

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 24 ILLEGAL SALE AND RATABLE TAKE

19.15.24.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Oil Conservation Division.
[19.15.24.1 NMAC - Rp, 19.15.10.1 NMAC and 19.15.11.1 NMAC, 12/1/08]

19.15.24.2 SCOPE: 19.15.24 NMAC applies to those persons involved in the sale, purchase or transport of oil or gas.
[19.15.24.2 NMAC - Rp, 19.15.10.2 NMAC and 19.15.11.2 NMAC, 12/1/08]

19.15.24.3 STATUTORY AUTHORITY: 19.15.24 NMAC is adopted pursuant to the Oil and Gas Act, NMSA 1978, Section 70-2-6, Section 70-2-11, Section 70-2-19 and Section 70-2-22, which authorizes the division to regulate the sale, purchase or acquisition, or the transportation, refining, processing or handling of oil or gas produced in excess of the amount allowed by statute, rule or commission or division order.
[19.15.24.3 NMAC - Rp, 19.15.10.3 NMAC and 19.15.11.3 NMAC, 12/1/08]

19.15.24.4 DURATION: Permanent.
[19.15.24.4 NMAC - Rp, 19.15.10.4 NMAC and 19.15.11.4 NMAC, 12/1/08]

19.15.24.5 EFFECTIVE DATE: December 1, 2008, unless a later date is cited at the end of a section.
[19.15.24.5 NMAC - Rp, 19.15.10.5 and 19.15.11.5 NMAC, 12/1/08]

19.15.24.6 OBJECTIVE: To regulate oil and gas purchasing and transport.
[19.15.24.6 NMAC - Rp, 19.15.10.6 NMAC and 19.15.11.6 NMAC, 12/1/08]

19.15.24.7 DEFINITIONS: [RESERVED]
[See 19.15.2.7 NMAC for definitions.]

19.15.24.8 GAS SALES BY LESS THAN ONE HUNDRED PERCENT OF THE OWNERS IN A WELL: When there are separate owners in a well and where an owner's gas is not being sold with the well's current production, the owner may, if necessary to protect the owner's correlative rights, petition the division for a hearing seeking appropriate relief.
[19.15.24.8 NMAC - Rp, 19.15.6.414 NMAC, 12/1/08]

19.15.24.9 ILLEGAL SALE PROHIBITED: The sale, purchase or acquisition or the transporting, refining, processing or handling in any other way of oil or of gas in whole or in part (or a gas product so produced) produced in excess of the amount a statute or a division rule or order allows is prohibited.
[19.15.24.9 NMAC - Rp, 19.15.10.801 NMAC and 19.15.11.901 NMAC, 12/1/08]

19.15.24.10 RATABLE TAKE; COMMON PURCHASER OF OIL:

A. A person engaged in the purchase of oil to be transported through pipelines is a common purchaser of oil, and shall without discrimination in favor of one producer as against another in the same field, purchase oil tendered to it that has been lawfully produced in the vicinity of, or that may be reasonably reached by pipelines through which it is transporting oil or the pipelines' gathering branches or that may be delivered to the pipeline or the pipelines' gathering branches by truck or otherwise and shall fully perform all a common purchaser's duties.

B. If a common purchaser does not need all the oil lawfully produced within a field, or if it is unable to purchase all the oil, then it shall purchase from each producer in a field ratably, taking and purchasing the same quantity of oil from each well to the extent that each well is capable of producing its ratable portions. However, nothing in Subsection B of 19.15.24.10 NMAC requires more than one pipeline connection for each producing well.

C. In the event a common purchaser of oil is also a producer or is affiliated with a producer, directly or indirectly, the common purchaser shall not discriminate in favor of its own production or in favor of the production of an affiliated producer as against that of others and the common purchaser shall treat the oil produced by the common purchaser or the common purchaser's affiliate as that produced by another producer for the purposes

of ratable taking.

D. It shall be unlawful for a common purchaser to unjustly or unreasonably discriminate as to the relative quantities of oil it purchases in various fields of the state; the division to determine the justice or reasonableness, shall consider the production and age of wells in the respective fields and all other factors. It is the intent of 19.15.24.10 NMAC that all fields be allowed to produce and market a just and equitable share of the oil produced and marketed in the state, insofar as the oil can be produced and marketed economically and without waste.

E. In order to preclude premature abandonment, the common purchaser within its purchasing area shall make 100 percent purchases from units of settled production producing 10 barrels or less daily of crude petroleum in lieu of ratable purchases or takings. However, where the common purchaser's takings are curtailed below 10 barrels per unit of crude petroleum daily, then the common purchaser shall purchase equally from all units within its purchasing area, regardless of their producing ability insofar as they are capable of producing. [19.15.24.10 NMAC - Rp, 19.15.10.802 NMAC, 12/1/08]

19.15.24.11 PRODUCTION OF LIQUID HYDROCARBONS FROM GAS WELLS:

A. Liquid hydrocarbons produced incidental to the authorized production of gas from a well the division has classified as a gas well are legal production.

B. For purposes of 19.15.24.11 NMAC the division shall consider gas produced from a gas well to be authorized production with the following exceptions:

(1) when the operator produces the well without an approved form C-104, designating the gas transporter and the oil or condensate transporter for the well; or

(2) when the division has directed the operator to shut-in the well.

C. In the event the division directs an operator to shut-in a gas well, the operator and the division shall immediately notify both the gas transporter and oil transporter. [19.15.24.11 NMAC - Rp, 19.15.10.803 NMAC, 12/1/08]

19.15.24.12 RATABLE TAKE OF GAS:

A. A person engaged in purchasing from one or more producers, gas produced from gas wells or casinghead gas produced from oil wells shall be a common purchaser of gas within each common supply source from which it purchases, and shall purchase gas lawfully produced from gas wells or casinghead gas produced from oil wells with which its gas transportation facilities are connected in the pool and other gas lawfully produced within the pool and tendered to a point on its gas transportation facilities.

B. The common purchaser shall make purchases without unreasonable discrimination in favor of one producer against another in the price paid, the quantities purchased, the bases of measurement or the gas transportation facilities afforded for gas of like quantity, quality and pressure available from the wells.

C. In the event the common purchaser is also a producer, the common purchaser shall not discriminate in favor of the common purchaser on production from gas wells or casinghead gas produced from oil wells in which the common purchaser has an interest, direct or indirect, as against other production from gas wells or casinghead gas produced from oil wells in the same pool. For the purposes of 19.15.24.12 NMAC, reasonable differences in prices paid or facilities afforded, or both, do not constitute unreasonable discrimination if the differences bear a fair relationship to differences in quality, quantity or pressure of the gas available or to the relative lengths of time during which the gas will be available to the purchaser. The provisions of Subsection C of 19.15.24.12 NMAC shall not apply to:

(1) a well or pool used for storage and withdrawal from storage of gas originally produced not in violation of division rules or orders;

(2) a person purchasing gas principally for use in the recovery or production of oil or gas; or

(3) a well that the division designates a hardship well.

D. A common purchaser taking gas produced from gas wells or casinghead gas produced from oil wells from a common source of supply shall take ratably under division rules and orders, concerning quantity, as the division or commission promulgates consistent with 19.15.24.12 NMAC. The division or commission, in promulgating the rules and orders may consider the gas' quality and the deliverability, the gas' pressure at the point of delivery, acreage attributable to the well, market requirements in the case of unprorated pools and other pertinent factors.

E. Nothing in 19.15.24.12 NMAC requires, directly or indirectly, a common purchaser to purchase gas of a quality, under a pressure or under other condition by reason of which the common purchaser cannot economically and satisfactorily use the gas by means of the common purchaser's gas transportation facilities then in

service.

[19.15.24.12 NMAC - Rp, 19.15.11.902 NMAC, 12/1/08]

HISTORY of 19.15.24 NMAC:

History of Repealed Material: 19.15.6 NMAC, Natural Gas Production Operating Practice (filed 11/29/2001); 19.15.10 NMAC, Oil Purchasing and Transporting (filed 4/16/2003) and 19.15.11 NMAC, Gas Purchasing and Transporting (filed 09/10/2003) repealed 12/1/08.

NMAC History:

Those applicable portions of 19.15.6 NMAC, Natural Gas Production Operating Practice (Section 414) (filed 11/29/2001); 19.15.10 NMAC, Oil Purchasing and Transporting (Sections 801 - 803) (filed 4/16/2003) and 19.15.11 NMAC, Gas Purchasing and Transporting (Sections 901 and 902) (filed 09/10/2003) were all replaced by 19.15.24 NMAC, Illegal Sale and Ratable Take, effective 12/1/08.