

State of New Mexico
Energy, Minerals and Natural Resources Department

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NOTICE

UPDATE

OIL CONSERVATION DIVISION OPERATIONS DURING DECLARED PUBLIC HEALTH EMERGENCY NEW GUIDANCE TO SOLVE EMERGING ISSUES

APRIL 30, 2020

The Energy, Minerals & Natural Resources Department's Oil Conservation Division (OCD) appreciates the unprecedented challenges facing the oil and gas industry. The OCD remains open for business and issues this new guidance, a supplement to the [March 20, 2020 guidance document](#), to address real-world challenges facing operators and the public. The OCD will continue to actively work with stakeholders to solve problems and provide the best customer service possible, while maintaining high standards of transparency, public health and environmental protections. The OCD encourages the public and industry to contact us with any questions about this guidance or any other OCD issues.

APPLICATIONS

Q: What is OCD doing to ensure timely processing of applications?

A: In order to process applications as quickly and efficiently as possible, the OCD requests that all applications be submitted electronically, as OCD staff members are all teleworking. For more information regarding how to submit applications electronically, please see the [March 20, 2020](#) notice. If you are unable to submit applications electronically, please mail them to following address; Oil Conservation Division, 1220 South Saint Francis Drive, Santa Fe, NM 87505.

WELL INACTIVITY ALLOWANCES

Q: Will the OCD provide flexibility in the number of wells that producers can temporarily shut-in due to economic hardship?

A: Yes, per the March 20th notice, the OCD has developed a process to allow wells to remain inactive due to economic hardship and is already actively issuing allowances for inactivity. OCD will continue to work with operators to meet their individual needs.

Q: What is the process?

A: As an initial step, please contact Daniel Sanchez at Daniel.Sanchez@state.nm.us to request an Agreed Compliance Order (ACO). Additional information regarding the shut-in process is set forth below:

- Under an ACO, an operator will be authorized to allow wells to remain inactive under 19.15.25.8 NMAC for a period not to exceed thirty-six (36) months.
- For good cause, OCD may extend the inactive period for an additional twelve (12) months for a total of forty-eight (48) months. Please contact the OCD to extend the ACO prior to the expiration date.
- Bradenhead tests need to be performed on each well in the ACO at three different intervals: No later than twelve (12) months, twenty-four (24) months and thirty-six (36) months after the effective date of the ACO or the well becomes inactive.
- A compliance report for each Bradenhead test needs to be submitted by operators no later than thirty (30) days after such test. Please contact the OCD prior to the testing due date if you are unable to meet the deadlines due to COVID-19.
- To extend the shut-in past four (4) years, the operator will need to place the well in approved Temporary Abandonment (TA) pursuant to 19.15.25.12-14 NMAC. OCD may grant TA status for beneficial wells for a maximum of five (5) years. However, operators can apply for a second permit for an additional five (5) years if necessary.
- Note that OCD may impose additional conditions as necessary depending on each operator's individual needs.

Q: How long may a well go without producing before being subject to plugging and abandonment rules?

A: Wells are subject to the plugging and abandonment rule, 19.15.25 NMAC, after exceeding a period of fifteen (15) months without active production. Operators are advised to monitor the status of wells not included in the ACO to ensure that such wells do not remain inactive for a period exceeding fifteen (15) months.

EXTENSIONS

Q: Will the OCD consider time extensions for various deadlines?

A: Yes, the following questions provide examples of extensions that will be considered, and the criteria needed to process the request.

Q: Can the OCD grant blanket extensions in certain categories?

A: While the OCD is able to grant a number of extensions on a case-by-case basis, due to regulatory requirements, the OCD is not able to grant blanket extensions across the industry.

Q: Under what authority can the OCD grant extensions?

A: The Oil and Gas Act authorizes the OCD Director to authorize requests for extension of time on required deadlines in order to prevent waste, protect correlative rights, protect public health, and the environment.

Q: What do extension requests need to contain and where do I send them?

A: All extension requests must demonstrate good cause for the extension, such as limitations due to COVID-19, and a proposed alternative timeline based on the circumstances. Please send the extension request electronically to the OCD email address indicated within the different processes below. If you are unable to submit extension requests electronically, please mail them to following address; Oil Conservation Division, 1220 South Saint Francis Drive, Santa Fe, NM 87505. For further assistance, contact the appropriate OCD supervisor:

- Engineering Supervisor- Scott Cox, Scott.Cox@state.nm.us
- Environmental Supervisor- Jim Griswold, Jim.Griswold@state.nm.us
- UIC Team Lead- Phil Goetze, Phillip.Goetze@state.nm.us
- Compliance Manager- Daniel Sanchez, Daniel.Sanchez@state.nm.us
- North Supervisor- Brandon Powell, Brandon.Powell@state.nm.us
- South Supervisor- Mike Bratcher, Mike.Bratcher@state.nm.us

Q: What kinds of extensions can be considered?

A: The following types of extensions are the most common extension requests received by the OCD. If you have a request that does not fall into one of the categories below, please email the appropriate program supervisor above. If you are unable to submit extension requests electronically, please mail them to following address; Oil Conservation Division, 1220 South Saint Francis Drive, Santa Fe, NM 87505.

Environmental Remediation and Reclamation - The rules require remediation or abatement to be completed no later than 90 days after the report of the release or as required by the remediation plan. See 19.15.29.12(B)(1) & (2) NMAC; 19.15.30.13(C) & (D) NMAC. OCD can extend these deadlines upon a showing of good cause and assurance that the extension will not harm public health or the environment, including groundwater. Please contact OCD.Enviro@state.nm.us.

Compulsory Pooling Orders- OCD will work with operators to extend the deadline to commence drilling and complete initial and infill wells in compulsory pooling orders. Depending on the date of issuance, these orders require operators to commence drilling of initial wells within one (1) year of issuance of the order and to complete these wells within four (4) months or one (1) year after commencing to drill. OCD rules establish shorter deadlines for infill wells. OCD routinely grants extensions of these deadlines for good cause and will continue to do so. Please contact OCD.Engineer@state.nm.us.

Surface Comingling- OCD continues to work with the regulated community to ensure that measurement and allocation methods for surface comingling comply with the applicable rules in order to protect correlative rights. For more information, please contact OCD.Engineer@state.nm.us.

Gas and Water Analysis- This analysis is required only if an issue arises at the well, and the deadline for submittal is established on a case-by-case basis. To the extent that the analysis is required in a Bradenhead test letter, please contact the appropriate OCD District Supervisor.

Well Investigation and Remedial Well Repair- If an operator has a deadline to investigate an abnormal well condition or make a well repair, the operator may request an extension by contacting the appropriate OCD District Supervisor.

Field Compliance Requirements- For field compliance issues, please contact the issuing OCD field representative or appropriate OCD District Supervisor prior to the expiration date to request an extension. For companies which have multiple pending field compliance issues, the OCD may grant these extensions as a group. For instances concerning multiple compliance issues please contact the District Supervisor for guidance on how to request these as a group. Field compliance issues will be allowed appropriate extensions as long as there is assurance that the extension will not harm public health or the environment, including groundwater. The OCD will continue to notify operators of violations discovered via a compliance notice but will grant extensions to compliance deadlines when reasonable.

OTHER REQUIREMENTS

The oil and gas industry inquired about OCD's flexibility in a number of other areas, and we offer the following clarifications.

Financial Assurance- 19.15.8 NMAC establishes financial assurance requirements. The provisions of this rule are mandatory and cannot be changed administratively.

Notification- OCD rules specify the notice requirements for different types of applications. These requirements ensure that interested persons are accorded due process. Operators are encouraged to send notices electronically, but OCD cannot modify the notice requirements administratively to only require electronic notice.

Fee Schedule- The Oil and Gas Act, Section 70-2-39(A), states that “The following fees are required to be paid to the Oil Conservation Division of the Energy, Minerals and Natural Resources Department....” OCD does not have the authority to suspend a statutory requirement.

General Sundries- Operators must file C-103s for well work pursuant to 19.15.7.14 NMAC. OCD requires these forms in order to confirm that proposed work complies with the rules, and to confirm that the work performed was conducted in compliance with the rules. Without prior approval and timely confirmation, OCD cannot ensure public safety, the protection of public health and environment, the prevention of waste, or the protection of correlative rights. Please contact your local District Supervisor if you have questions regarding Sundry requirements.

State Land Office (SLO) Shut in Sundries- In accordance with the SLO Emergency Temporary Shut-in Rule, 19.2.100.71 NMAC, operators must file a C-103 with the OCD or obtain other written approval from the OCD. Upon receipt of a C-103, the OCD will place the sundry into the corresponding well file. The receipt and filing of the sundry fulfill the SLO requirements. Please note this will not change a well’s status within the OCD well management system. To shut in a well for a prolonged period of time, please follow the “well inactivity allowances” above.

C-104s- Operators must file C-104s to obtain an allowable and authorization to transport oil and gas. OCD must review and approve these forms, including completion reports, logs, and as-drilled plats, to ensure that an operator has the requisite authority to produce, much as an operator must obtain OCD approval of an APD in order to drill the well. The OCD issued a notice to Operators in November 2019 regarding the information necessary for the OCD to process a C-104 authorization. The notice can be found [here](#). Please contact your local District Supervisor if you have questions regarding C-104 requirements.

INSPECTIONS

Q: Which types of inspections will continue during the public health emergency and how will they be conducted? Will any inspections be suspended?

A: The safety and health of OCD staff and the public is our primary focus during the public health emergency. The OCD will follow the statewide health emergency directives closely to limit face-to-face contact and protect our staff, the public, and the regulated community. Inspectors will only perform inspections that do not require other persons to be on-site. UIC tests that require the physical presence of an OCD inspector are suspended and will be rescheduled for a future date. OCD will continue all general inspections as they do not require a third party on site.

Q: Will OCD notify operators about upcoming inspections?

A: OCD will inform operators about pending inspections to the extent necessary and appropriate. Operators are reminded that they are responsible for monitoring the compliance status of their facilities and should disclose possible violations at the earliest opportunity.

Q: What compliance issues will OCD issue violations for?

A: OCD considers violations that adversely affect public health and the environment, cause waste, or harm correlative rights to be of primary importance, but will cite any alleged violations identified during an inspection. Operators are encouraged to disclose possible violations at the earliest opportunity as OCD will take into consideration the operator's good faith effort to comply with the applicable requirements. For extensions of field compliance requirements please see the information above in the Extensions section.

OCD HEARINGS

Q: Will OCD continue to conduct hearings during the public health emergency?

A: Yes. Going forward and until further notice, OCD intends to conduct virtual hearings for all dockets in accordance with the Attorney General's recommendations. OCD will evaluate whether to hold hearings with witnesses beginning in May. To be heard, the applicant must submit the exhibits, including the public notice affidavit and compulsory pooling checklist, if applicable, to the Hearings Bureau at OCD.Hearings@state.nm.us. You may submit hard copies by mail, however this could delay their receipt and consideration while our staff are teleworking.

PUBLIC TRANSPARENCY

Q: How do I find information regarding oil and gas operations in New Mexico?

A: The OCD values transparency with operators and the public. The documents we process will continue to be placed online and are accessible to the operators and the general public. Below are links to various portions of the OCD website where publicly available data can be found.

Oil and Gas GIS information

<http://www.emnrd.state.nm.us/OCD/ocdgis.html>

Well Information search

<https://wwwapps.emnrd.state.nm.us/ocd/ocdpermitting/Data/Wells.aspx>

General document Imaging

<http://ocdimage.emnrd.state.nm.us/imaging/>

OCD publications

<http://www.emnrd.state.nm.us/OCD/publications.html>

OCD Data and Statistics

<http://www.emnrd.state.nm.us/OCD/statistics.html>

GENERAL CONTACT INFORMATION:

Santa Fe:

- For general office questions please contact 505-476-3200.

Artesia/Hobbs:

- For general office questions please contact 575-626-0857.
- For field operations, compliance issues or after-hours emergencies please contact 575-626-0830.

Aztec:

- For general office questions please contact Amy Vermersch at 505-334-6178 ext 113.
- For releases or environmental concerns contact Cory Smith at 505-419-2687.
- For field operations, compliance issues or after-hours emergencies please contact Brandon Powell at 505-320-0200.

The OCD remains open for business during this challenging time and is committed to creatively solving problems while still ensuring compliance with our statutory requirements to prevent waste, protect correlative rights, and protect human health and the environment. Our staff continues to diligently telework in an effort to keep these operations moving during this time.

If you have concerns or questions which are not addressed by the options presented, we encourage you to reach out to see if there is additional assistance we may be able to provide.

For further information regarding COVID-19, please visit <http://cv.nmhealth.org/faq/>.

For information for individuals experiencing financial hardship, please visit <https://www.newmexico.gov/i-need-assistance/>.