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

IN THE MATTER OF THE APPLICATION OF
THE OIL CONSERVATION DIVISION TO
AMEND RULES 19.15.2 AND 19.15.7 NMAC

CASE NO. 22719
ORDER NO. R-22117-A

ORDER OF THE COMMISSION

THIS MATTER came before the New Mexico Oil Conservation Commission ("Commission") on the application of the Oil Conservation Division of the Energy, Minerals and Natural Resources Department ("Division") to amend Rules 19.15.2 and 19.15.7 NMAC. The Commission conducted a hearing in this matter on June 3, 2022 and deliberated in open session on the same day. The Commission, having considered the testimony, the record, and the arguments of the parties, and being otherwise fully advised, enters the following findings, conclusions, and order.

THE COMMISSION FINDS THAT:

1. Statutory Authority. The Commission is authorized to adopt rules, after a hearing, under the Oil and Gas Act, NMSA 1978, Sections 70-2-1 to -38 ("Act"). NMSA 1978, § 70-2-12.2. The Commission and the Division are given the duty to regulate the submission of required regulatory documents from regulated entities, as well as the location of the physical satellite locations of Division offices and the boundaries of lands managed by those offices. The proposed rule changes are authorized by the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, and specifically 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.

2. Application and Notice. The Division filed an Application on March 31, 2022 to update Rules 19.15.2 and 19.15.7 NMAC to align the Commission's rules with the current and proposed procedures and practices of the OCD, particularly those related to the electronic submission of documents to the OCD and updates to provisions concerning OCD's structure and the potential for future changes in response to operational priorities. The Application included a draft of the proposed rule change and a proposed legal notice. 19.15.3.8(A) NMAC.

3. At a public meeting on April 14, 2022, the Commission decided to hold a hearing on the proposed rule change and scheduled the rulemaking hearing for June 3, 2022. 19.15.3.8(C)

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NMAC. The Commission determined that the hearing would be held in a virtual and telephonic format due to the public health restrictions in place to combat the COVID-19 pandemic. The Commission decided to require that anyone wishing to present technical testimony identify all witnesses to be presented at the hearing and a summary of each witness's anticipated testimony, and that all members of the public notify the Commission Clerk if they wished to address the Commission during the hearing. The Commission also provided a written comment period of fifty (50) days, from April 14, 2022 to noon on June 3, 2022.

4. Pre-hearing statements were submitted by the Division and the New Mexico Oil and Gas Association ("NMOGA"). The Division presented two technical witnesses, William Brancard and Brandon Powell, who provided testimony alongside technical exhibits. Only the Division proposed changes to 19.15.2 NMAC, whereas both Parties proposed changes to 19.15.7 NMAC. The Commission received no evidence or pleadings concerning the Division's proposed changes to 19.15.2 NMAC other than that of the Division. The Commission received evidence from both Parties concerning the Division's proposed changes to 19.15.7 NMAC. During the rulemaking hearing, the Commission received no public comment concerning the Division's proposed changes to 19.15.2 or 19.15.7 NMAC. Likewise, the Commission received no written comments concerning the Division's proposed changes to 19.15.2 and 19.15.7 NMAC.

5. Proposed Rule Changes. The Division proposed to amend Rules 19.15.2 and 19.15.7 NMAC. The proposed rule change generally included the following:

- a. Amendment of 19.15.2 to create an online process for the submittal of documents on the OCD's website and to require the filing of forms and other documents through the online portal. Also, OCD proposes to eliminate the specific locations of district offices and specific boundaries of districts within the rules and instead recognize the authority of the OCD Director to create organizational units and require information on such units to be placed on the website; and
- b. Amendment of 19.15.7 to provide for the creation and filing of electronic forms and documents and to clarify the filing requirements for oil and gas operators working on federal and tribal lands.

6. Public Hearing. The Commission conducted a virtual public hearing on the proposed rule changes on June 3, 2021 and subsequently deliberated in open session on the same day.

7. Documentary Evidence. In conjunction with its prehearing statement, the Division proposed ten (10) exhibits for the hearing, which included: the Curriculum Vitae of William R. Brancard; Curriculum Vitae of Brandon Powell; OCD's Proposed Modifications; OCD's Proposed Modifications – Part 7; PowerPoint Presentation; New Mexico Register – Notice of Public Hearing for Proposed Rulemaking; Proof of Publication; Copy of Legal Notice Publication in Albuquerque Journal; Excerpt of New Mexico Register Vol. XXXIII, Issue 9 May 3, 2022; and Notice to Persons on the OCC Rulemaking List. In conjunction with its prehearing statement, NMOGA proposed one (1) exhibit: NMOGA'S Proposed Modifications to Division's Proposed Rule Changes (March 30, 2022, Draft). Each Commissioner reviewed the proposed exhibits before,

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during and after the rulemaking hearing and subsequently admitted into the record such exhibits during the course of the rulemaking hearing.

8. Public Comment. Members of the public were requested to notify the Commission Clerk in advance of the meeting if they planned to provide public comment. The Commission received no public comments. The Commission provided multiple opportunities for members of the public to provide public comment during the hearing.

9. Written Comments. The Commission received no written comments for this rulemaking.

10. Division Testimony. The Division presented two (2) witnesses in its case-in-chief: William Brancard, Hearings Bureau Chief for the Division, and Brandon Powell, Chief of the Division's Engineering Bureau. NMOGA cross-examined both Division witnesses. All Commissioners questioned Mr. Powell.

11. Mr. William Brancard, Hearings Bureau Chief for the Division, testified that he possesses a bachelor's degree, a law degree, and has worked for the State of New Mexico since 1991 with various State agencies. Mr. Brancard further testified that his current role is with the Division as the Chief of the Hearings Bureau.

12. Mr. Brancard explained that, as prior general counsel for EMNRD, he managed all Division attorneys and served as counsel the Commission.

13. Mr. Brancard testified that the purpose behind the Division's proposed rules changes is to update the processes that the Division uses to implement the Oil and Gas Act, particularly because of recent rule changes that resulted in a need for the Division to "catch up with reality." Mr. Brancard then provided a brief history of the Division and Commission, including the Division's recent shift to electronic submittal processes.

14. Concerning the Division's proposed changes to 19.15.2 NMAC, Mr. Brancard stated he was one of several Division employees who worked on the proposed amendment. Mr. Brancard testified similarly as to the Division's proposed changes to 19.15.7 NMAC.

15. Mr. Brancard detailed that the Division's proposed rules address filing of forms and reports, which falls under the obligations set forth in the Oil and Gas Act for the Division and Commission. Mr. Brancard also detailed how the Division solicited feedback from other entities as to the Division's proposed rules and how feedback played a role in the Division's proposals. Other entities included Tribal authorities and informal public comment solicitation, among other things.

16. Regarding the proposed amendments, Mr. Brancard explained that the proposed changes essentially change the format of all required submissions, from paper to electronic.

17. Regarding the proposed amendments to 19.15.2 NMAC, Mr. Brancard explained:

- a. why the three new definitions needed to be added to 19.15.2 NMAC;

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- b. The need to clarify how time is computed for filings by reference to another New Mexico Statute;
- c. The need for district offices no longer exists given the electronic filing options available and the Division's understanding about how people move about the State.

18. Regarding the proposed amendments to 19.15.7 NMAC, Mr. Brancard explained:

- a. That it made sense to merge all Tribal land filings into one location in the regulations;
- b. That the Federal Government changes the names and titles of its forms frequently, so it made sense to remove references to those documents;
- c. That altering language concerning Tribal lands more accurately reflects the legal status of those lands;

19. When asked about NMOGA's proposed changes to 19.15.2 NMAC, Mr. Brancard rejected them based on the recognized legal principle, as outlined in New Mexico and United States Supreme Court opinions, that New Mexico has concurrent jurisdiction with the United States to regulate environmental and natural resources, justifying rejection of NMOGA's proposed changes.

20. Mr. Brandon Powell, Chief of the Division's Engineering Bureau, testified that he has worked for the Division for approximately 16 years. In his current role, he oversees administrative permitting for all oil field operations, underground injection control, and inspection program for approximately half of the State. Mr. Powell is familiar with the Division's relationship with the United States.

21. Regarding the Division's proposed amendments to 19.15.7 NMAC, Mr. Powell testified:

- a. That the 3 proposed definitions were included to ensure consistent understanding and application of the terms;
- b. That the proposed amendments address computation of time;
- c. That the proposed amendments now contain revised citations to other regulations.

22. Regarding the Division's proposed amendments to 19.15.2.10 NMAC, Mr. Powell testified that Section 19.15.2.10 NMAC provides for online applications and submittals of required Division filings, which includes new fees, processes for extension of allowances, and generally governs electronic submissions which also includes "e-permitting," with the overall effect being the Division's move away from hard copy submissions for purposes of efficiency and ease of use.

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Additionally, the proposed revisions also increases the Division's ability to track filings and increases overall agency efficiency.

23. Regarding the Division's proposed amendments to 19.15.2.12 NMAC, Mr. Powell testified that the proposed Rule provides a process for how operators should submit filings or notifications to the Division, in particular that submissions be made electronically, but does not alter the requirement that those filing with the Division submit a hard copy of proof of financial assurance to the Division.

24. Regarding the Division's proposed amendments to 19.15.2.13 NMAC, Mr. Powell testified that the Division seeks to amend this provision to render it consistent with the New Mexico Statute that governs computation of time for deadlines.

25. Regarding the Division's proposed amendments to 19.15.2.16 NMAC, Mr. Powell testified that the Division's proposals update the Rule to be consistent with the organizational structure of the Division and ensures that OCD receives proper documentation of any changes to within that structure. Additionally, per Mr. Powell, the proposed amendments grant field personal leeway in making minor deviations to approvals granted in the field to avoid waste and protect public health, with deviations including, but not limited to, plugging a well in the field when paperwork has not been submitted for permission to do so – Mr. Powell averred that this particular language permits operational flexibility in the field. Mr. Powell then explained the outcome of the Division's restructuring, which included a discussion of field offices and their historical use, which is no longer needed.

26. Regarding the Division's proposed amendments to 19.15.2.17 NMAC, Mr. Powell testified that the Division's proposed amendments, similar to Rule 19.15.2.17 NMAC, address the restructuring of the Division, specifically the closing of field offices around the State due to the implementation of electronic submission of filings to the Division.

27. Regarding the Division's proposed amendments to 19.15.7.8 NMAC, Mr. Powell testified that the Division's proposals sets forth requirements on how operators should submit forms, brings the regulation into conformity with various statutes, and provides other updates for regulatory consistency.

28. Regarding the Division's proposed amendments to 19.15.7.9 and 10 NMAC, which concern Federal and Tribal land filings, Mr. Powell testified that the Division proposes to repeal these provisions as they apply only to hardcopy submissions, which are no longer required in light of the proposed amendments requiring electronic submission of documents. 19.15.7.9 NMAC, as proposed, consolidates prior sections 19.15.7.11 and 19.15.7.37 NMAC and repeals them as currently enacted. Mr. Powell explained that the proposed changes to 19.15.7.9 and 10 NMAC will remove various barriers, which include delays, in dealing with filings concerning Federal and Tribal lands; Mr. Powell detailed examples of these issues for the Commission.

29. Regarding the Division's proposed amendments to 19.15.7.16 NMAC, Mr. Powell testified that the proposed amendments update the rule to recognize current Division processes. Mr. Powell followed-up by explaining what has changed within the Division to justify the

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proposed amendment, but emphasized that the proposed changes to 19.15.7.16 NMAC do not reflect a change in Division policy.

30. Reasons for Adopting Rule Changes. The Commission finds that the proposed rule amendments to 19.15.2 and 19.15.7 NMAC are supported by substantial evidence. The proposed rule amendments appropriately amend Rules 19.15.2 and 19.15.7 NMAC to ensure that each rule is consistent with the Oil and Gas Act and the Division's objectives in requesting amendment of both Rules. The Commission finds that the proposed rule changes appropriately update the Division's document submittal process and portal. The proposed rule changes also appropriately amend Rule 19.15.2 NMAC to match the internal changes in how the Division operates. The proposed rule changes also appropriately amend Rule 19.15.7 NMAC to clarify the filing requirements for oil and gas operators working on federal and tribal lands. The Commission, however, finds that the following changes to the Division's proposals are appropriate:

- a. That all use of the lower-case term "native" shall be corrected to "Native;"
- b. That 19.15.7.9 NMAC shall be altered as follows:
 - i. The title of section 19.15.7.9 NMAC shall be changed from "FORMS REQUIRED ON FEDERAL LAND OR MINERALS" to "FORM REQUIREMENTS ON FEDERAL OR TRIBAL LANDS OR MINERALS;"
 - ii. 19.15.7.9(C) NMAC shall be amended to add the phrase "to completion" after "approved or processed" and "approves or processes;"
 - iii. 19.15.7.9(C)(1) NMAC shall be amended to add the phrase "to completion" after "approved or processed;"
 - iv. 19.15.7.9(C)(2) NMAC shall be amended to add the phrase "to completion" after "processes," omit "approved or" after "submittal," and add "to completion or approved" after "processed;" and
 - v. 19.15.7.9(D) NMAC shall be amended to add the phrase "to completion" after "processing."

THE COMMISSION CONCLUDES THAT:

1. The Commission has jurisdiction, under the Oil and Gas Act, NMSA 1978, §§ 70-2-1 to -38, over the parties and subject matter of this case.
2. The Commission has legal authority, under the Oil and Gas Act, to enact the proposed rule changes.
3. The Commission provided due public notice and an opportunity for the public to provide comments regarding the proposed rule change. The Commission held a public rulemaking

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hearing and provided a reasonable opportunity for all persons present or interested in the subject matter of the rulemaking hearing to provide testimony, evidence and exhibits.

4. All Commissioners were present at the public hearing and that each Commissioner reviewed all transcripts and admitted evidence consistent with the Commissioner's duties and obligations. All Commissioners analyzed and considered all the evidence presented during the hearing, including the proposed amendments submitted by the parties. The Commission deliberated at a public hearing on June 3, 2022 and adopted the rule changes as stated above.

5. The Commission concludes that there is substantial evidence in the record to support the Division's proposed rule changes and the Commission's revisions to those changes, that these rule changes are within the authority of the Commission under the Oil and Gas Act and that these rule changes are reasonable and further the goals of the Oil and Gas Act.

IT IS THEREFORE ORDERED THAT:

The proposed amendments to 19.15.2 and 19.15.7 NMAC are hereby approved by the Commission. The adoption of the rule changes will be final upon the latter of (a) the action, or deemed action, of the Commission on a rehearing application filed pursuant to NMSA 1978, § 70-2-25, or (b) twenty (20) days from the date of this order if no rehearing application is filed. The rule change shall not be filed with the state records administrator until the rule change is adopted and then must be filed within fifteen (15) days after the adoption. If no rehearing is required by the Commission, this Order shall serve as the "concise explanatory statement" required by NMSA 1978, § 14-4-5.5 (2017).

DONE at Santa Fe, New Mexico, on this 14th Day of July 2022.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

William Ampomah

DR. WILLIAM AMPOMAH, P.E.,
MEMBER

Gregory B. Bloom

GREG BLOOM, MEMBER

Adrienne Sandoval

ADRIENNE SANDOVAL, M.E., CHAIR

SEAL

THIS IS AN AMENDMENT TO 19.15.2 NMAC, SECTIONS 7, 10, 13 AND 16 AND REPEALING AND REPLACING SECTIONS 12 AND 17, EFFECTIVE 8/23/2022.

19.15.2.7 DEFINITIONS: These definitions apply to 19.15.2 NMAC through 19.15.39 NMAC.

A. Definitions beginning with the letter "A".

(1) **"Abate"** means to investigate, contain, remove or mitigate water pollution.

(2) **"Abatement"** means the investigation, containment, removal or other mitigation of water pollution.

(3) **"Abatement plan"** means a description of operational, monitoring, contingency and closure requirements and conditions for water pollution's prevention, investigation and abatement.

(4) ~~["ACT" means automatic custody transfer]~~ **"Act" or "Oil and Gas Act"** means Chapter 70, Article 2 NMSA 1978, as it may be modified or amended.

(5) **"Adjoining spacing units"** mean those existing or prospective spacing units in the same pool that are touching at a point or line on the subject spacing unit.

(6) **"Adjusted allowable"** means the allowable production a well or proration unit receives after all adjustments are made.

(7) **"AFE"** means authorization for expenditure.

(8) **"Affected persons"** means the following persons owning interests in a spacing unit or other identified tract:

(a) the operator, as shown in division records, of a well on the tract, or, if the tract is included in a division-approved or federal unit, the designated unit operator;

(b) in the absence of an operator, or with respect to an application wherein the operator of the spacing unit or identified tract is the applicant, each working interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant files the application;

(c) as to any tract or interest therein that is not subject to an existing oil and gas lease, each mineral interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant filed the application; and

(d) if the United States or state of New Mexico owns the mineral estate in the spacing unit or identified tract or any part thereof, the BLM or state land office, as applicable; or

(e) if the mineral estate in the spacing unit or identified tract or any part thereof is tribal land, the BLM, the United States department of the interior, bureau of Indian affairs, and the relevant tribe.

(9) **"Allocated pool"** means a pool in which the total oil or gas production is restricted and is allocated to various wells in the pool in accordance with proration schedules.

(10) **"Allowable production"** means that number of barrels of oil or cubic feet of gas the division authorizes to be produced from an allocated pool.

(11) **"APD"** means application for permit to drill.

(12) **"API"** means the American petroleum institute.

(13) **"Approved temporary abandonment"** means the status of a well that is inactive, has been approved in accordance with 19.15.25.13 NMAC and complies with 19.15.25.12 NMAC through 19.15.25.14 NMAC.

(14) **"Aquifer"** means a geological formation, group of formations or a part of a formation that can yield a significant amount of water to a well or spring.

(15) **"ASTM"** means ASTM International - an international standards developing organization that develops and publishes voluntary technical standards for a wide range of materials, products, systems and services.

B. Definitions beginning with the letter "B".

(1) **"Back allowable"** means the authorization for production of an underproduction resulting from pipeline proration.

(2) **"Background"** means, for purposes of ground water abatement plans only, the amount of ground water contaminants naturally occurring from undisturbed geologic sources or water contaminants occurring from a source other than the responsible person's facility. This definition does not prevent the director from requiring abatement of commingled plumes of pollution, does not prevent responsible persons from seeking contribution or other legal or equitable relief from other persons and does not preclude the director from exercising enforcement authority under any applicable statute, rule or common law.

(3) **"Barrel"** means 42 United States gallons measured at 60 degrees fahrenheit and

atmospheric pressure at the sea level.

(4) **"Barrel of oil"** means 42 United States gallons of oil, after deductions for the full amount of basic sediment, water and other impurities present, ascertained by centrifugal or other recognized and customary test.

(5) **"Below-grade tank"** means a vessel, excluding sumps and pressurized pipeline drip traps, where a portion of the tank's sidewalls is below the surrounding ground surface's elevation. Below-grade tank does not include an above ground storage tank that is located above or at the surrounding ground surface's elevation and is surrounded by berms.

(6) **"Berm"** means an embankment or ridge constructed to prevent the movement of liquids, sludge, solids or other materials.

(7) **"Biopile"**, also known as biocell, bioheap, biomound or compost pile, means a pile of contaminated soils used to reduce concentrations of petroleum constituents in excavated soils through biodegradation. This technology involves heaping contaminated soils into piles or "cells" and stimulating aerobic microbial activity within the soils through the aeration or addition of minerals, nutrients and moisture.

(8) **"BLM"** means the United States department of the interior, bureau of land management.

(9) **"Bottom hole pressure"** means the gauge pressure in psi under conditions existing at or near the producing horizon.

(10) **"Bradenhead gas well"** means a well producing gas through wellhead connections from a gas reservoir that has been successfully cased off from an underlying oil or gas reservoir.

(11) **"BS&W"** means basic sediments and water.

(12) **"BTEX"** means benzene, toluene, ethylbenzene and xylene.

C. Definitions beginning with the letter "C".

(1) **"Carbon dioxide gas"** means noncombustible gas composed chiefly of carbon dioxide occurring naturally in underground rocks.

(2) **"Casinghead gas"** means a gas or vapor or both gas and vapor indigenous to and produced from a pool the division classifies as an oil pool. This also includes gas-cap gas produced from such an oil pool.

(3) **"Certified mail" or "certified mail, return receipt requested"** means United States Postal Service Certified Mail or equivalent service that provides tracking and signature receipt, including Federal Express, United Parcel Service, or similar courier services.

[3] (4) **"Cm/sec"** means centimeters per second.

[4] (5) **"CPD"** means central point delivery.

[5] (6) **"Combination multiple completion"** means a multiple completion in which two or more common sources of supply are produced through a combination of two or more conventional diameter casing strings cemented in a common well bore, or a combination of small diameter and conventional diameter casing strings cemented in a common well bore, the conventional diameter strings of which might or might not be a conventional multiple completion.

[6] (7) **"Commission"** means the oil conservation commission.

[7] (8) **"Commission clerk"** means the division employee the director designates to provide staff support to the commission and accept filings in rulemaking or adjudicatory cases before the commission.

[8] (9) **"Common purchaser for gas"** means a person now or hereafter engaged in purchasing from one or more producers gas produced from gas wells within each common source of supply from which it purchases.

[9] (10) **"Common purchaser for oil"** means every person now engaged or hereafter engaging in the business of purchasing oil to be transported through pipelines.

[10] (11) **"Common source of supply"**. See pool.

[11] (12) **"Condensate"** means the liquid recovered at the surface that results from condensation due to reduced pressure or temperature of petroleum hydrocarbons existing in a gaseous phase in the reservoir.

[12] (13) **"Contiguous"** means acreage joined by more than one common point, that is, the common boundary is at least one side of a governmental quarter-quarter section.

[13] (14) **"Conventional completion"** means a well completion in which the production string of casing has an outside diameter exceeding 2.875 inches.

[14] (15) **"Conventional multiple completion"** means a completion in which two or more common sources of supply are produced through one or more strings of tubing installed within a single casing string, with the production from each common source of supply completely segregated by means of packers.

[45] (16) “**Correlative rights**” means the opportunity afforded, as far as it is practicable to do so, to the owner of each property in a pool to produce without waste the owner’s just and equitable share of the oil or gas in the pool, being an amount, so far as can be practically determined, and so far as can be practically obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas under the property bears to the total recoverable oil or gas in the pool, and for the purpose to use the owner’s just and equitable share of the reservoir energy.

[46] (17) “**Cubic feet of gas or cubic foot of gas**” means that volume of gas contained in one cubic foot of space and computed at a base pressure of 10 ounces per square inch above the average barometric pressure of 14.4 psi (15.025 psi absolute), at a standard base temperature of 60 degrees fahrenheit.

D. Definitions beginning with the letter “D”.

(1) “**Deep pool**” means a common source of supply that is situated 5000 feet or more below the surface.

(2) “**Depth bracket allowable**” means the basic oil allowable the division assigns a pool and based on its depth, unit size or special pool orders, which, when multiplied by the market demand percentage factor in effect, determines the pool’s top proration unit allowable.

(3) “**Director**” means the director of the New Mexico energy, minerals and natural resources department, oil conservation division.

(4) “**Division**” means the New Mexico energy, minerals and natural resources department, oil conservation division.

(5) “**Division clerk**” means the division employee the director designates to accept filings in adjudicatory cases before the division.

(6) “**Downstream facility**” means a facility associated with the transportation (including gathering) or processing of gas or oil (including a refinery, gas plant, compressor station or crude oil pump station); brine production; or the oil field service industry.

(7) “**DRO**” means diesel range organics.

E. Definitions beginning with the letter “E”.

(1) “**EC**” means electrical conductivity.

(2) “**Enhanced oil recovery project**” means the use or the expanded use of a process for the displacement of oil from an oil well or division-designated pool other than a primary recovery process, including but not limited to the use of a pressure maintenance process; a water flooding process; an immiscible, miscible, chemical, thermal or biological process; or any other related process.

(3) “**EOR project**” means an enhanced oil recovery project.

(4) “**EPA**” means the United States environmental protection agency.

(5) “**Exempted aquifer**” means an aquifer that does not currently serve as a source of drinking water, and that cannot now and will not in the foreseeable future serve as a source of drinking water because:

(a) it is hydrocarbon producing;

(b) it is situated at a depth or location that makes the recovery of water for drinking water purposes economically or technologically impractical; or

(c) it is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption.

(6) “**Exempt waste**” means oil field waste exempted from regulation as hazardous waste pursuant to Subtitle C of RCRA and applicable regulations.

(7) “**Existing spacing unit**” means a spacing unit containing a producing well.

F. Definitions beginning with the letter “F”.

(1) “**Facility**” means a structure, installation, operation, storage tank, transmission line, access road, motor vehicle, rolling stock or activity of any kind, whether stationary or mobile.

(2) “**Field**” means the general area that at least one pool underlies or appears to underlie; and also includes the underground reservoir or reservoirs containing oil or gas. The words field and pool mean the same thing when only one underground reservoir is involved; however, field unlike pool may relate to two or more pools.

(3) “**Fresh water**” to be protected includes the water in lakes and playas (regardless of quality, unless the water exceeds 10,000 mg/l TDS and it can be shown that degradation of the particular water body will not adversely affect hydrologically connected fresh ground water), the surface waters of streams regardless of the water quality within a given reach, and underground waters containing 10,000 mg/l or less of TDS except for which, after notice and hearing, it is found there is no present or reasonably foreseeable beneficial use that contamination of such waters would impair.

G. Definitions beginning with the letter "G".

(1) **"Gas"**, also known as natural gas, means a combustible vapor composed chiefly of hydrocarbons occurring naturally in a pool the division has classified as a gas pool.

(2) **"Gas lift"** means a method of lifting liquid to the surface by injecting gas into a well from which oil production is obtained.

(3) **"Gas-oil ratio"** means the ratio of the casinghead gas produced in standard cubic feet to the number of barrels of oil concurrently produced during any stated period.

(4) **"Gas-oil ratio adjustment"** means the reduction in allowable of a high gas oil ratio unit to conform with the production permitted by the limiting gas-oil ratio for the particular pool during a particular proration period.

(5) **"Gas transportation facility"** means a pipeline in operation serving gas wells for the transportation of gas, or some other device or equipment in like operation where the gas produced from gas wells connected with the pipeline or other device or equipment can be transported or used for consumption.

(6) **"Gas well"** means a well producing gas from a gas pool, or a well with a gas-oil ratio exceeding 100,000 cubic feet of gas per barrel of oil producing from an oil pool.

(7) **"Geomembrane"** means an impermeable polymeric sheet material that is impervious to liquid and gas if it maintains its integrity and is used as an integral part of an engineered structure designed to limit the movement of liquid or gas in a system.

(8) **"Geotextile"** means a sheet material that is less impervious to liquid than a geomembrane but more resistant to penetration damage, and is used as part of an engineered structure or system to serve as a filter to prevent the movement of soil fines into a drainage system, to provide planar flow for drainage, to serve as a cushion to protect geomembranes or to provide structural support.

(9) **"GRO"** means gasoline range organics.

(10) **"Ground water"** means interstitial water that occurs in saturated earth material and can enter a well in sufficient amounts to be used as a water supply.

(11) **"Ground water sensitive area"** means an area the division specifically designates after evaluation of technical evidence where ground water exists that would likely exceed WQCC standards if contaminants were introduced into the environment.

H. Definitions beginning with the letter "H".

(1) **"Hardship gas well"** means a gas well where underground waste occurs if the well is shut-in or curtailed below its minimum sustainable flow rate.

(2) **"Hazard to public health"** exists when water that is used or is reasonably expected to be used in the future as a human drinking water supply exceeds at the time and place of the use, one or more of the numerical standards of Subsection A of 20.6.2.3103 NMAC, or the naturally occurring concentrations, whichever is higher, or if a toxic pollutant as defined at Subsection WW of 20.6.2.7 NMAC affecting human health is present in the water. In determining whether a release would cause a hazard to public health to exist, the director investigates and considers the purification and dilution reasonably expected to occur from the time and place of release to the time and place of withdrawal for use as human drinking water.

(3) **"Hazardous waste"** means non-exempt waste that exceeds the minimum standards for waste hazardous by characteristics established in RCRA regulations, 40 CFR 261.21-261.24, or listed hazardous waste as defined in 40 CFR, part 261, subpart D, as amended.

(4) **"HDPE"** means high-density polyethylene.

(5) **"High gas-oil ratio proration unit"** means a unit with at least one producing oil well with a gas-oil ratio exceeding the limiting gas-oil ratio for the pool in which the unit is located.

(6) **"H₂S"** means hydrogen sulfide.

I. Definitions beginning with the letter "I".

(1) **"Illegal gas"** means gas produced from a gas well exceeding the division-determined allowable.

(2) **"Illegal oil"** means oil produced exceeding the allowable the division fixes.

(3) **"Illegal product"** means a product of illegal gas or illegal oil.

(4) **"Inactive well"** means a well that is not being used for beneficial purposes such as production, injection or monitoring and that is not being drilled, completed, repaired or worked over.

(5) **"Injection well"** means a well used for the injection of air, gas, water or other fluids into an underground stratum.

J. Definitions beginning with the letter "J". [RESERVED]

K. Definitions beginning with the letter "K". "Knowingly and willfully", for assessing civil

penalties, means the voluntary or conscious performance of an act that is prohibited or the voluntary or conscious failure to perform an act or duty that is required. It does not include performances or failures to perform that are honest mistakes or merely inadvertent. It includes, but does not require, performances or failures to perform that result from a criminal or evil intent or from a specific intent to violate the law. The conduct's knowing and willful nature may be established by plain indifference to or reckless disregard of the requirements of statutes, rules, orders or permits. A consistent pattern or performance or failure to perform also may be sufficient to establish the conduct's knowing and willful nature, where such consistent pattern is neither the result of honest mistakes nor mere inadvertency. Conduct that is otherwise regarded as being knowing and willful is rendered neither accidental nor mitigated in character by the belief that the conduct is reasonable or legal.

L. Definitions beginning with the letter "L".

(1) **"Limiting gas-oil ratio"** means the gas-oil ratio the division assigns to a particular oil pool to limit the volumes of casinghead gas that may be produced from the various oil producing units within that particular pool.

(2) **"Liner"** means a continuous, low-permeability layer constructed of natural or human-made materials that restricts the migration of liquid oil field wastes, gases or leachate.

(3) **"LLDPE"** means linear low-density polyethylene.

(4) **"Load oil"** means oil or liquid hydrocarbon that has been used in remedial operation in an oil or gas well.

(5) **"Log"** means a systematic detailed and correct record of formations encountered in drilling a well.

M. Definitions beginning with the letter "M".

(1) **"Marginal unit"** means a proration unit that is incapable of producing top proration unit allowable for the pool in which it is located.

(2) **"Market demand percentage factor"** means that percentage factor of one hundred percent or less as the division determines at an oil allowable hearing, which, when multiplied by the depth bracket allowable applicable to each pool, determines that pool's top proration unit allowable.

(3) **"MCF"** means 1000 cubic feet.

(4) **"MCFD"** means 1000 cubic feet per day.

(5) **"MCFGPD"** means 1000 cubic feet of gas per day.

(6) **"Measured depth"** means the total length of the well bore.

(7) **"Mg/l"** means milligrams per liter.

(8) **"Mg/kg"** means milligrams per kilogram.

(9) **"Mineral estate"** is the most complete ownership of oil and gas recognized in law and includes the mineral interests and the royalty interests.

(10) **"Mineral interest owner"** means a working interest owner, or an owner of a right to explore for and develop oil and gas that is not subject to an existing oil and gas lease.

(11) **"Minimum allowable"** means the minimum amount of production from an oil or gas well that may be advisable from time to time to the end that production will repay reasonable lifting cost and thus prevent premature abandonment and resulting waste.

(12) **"Miscellaneous hydrocarbons"** means tank bottoms occurring at pipeline stations; oil storage terminals or refineries; pipeline break oil; catchings collected in traps, drips or scrubbers by gasoline plant operators in the plants or in the gathering lines serving the plants; the catchings collected in private, community or commercial salt water disposal systems; or other liquid hydrocarbon that is not lease crude or condensate.

N. Definitions beginning with the letter "N".

(1) **"Non-aqueous phase liquid"** means an interstitial body of liquid oil, petroleum product, petrochemical or organic solvent, including an emulsion containing such material.

(2) **"Non-exempt waste"** means oil field waste not exempted from regulation as hazardous waste pursuant to Subtitle C of RCRA and applicable regulations.

(3) **"Non-hazardous waste"** means non-exempt oil field waste that is not hazardous waste.

(4) **"Non-marginal unit"** means a proration unit that can produce the top proration unit allowable for the pool in which it is located, and to which the division assigns a top proration unit allowable.

(5) **"NORM"** means the naturally occurring radioactive materials regulated by 20.3.14 NMAC.

O. Definitions beginning with the letter "O".

(1) **"Official gas-oil ratio test"** means the periodic gas-oil ratio test the operator performs pursuant to division order by the method and in the manner the division prescribes.

(2) **"Oil"** means petroleum hydrocarbon produced from a well in the liquid phase and that existed in a liquid phase in the reservoir. This definition includes crude oil or crude petroleum oil.

(3) **"Oil field waste"** means non-domestic waste resulting from the exploration, development, production or storage of oil or gas pursuant to Paragraph (21) of Subsection B of Section 70-2-12 NMSA 1978 and the oil field service industry, the transportation of crude oil or natural gas, the treatment of natural gas or the refinement of crude oil pursuant to Paragraph (22) of Subsection B of Section 70-2-12 NMSA 1978, including waste generated from oil field remediation or abatement activity regardless of the date of release. Oil field waste does not include waste not generally associated with oil and gas industry operations such as tires, appliances or ordinary garbage or refuse unless generated at a division-regulated facility, and does not include sewage, regardless of the source.

(4) **"Oil well"** means a well capable of producing oil and that is not a gas well as defined in Paragraph (6) of Subsection G of 19.15.2.7 NMAC.

(5) **"Operator"** means a person who, duly authorized, manages a lease's development or a producing property's operation, or who manages a facility's operation.

(6) **"Overproduction"** means the amount of oil or gas produced during a proration period exceeding the amount authorized on the proration schedule.

(7) **"Owner"** means the person who has the right to drill into and to produce from a pool, and to appropriate the production either for the person or for the person and another.

P. Definitions beginning with the letter "P".

(1) **"Penalized unit"** means a proration unit to which, because of an excessive gas-oil ratio, the division assigns an allowable that is less than top proration unit allowable for the pool in which it is located and also less than the ability of the well or wells on the unit to produce.

(2) **"Person"** means an individual or entity including partnerships, corporations, associations, responsible business or association agents or officers, the state or a political subdivision of the state or an agency, department or instrumentality of the United States and of its officers, agents or employees.

(3) **"Pit"** means a surface or sub-surface impoundment, man-made or natural depression or diked area on the surface. Excluded from this definition are berms constructed around tanks or other facilities solely for safety, secondary containment and storm water or run-on control.

(4) **"Playa lake"** means a level or nearly level area that occupies the lowest part of a completely closed basin and that is covered with water at irregular intervals, forming a temporary lake.

(5) **"Pool"** means an underground reservoir containing a common accumulation of oil or gas. Each zone of a general structure, which zone is completely separated from other zones in the structure, is covered by the word pool as used in 19.15.2 NMAC through 19.15.39 NMAC. "Pool" is synonymous with "common source of supply" and with "common reservoir".

(6) **"Potential"** means a well's properly determined capacity to produce oil or gas under division-prescribed conditions.

(7) **"Ppm"** means parts per million by volume.

(8) **"PQL"** means practical quantitation limit.

(9) **"Pressure maintenance"** means the injection of gas or other fluid into a reservoir, either to maintain the reservoir's existing pressure or to retard the reservoir pressure's natural decline.

(10) **"Produced water"** means a fluid that is an incidental byproduct from drilling for or the production of oil and gas.

(11) **"Producer"** means the owner of a well or wells capable of producing oil or gas or both in paying quantities.

(12) **"Product"** means a commodity or thing made or manufactured from oil or gas, and derivatives of oil or gas, including refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, treated crude oil, fuel oil, residuum, gas oil, naphtha, distillate, gasoline, kerosene, benzene, wash oil, lubricating oil and blends or mixtures of oil or gas or a derivative thereof.

(13) **"Proration day"** consists of 24 consecutive hours that begin at 7:00 a.m. and end at 7:00 a.m. on the following day.

(14) **"Proration month"** means the calendar month that begins at 7:00 a.m. on the first day of the month and ends at 7:00 a.m. on the first day of the next succeeding month.

(15) **"Proration period"** means for oil the proration month and for gas the 12-month period that begins at 7:00 a.m. on January 1 of each year and ends at 7:00 a.m. on January 1 of the succeeding year or other period designated by general or special order of the division.

(16) **"Proration schedule"** means the division orders authorizing the production, purchase and transportation of oil, casinghead gas and gas from the various units of oil or of gas in allocated pools.

(17) **"Proration unit"** means the area in a pool that can be effectively and efficiently drained by one well as determined by the division or commission (see Subsection B of Section 70-2-17 NMSA 1978) as well as the area assigned to an individual well for the purposes of allocating allowable production pursuant to a prorationing order for the pool.

(18) **"Prospective spacing unit"** means a hypothetical spacing unit that does not yet have a producing well.

(19) **"PVC"** means poly vinyl chloride.

(20) **"Psi"** means pounds per square inch.

Q. Definitions beginning with the letter "Q". [RESERVED]

R. Definitions beginning with the letter "R".

(1) **"RCRA"** means the federal Resource Recovery and Conservation Act.

(2) **"Recomplete"** means the subsequent completion of a well in a different pool from the pool in which it was originally completed.

(3) **"Regulated NORM"** means NORM contained in oil-field soils, equipment, sludges or other materials related to oil-field operations or processes exceeding the radiation levels specified in 20.3.14.1403 NMAC.

(4) **"Release"** means breaks, leaks, spills, releases, fires or blowouts involving oil, produced water, condensate, drilling fluids, completion fluids or other chemical or contaminant or mixture thereof, including oil field wastes and gases to the environment.

(5) **"Remediation plan"** means a written description of a program to address unauthorized releases. The plan may include appropriate information, including assessment data, health risk demonstrations and corrective action or actions. The plan may also include an alternative proposing no action beyond the spill report's submittal.

(6) **"Responsible person"** means the owner or operator who shall complete a division-approved corrective action for pollution from releases.

(7) **"Rules"** means the rules enacted pursuant to the Oil and Gas Act, 19.15.2 to 19.15.39 NMAC, as they may be modified or amended.

(7) (8) **"Royalty interest owner"** means the owner of an interest in oil and gas that does not presently entitle the owner to explore, drill or otherwise develop those minerals, including lessors, royalty interest owners and overriding royalty interest owners. Royalty interests are non-cost bearing.

(8) (9) **"Run-on"** means rainwater, leachate or other liquid that drains from other land onto any part of a division-approved facility.

S. Definitions beginning with the letter "S".

(1) **"SAR"** means the sodium adsorption ratio.

(2) **"Secondary recovery"** means a method of recovering quantities of oil or gas from a reservoir which quantities would not be recoverable by ordinary primary depletion methods.

(3) **"Sediment oil"** means tank bottoms and other accumulations of liquid hydrocarbons on an oil and gas lease, which hydrocarbons are not merchantable through normal channels.

(4) **"Shallow pool"** means a pool that has a depth range from zero to 5000 feet.

(5) **"Shut-in"** means the status of a production well or an injection well that is temporarily closed, whether by closing a valve or disconnection or other physical means.

(6) **"Shut-in pressure"** means the gauge pressure noted at the wellhead when the well is completely shut-in, not to be confused with bottom hole pressure.

(7) **"Significant modification of an abatement plan"** means a change in the abatement technology used excluding design and operational parameters, or relocation of twenty-five percent or more of the compliance sampling stations, for a single medium, as designated pursuant to Subparagraph (d) of Paragraph (2) of Subsection D of 19.15.30.13 NMAC.

(8) **"Soil"** means earth, sediments or other unconsolidated accumulations of solid particles produced by the physical and chemical disintegration of rocks, and that may or may not contain organic matter.

(9) **"Spacing unit"** means the area allocated to a well under a well spacing order or rule. Under the Oil and Gas Act, Paragraph (10) of Subsection B of Section 70-2-12 NMSA 1978, the commission may fix spacing units without first creating proration units. See *Rutter & Wilbanks corp. v. oil conservation comm'n*, 87 NM 286 (1975). This is the area designated on form C-102.

(10) **"Subsurface water"** means ground water and water in the vadose zone that may become

ground water or surface water in the reasonably foreseeable future or that vegetation may use.

(11) **“Surface waste management facility”** means a facility that receives oil field waste for collection, disposal, evaporation, remediation, reclamation, treatment or storage except:

(a) a facility that utilizes underground injection wells subject to division regulation pursuant to the federal Safe Drinking Water Act, and does not manage oil field wastes on the ground in pits, ponds, below-grade tanks or land application units;

(b) a facility permitted pursuant to the New Mexico environmental improvement board rules or WQCC rules;

(c) a temporary pit as defined in 19.15.17 NMAC;

(d) a below-grade tank or pit that receives oil field waste from a single well, permitted pursuant to 19.15.37 NMAC, regardless of the capacity or volume of oil field waste received;

(e) a facility located at an oil and gas production facility and used for temporary storage of oil field waste generated on-site from normal operations, if the facility does not pose a threat to fresh water, public health, safety or the environment;

(f) a remediation conducted in accordance with a division-approved abatement plan pursuant to 19.15.30 NMAC, a corrective action pursuant to 19.15.29 NMAC or a corrective action of a non-reportable release;

(g) a facility operating pursuant to a division emergency order;

(h) a site or facility where the operator is conducting emergency response operations to abate an immediate threat to fresh water, public health, safety or the environment or as the division has specifically directed or approved; or

(i) a facility that receives only exempt oil field waste, receives less than 50 barrels of liquid water per day (averaged over a 30-day period), has a capacity to hold 500 barrels of liquids or less and is permitted pursuant to 19.15.17 NMAC.

T. Definitions beginning with the letter “T”.

(1) **“Tank bottoms”** means that accumulation of hydrocarbon material and other substances that settles naturally below oil in tanks and receptacles that are used in oil’s handling and storing, and which accumulation contains more than two percent of BS&W; provided, however, that with respect to lease production and for lease storage tanks, a tank bottom shall be limited to that volume of the tank in which it is contained that lies below the bottom of the pipeline outlet to the tank.

(2) **“TDS”** means total dissolved solids.

(3) **“Temporary abandonment” or “temporarily abandoned status”** means the status of a well that is inactive.

(4) **“Top proration unit allowable for gas”** means the maximum number of cubic feet of gas, for the proration period, the division allocates to a gas producing unit in an allocated gas pool.

(5) **“Top proration unit allowable for oil”** means the maximum number of barrels for oil daily for each calendar month the division allocates on a proration unit basis in a pool to non-marginal units. The division shall determine the top proration unit allowable for a pool by multiplying the applicable depth bracket allowable by the market demand percentage factor in effect.

(6) **“TPH”** means total petroleum hydrocarbons.

(7) **“Treating plant”** means a plant constructed for wholly or partially or being used wholly or partially for reclaiming, treating, processing or in any manner making tank bottoms or other waste oil marketable.

(8) **“Tribal lands”** means those lands for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe. This includes reservations, pueblo land grants, tribal trust lands and individual trust allotments.

(9) **“Tribal leases”** means those leases of minerals or interests in or rights to minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

(10) **“Tribal minerals”** means those minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

(11) **“True vertical depth”** means the difference in elevation between the ground level at the surface location of the well and the deepest point in the well bore.

(12) **“Tubingless completion”** means a well completion in which the production string of casing has an outside diameter of 2.875 inches or less.

(13) **“Tubingless multiple completion”** means completion in which two or more common sources of supply are produced through an equal number of casing strings cemented in a common well bore, each

such string of casing having an outside diameter of 2.875 inches or less, with the production from each common source of supply completely segregated by cement.

U. Definitions beginning with the letter "U".

(1) **"Underground source of drinking water"** means an aquifer that supplies water for human consumption or that contains ground water having a TDS concentration of 10,000 mg/l or less and that is not an exempted aquifer.

(2) **"Underproduction"** means the amount of oil or the amount of gas during a proration period by which a given proration unit failed to produce an amount equal to that the division authorizes in the proration schedule.

(3) **"Unit of proration for gas"** consists of such multiples of 40 acres as may be prescribed by division-issued special pool orders.

(4) **"Unit of proration for oil"** consists of one 40-acre tract or such multiples of 40-acre tracts as may be prescribed by division-issued special pool orders.

(5) **"Unorthodox well location"** means a location that does not conform to the spacing requirements division rules establish.

(6) **"Unstable area"** means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all a division-approved facility's structural components. Examples of unstable areas are areas of poor foundation conditions, areas susceptible to mass earth movements and karst terrain areas where karst topography is developed because of dissolution of limestone, dolomite or other soluble rock. Characteristic physiographic features of karst terrain include sinkholes, sinking streams, caves, large springs and blind valleys.

(7) **"Upstream facility"** means a facility or operation associated with the exploration, development, production or storage of oil or gas that is not a downstream facility.

V. Definitions beginning with the letter "V". **"Vadose zone"** means unsaturated earth material below the land surface and above ground water, or in between bodies of ground water.

W. Definitions beginning with the letter "W".

(1) **"Waste"**, in addition to its ordinary meaning, includes:

(a) underground waste as those words are generally understood in the oil and gas business, and to embrace the inefficient, excessive or improper use or dissipation of the reservoir energy, including gas energy and water drive, of a pool, and the locating, spacing, drilling, equipping, operating or producing of a well or wells in a manner to reduce or tend to reduce the total quantity of oil or gas ultimately recovered from a pool, and the use of inefficient underground storage of gas;

(b) surface waste as those words are generally understood in the oil and gas business, and to embrace the unnecessary or excessive surface loss or destruction without beneficial use, however caused, of gas of any type or in any form, or oil, or a product thereof, but including the loss or destruction, without beneficial use, resulting from evaporation, seepage, leakage or fire, especially such loss or destruction incident to or resulting from the manner of spacing, equipping, operating or producing a well or wells, or incident to or resulting from the use of inefficient storage or from the production of oil or gas, in excess of the reasonable market demand;

(c) oil production in this state in excess of the reasonable market demand for the oil; the excess production causes or results in waste that the Oil and Gas Act prohibits; reasonable market demand as used herein with respect to oil means the demand for the oil, for reasonable current requirements for current consumption and use within or outside of the state, together with the demand of amounts as are reasonably necessary for building up or maintaining reasonable storage reserves of oil or the products thereof, or both the oil and products;

(d) the non-ratable purchase or taking of oil in this state; the non-ratable taking and purchasing causes or results in waste, as defined in Subparagraphs (a), (b) and (c) of Paragraph (1) of Subsection W of 19.15.2.7 NMAC and causes waste by violating the Oil and Gas Act, Section 70-2-16 NMSA 1978;

(e) the production in this state of gas from a gas well or wells, or from a gas pool, in excess of the reasonable market demand from such source for gas of the type produced or in excess of the capacity of gas transportation facilities for such type of gas; the words "reasonable market demand", as used herein with respect to gas, shall be construed to mean the demand for gas for reasonable current requirements, for current consumption and for use within or outside the state, together with the demand for such amounts as are necessary for building up or maintaining reasonable storage reserves of gas or products thereof, or both the gas and products.

(2) **"Water"** means all water including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water.

(3) **“Water contaminant”** means a substance that could alter if released or spilled water’s physical, chemical, biological or radiological qualities. Water contaminant does not mean source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954.

(4) **“Watercourse”** means a river, creek, arroyo, canyon, draw or wash or other channel having definite banks and bed with visible evidence of the occasional flow of water.

(5) **“Water pollution”** means introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or property use.

(6) **“Well blowout”** means a loss of control over and subsequent eruption of a drilling or workover well or the rupture of the casing, casinghead or wellhead of an oil or gas well or injection or disposal well, whether active or inactive, accompanied by the sudden emission of fluids, gaseous or liquid, from the well.

(7) **“Well bore”** means the interior surface of a cased or open hole through which drilling, production or injection operations are conducted.

(8) **“Wellhead protection area”** means the area within 200 horizontal feet of a private, domestic fresh water well or spring used by less than five households for domestic or stock watering purposes or within 1000 horizontal feet of any other fresh water well or spring. Wellhead protection areas does not include areas around water wells drilled after an existing oil or gas waste storage, treatment or disposal site was established.

(9) **“Wetlands”** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions in New Mexico. This definition does not include constructed wetlands used for wastewater treatment purposes.

(10) **“Working interest owner”** means the owner of an operating interest under an oil and gas lease who has the exclusive right to exploit the oil and gas minerals. Working interests are cost bearing.

(11) **“WQCC”** means the New Mexico water quality control commission.

[19.15.2.7 NMAC - Rp, 19.15.1.7 NMAC, 12/1/2008; A, 3/31/2015; A, 6/30/2016; A, 6/26/2018; A, 1/15/2019; A, 10/13/2020; A, 8/23/2022]

19.15.2.10 [GENERAL WAIVERS AND EXCEPTIONS: ~~[RESERVED]~~ ONLINE APPLICATION AND SUBMITTALS:

A. The division shall establish online application and submittal procedures on the division’s website for the electronic filing of all forms, applications and other written documents and information with the division.

B. All applications that require the payment of a fee, as provided in Section 70-2-39 NMSA 1978, shall include the fee payment with the application.

C. A person whose filing is made untimely due to a technical failure of the division’s web-based online application process may request an extension of time. Technical failures not originating with the division’s process, such as problems with the filer’s equipment, software, or telecommunications facility will not constitute a basis for relief.

[19.15.2.10 NMAC - N, 8/23/2022]

19.15.2.12 [NUMBERING OF DIVISION ORDERS:

A. Division orders entered after January 1, 1950, pertaining to the allocation of production of oil and gas shall be prefixed with the letter “A” or “AG” in the case of gas pools and shall be numbered consecutively, commencing with the number one, i.e., the first allocation order issued after January 1, 1950, is No. A-1, the next A-2, etc. or AG-1 and AG-2.

B. Other division orders entered after January 1, 1950, shall be prefixed with the letter “R” and shall be numbered consecutively, commencing with the number 1, i.e., the first such order issued after January 1, 1950, is No. R-1, the next R-2, etc.] **FILING AND NOTIFICATION:** All requirements in the rules:

A. to file a form or application with the division or commission, including documents required to be filed with district offices or the Santa Fe office, shall be accomplished by using the applicable online process on the division’s website,

B. to otherwise notify, advise, contact, or report to the division, including to any unit of the division (such as a bureau or office) or any division official (such as the director or a bureau chief), may be accomplished by electronic mail or as otherwise provided on the division’s website; the division shall provide contact instructions on the division’s website, and

C. to file an original financial assurance instrument with the division as provided in 19.15.8 NMAC

shall require delivery to the Santa Fe office unless otherwise directed by the division.

[19.15.2.12 NMAC - Rp, 19.15.15.1304 NMAC, 12/1/2008; 19.15.2.12 NMAC - Rp, 19.15.2.12 NMAC, 8/23/2022]

19.15.2.13 COMPUTATION OF TIME: In computing a period of time [19.15.2 NMAC through 19.15.39 NMAC prescribes, the day from which the period of time begins to run shall not be included. The last calendar day of the time period shall be included in the computation unless it is a Saturday, Sunday or a day on which state agencies observe a legal holiday. In such case, the period of time runs to the close of business on the next regular workday. If the period is less than 11 days, a Saturday, Sunday or legal holiday is excluded from the computation] prescribed by the Oil and Gas Act, the rules or an order, the division and commission shall comply with the Uniform Statute and Rule Construction Act, Section 12-2A-7 NMSA 1978.

[19.15.2.13 NMAC - Rp, 19.15.14.1226 NMAC, 12/1/2008; A, 8/23/2022]

19.15.2.16 DUTIES AND AUTHORITY OF [FIELD] DIVISION PERSONNEL: [Oil and gas inspectors, deputy oil and gas inspectors, scouts, engineers and geologists the division duly appoints] Division personnel have the authority and duty to enforce division rules. [Oil and gas inspectors and their deputies may allow minor deviations from 19.15.2 NMAC through 19.15.39 NMAC's requirements as to field practices where, by so doing, waste is prevented or burdensome delay or expense on the part of the operator is avoided] Upon a showing by an operator that changes are necessary to avoid waste or protect public health or the environment, division personnel may allow minor deviations from approved field operational plans such as drilling and plugging plans. The operator shall file a Form C-103 as a notice of intention showing the change of plans within two business days of the approval.

[19.15.2.16 NMAC - Rp, 19.15.15.1303, 12/1/2008; A, 8/23/2022]

19.15.2.17 [DISTRICT OFFICES:

A. To expedite administration of the division's work and its rules' enforcement, the state is divided into four districts as follows:

(1) district 1 consisting of Lea, Roosevelt and Curry counties and that portion of Chaves county lying east of the north-south line dividing ranges 29 and 30 east, NMPM with the district office in Hobbs;

(2) district 2 consisting of Eddy, Otero, Dona Ana, Luna, Hidalgo, Grant, Sierra, Lincoln and De Baca counties and that portion of Chaves county lying west of the north-south line dividing ranges 29 and 30 east, NMPM with the district office in Artesia;

(3) district 3 consisting of San Juan, Rio Arriba, McKinley and Sandoval counties with the district office in Aztec; and

(4) district 4 consisting of the remainder of state with the district office in Santa Fe.

B. Each district office shall be under the charge of a district supervisor, an oil and gas inspector or a deputy oil and gas inspector, unless otherwise specifically required.

C. The district office of the district in which the affected land is located shall take care of matters pertaining to the division.] **ORGANIZATIONAL UNITS:** When necessary to assist in the administration of the Oil and Gas Act, the director may divide the state into districts or other organizational units as appropriate. Upon establishment of, or revisions to, such units, the director shall provide or amend a map on the division's website with the boundaries of the units. Contact information for the units, including any assigned personnel, shall be maintained on the division's website.

[19.15.2.17 NMAC - Rp, 19.15.15.1301 NMAC, 12/1/2008; 19.15.2.17 NMAC - Rp, 19.15.2.17 NMAC, 8/23/2022]