This is an amendment to 19.2.100 NMAC, Section 71, effective October 31, 2016.

19.2.100.71 ~~**[RESERVED]**~~ **TEMPORARY SHUT-IN OF OIL WELLS DUE TO SEVERE REDUCTION IN THE PRICE OF OIL**

A. Basis for allowing shut in of oil wells: After notice and a public hearing pursuant to Section 19-10-6 NMSA 1978, the commissioner has determined that, because of a severe reduction in the price of oil, the beneficiaries of state trust lands will be better served if oil wells are allowed to be temporarily shut in rather than produced at a low price.

B. Effective date:

(1) Unless extended by the commissioner after a subsequent notice and public hearing or terminated sooner by a subsequent regulation of the commissioner after finding that the price of oil is no longer severely reduced, 19.2.100.71 NMAC shall remain in effect for a period of two years from its effective date.

(2) Any termination of 19.2.100.71 NMAC before the expiration of two years from its effective date shall not be effective until thirty days after the commissioner has by certified mail sent notice of the prospective termination to each lessee whose lease is being extended by the operation of this section.

C. Any oil and gas lease issued by the commissioner of public lands and maintained in good standing according to the terms and conditions thereof and all applicable statutes and regulations shall not expire if:

(1) there is a well capable of producing oil located upon some part of the lands included in the lease and such well is shut in because of the severe reduction in the price of oil;

(2) the lessee timely notifies the commissioner in writing within thirty days of the date the well is first shut in, on a form made available by the commissioner for that purpose, accompanied by a form C-103 filed with the oil conservation division or other written oil conservation division approval of the shut-in; and

(3) the lessee timely pays an annual shut-in royalty within ninety days from the date the well was first shut in and thereafter before each anniversary of the date the well was first shut in. The amount of the shut-in royalty shall be twice the annual rental due by the lessee under the terms of the lease but not less than three hundred twenty dollars ($320) per well per year. If the other requirements of this subsection are satisfied, the timely payment of the shut-in royalty shall be considered for all purposes the same as if oil were being produced in paying quantities until the next anniversary of the date the well was first shut in; provided, that 19.2.100.71 NMAC continues to be in effect.

(a) In order for a lessee to rely on the payment of shut-in royalty to maintain a lease in effect after all wells on the lease capable of producing oil have been shut in, the lessee must have provided timely notice of the shut-in and payment of the shut-in royalty to the commissioner in accordance with

Subsection C of 19.2.100.71 NMAC for each well shut in as it was shut in, regardless of whether at the time the well was shut in there continued to be a well producing on the lease after the well was shut in. For example, if the lease area has four wells capable of producing oil, and the wells were shut in at different times rather than all at once, the lessee must have provided timely notice of the shut-in and payment of the shut-in royalty as to each of the four wells as each well was shut-in and may not rely on notification and payment of the shut-in royalty only after the last of the four wells is shut in.

(b) A shut-in well located on a state land office lease within the boundaries of an area covered by a unit agreement, communitization agreement or commingling order or constituting a pooled unit or cooperative area will be considered to be a shut-in well located upon each state lease within the area.

(c) If the date when a shut-in royalty payment is due falls on a Saturday, Sunday or legal state or federal holiday, the shut-in royalty may be timely paid if received on the next calendar day which is not a Saturday, Sunday or holiday.

(d) Under the standard business practice of the state land office, the date that the state land office stamps or otherwise marks the shut-in royalty payment or check establishes the date of actual receipt by the state land office.

D. If the lessee fails to timely comply with the requirements of Subsection C of 19.2.100.71 NMAC, no action by the commissioner, the state land office or any other representative of the commissioner may ratify, re-grant or revive the expired lease or estop the commissioner from asserting that the lease has expired, unless such relief is granted expressly in writing signed by the commissioner.

E. Under no circumstances will the commissioner refund any portion of the shut-in royalty paid for a shut-in well up to the amount required by Subsection C of 19.2.100.71 NMAC.

F. Upon the termination of 19.2.100.71 NMAC, automatically or by action of the commissioner, a lease maintained in effect by payment of shut-in royalty shall expire unless there is actual production in paying quantities within 90 days thereafter, unless the time is further extended, in writing, on an individual lease basis, upon request, at the discretion of the commissioner.

[19.2.100.71 NMAC, Rn, SLO Rule 1, Section 1.072, 12/13/2002; Repealed, 06/30/2016; A, 10/31/2016]