19.2.100.71 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~~period:

(1) Pursuant to Section 14-4-5.6 NMSA 1978 and 19.2.16.14 NMAC, this emergency rule shall be effective immediately upon filing. Pursuant to 19.2.16.14 NMAC, this rule shall not continue in effect longer than 30 days unless within that time period the commissioner commences proceedings to adopt the rule under the normal rulemaking process, in which case the emergency rule shall remain in effect until a rule is adopted under the normal rulemaking process, but in no event shall remain in effect for more than 120 days.

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 30 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, on or after March 1, 2020, ~~-~~shut in because of the severe reduction in the price of oil;

(2) the lessee timely notifies the commissioner in writing within 30 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 90 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, the fee established by the state legislature in Section 19-10-6 NMSA 1978. 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 such well ~~shut in~~ as it was shut in, regardless of whether at the time the well was shut in there continued to be a different well producing on the same lease~~ after the well was shut in~~. For example, if the lease area has four wells capable of producing oil, and the wells ~~were~~ are shut in at different times rather than all at once, the lessee must ~~have~~ provide~~d~~ timely notice of the shut-in and payment of the shut-in royalty as to each of the four wells as each well ~~was~~ is 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 or ~~,~~ 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 or~~,~~ 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~~ treating ~~that~~ the lease ~~h~~as 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 and~~,~~ at the discretion of the commissioner.
[19.2.100.71 NMAC, Rn, SLO Rule 1, Section 1.072, 12/13/2002; Repealed, 6/30/2016; 19.2.100.71 NMAC - N, 10/31/2016]