AN ACT

RELATING TO PUBLIC LANDS; AMENDING A CERTAIN SECTION OF THE NMSA 1978 TO EXPAND THE CRITERIA BY WHICH OIL WELLS MAY QUALIFY FOR A LOWER ROYALTY RATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 19-10-5.1 NMSA 1978 (being Laws 1994, Chapter 105, Section 1) is amended to read:

"19-10-5.1. AMENDMENT OF LEASE TO LOWER ROYALTY RATE FOR OIL WELLS UNDER CERTAIN CONDITIONS.--

A. The record owner of an oil and gas lease issued by the commissioner of public lands whose lease is maintained in good standing according to the terms and conditions of the lease and all applicable statutes and regulations may apply to the commissioner for an amendment to the lease for the purpose of changing the royalty rate on oil produced from a specified oil well.

B. An application for a change in royalty rate shall be on a form prescribed by the commissioner of public lands and shall be accompanied by an application fee. The application shall:

(1) show that an oil well has produced oil attributable to the lease premises and:

(a) if the production is from formations shallower than five thousand feet, has produced less than an average of three barrels of oil per day during the preceding twelve months and has not averaged over five barrels of oil per day for any month during the preceding twelve months; or

(b) if the production is from formations five thousand feet deep or deeper, has produced less than an average of six barrels of oil per day during the preceding twelve months and has not averaged over ten barrels of oil per day for any month during the preceding twelve months; and

(2) include a statement that to the best of the applicant's knowledge and experience the well is not capable of sustained production over the production limits specified in Paragraph (1) of this subsection.

C. Upon receipt of an application, the commissioner of public lands shall review the information submitted as well as other independent information obtainable by the commissioner and shall agree to amend the lease to a lower royalty rate for oil produced from the oil well if, in his sole discretion, he finds that:

(1) the operator has taken reasonable steps to minimize his costs of operating the oil well;

(2) the oil well will likely be plugged and abandoned in the near future, with a resulting loss of reserves, if operating costs are not reduced further;

(3) the oil well will produce for a longer period, and the amount of oil produced will ultimately be larger, if the royalty rate is lowered; and

(4) a lower royalty rate will actually maximize revenue to the trust beneficiaries.

D. Any lower royalty rate agreed to under this section shall be equal to five percent and shall be valid for a period of three years, after which time the record owner of the oil and gas lease issued by the commissioner of public lands may submit a request for extension.

E. The commissioner of public lands may promulgate regulations necessary to implement the provisions of this section.

F. The commissioner of public lands shall provide a cost-benefit analysis of the provisions of this section by December 1 of each year to the legislature and the governor."