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: 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 period:

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 expire in 30 days unless within that time period the commissioner commences proceedings to adopt the rule under the normal rulemaking process, in which case this emergency rule shall remain in effect until a rule is adopted in accordance with the normal rulemaking process, but in no event shall this emergency rule remain in effect for more than 120 days.

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 at least one well capable of producing oil located upon some part of the lands included in the lease and all such wells are 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 all wells capable of producing oil have been 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 for each well shut in; and

(3) The lessee timely pays an annual shut-in royalty within 90 days from the date all wells capable of producing oil have been shut in and thereafter before each anniversary of such date. 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 this emergency rule and any rule adopted in accordance with the normal rulemaking process continues to be in effect.

(a) A state land office lease may be maintained in effect by virtue of one or more wells located within an area covered by a unit agreement where all such wells have been temporarily shut in pursuant to this rule. For such shut-in wells located on a state land office lease, the lessee of each state lease maintained in effect by virtue of such wells shall pay royalty per well calculated by multiplying the base shut-in royalty that would be due for that lease by the percentage of acreage of that lease within the area; but in no event shall the lessee pay less than three hundred twenty dollars ($320) per well per year.

(b) A state land office lease may be maintained in effect by virtue of one or more wells located within an area covered by a communitization agreement, or constituting a pooled unit or cooperative area, where all such wells have been temporarily shut in pursuant to this rule. The lessee of the largest state lease within the communitized area shall pay the base shut-in royalty due for that lease; but in no event shall the lessee pay less than three hundred twenty dollars ($320) per well per year.

(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 may ratify, re-grant or revive the expired lease or estop the commissioner from treating the lease as expired, unless such relief is granted expressly in writing signed by the commissioner.

E. Lessees utilizing the temporary shut-in provisions of this rule remain fully responsible for compliance with all laws, regulations of the state land office and other state agencies, and lease terms regarding operations on the leased premises, including with respect to environmental protection. Lessees shutting in under this rule shall remain subject to all present state land office bonding requirements, and shall be subject to any future bonding requirements upon adoption.

F. 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.

G. 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]