx xxx]
Online password: [xxxxxxxxxxxx]
Telephone: [xxx-xxx-xxxx.]

Proposed Modifications, Technical Testimony, and Cross Examination. A person who intends to propose a modification to the proposed rules, to present technical testimony at the public hearing, or to cross-examine witnesses at the public hearing must file six copies of a Pre-Hearing Statement conforming to the requirements of 19.15.3.11(B) NMAC, no later than November 16, 2021, at 5:00 p.m. The Pre-Hearing Statement must be filed by mail, email, or delivery to the OCC Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, florene.davidson@state.nm.us. A person filing a Pre-Hearing Statement who intends to use projection equipment must contact the OCC Clerk no later than seven business days prior to the public hearing. A person who presents technical testimony at the public hearing will be subject to cross-examination by the members of the OCC, the OCC's counsel, and other persons who filed Pre-Hearing Statements.

Oral Comments. A person who did not file a Pre-Hearing Statement may present non-technical testimony or make an unsworn statement at the public hearing. A person who wants to present non-technical testimony or make an unsworn statement at the public hearing must inform the hearing examiner. A person who presents non-technical testimony will be subject to cross-examination by the members of the OCC, the OCC's counsel, and other persons who filed Pre-Hearing Statements. A person may offer exhibits at the public hearing if the exhibits are relevant to the proposed rules and the person files the original exhibit and five copies conforming to the requirements of 19.15.3.12(C) NMAC prior the end of the public hearing. A person may file exhibits by mail, email, or delivery to

the OCC Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, florene.davidson@state.nm.us.

Persons with Disabilities. A person with a disability who needs a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service, such as a summary or other accessible form of document, in order to attend or participate in the public hearing, must contact the OCC Clerk, Florene Davidson, at (505) 476-3458 or florene.davidson@state.nm.us, or through the New Mexico Relay Network at 1-800-659-1779, no later than November 16, 2021.

Technical Information. There is no technical information for the proposed rule amendments.