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Notice OPERATOR BASELINE AND COMPLIANCE SCHEDULE

UPDATED February 24, 2023

On May 25, 2021, the New Mexico Energy, Minerals and Natural Resources Department, Oil Conservation Division's ("OCD") updated rules 19.15.27 and 19.15.28 NMAC went into effect. Incorporated in these rules are statewide natural gas capture requirements pursuant to 19.15.27.9.A and 19.15.28.10.A. Those rules were designed to bring all operators to a 98% gas capture percentage by December 31, 2026.

To achieve that goal operators are required to follow a compliance schedule that phases-in increases over a multi-year period until the 98% threshold is reached. Under the rules compliance schedules and requirements for individual operators are a function of baseline loss rates as determined by their own 2022 reporting.

Under 19.15.27.9.B and 19.15.28.10.B NMAC, an operator's first certification of compliance with its gas capture compliance schedule is due on February 28, 2023. Based on the data reported in 2022, OCD has made available on its website the current gas capture baselines for all operators on a basin and operator basis. This data includes baseline capture rates and the compliance schedule that must be met to meet the December 31, 2026, goal. Continued reporting and annual certification against this schedule will be required for an operator to remain in compliance with the rule. Those baselines can be found by individual operators [here](#) or in a report that can be viewed [here](#).

OCD continues to work through data submitted on a company-by-company basis to verify submissions and address any anomalies it sees in the submitted data. Based on this data, OCD has determined that any operator meeting one or more of the following criteria must meet a 98% capture baseline capture requirement starting in CY 2022 and every subsequent year:

- Any operator already in compliance with the 98% gas capture target,
- Any operator with greater than 100% gas capture rate reported in their filings,

- Any operator whose gas capture percentage is unable to be calculated due to missing quarterly report(s) or other missing data such as C-115 submittals.

If you have concerns about your gas capture baseline, please contact OCD.Engineer@emnrd.nm.gov. Any changes to baseline data require prior OCD approval and must be based on updated data submissions by operators.

OCD is releasing this information now, so operators have time to review their 2022 gas capture baseline and go forward compliance schedule before they must submit their first certification forms on February 28, 2023.

The Waste Rule certification form for 2022 is now available and can be accessed through the [OCD permitting site](#). The formula and requirements for the certification can be found in 19.15.27.9.B NMAC (upstream) or 19.15.28.10.B NMAC (midstream). In addition to this form OCD is making tow addition forms available.

The first is a form operators can use to request a change to baseline rates, due to operator changes and/or updated reporting. If an operator submits a rate adjustment request, it should also submit the annual rate certification (both submittals should use the same rate). The second is a Compliance Plan for any operators that aren't achieving their compliance rate pursuant to 19.15.27.9.A(4) NMAC These would apply to operators who cannot meet the compliance schedule established based on their baseline and are different from the plans required by operators who were capturing below 60 percent. Below is a listing of the applicable forms.

UF-NGC	[UF-NGC] NGC Rate Annual Certification (NGC-CERT) <ul style="list-style-type: none"> • Additionally referred to as: Natural Gas Capture Rate Annual Certification (NGC-CERT).
	[UF-NGC] NGC Rate Adjustment Request (NGC-ADJUST) <ul style="list-style-type: none"> • Additionally referred to as: Natural Gas Capture Rate Adjustment Request (NGC-ADJUST). • Used to request alterations to natural gas capture rates. • Operator submission must include the specific basis for requesting a alternative natural gas capture rate. <p><i>Click to view expected documentation</i></p>
	[UF-NGC] NGC Rate Compliance Plan (NGC-COMPLY) <ul style="list-style-type: none"> • Additionally referred to as: Natural Gas Capture Rate Compliance Plan (NGC-COMPLY). • Used to submit plans to come into compliance with required natural gas capture rates. <p><i>Click to view expected documentation</i></p>

In addition to the compliance schedule certification, operators are also reminded that the deadline has now passed for the Flare Stack registration form. The Certification was to be completed by December 31, 2022. This certification is required under the rule as a one-time compliance investigation pursuant to 1978 NMSA 70-2-11 A, 70-2-12 A, and 19.15.27.8.E.(3) NMAC. See the [Flare Stack Retrofit Certification](#) notice. OCD will be conducting compliance reviews for flare retrofits this year. This review may initially focus on operators who failed to file Flare Stack Retrofit Certification notices.