STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION COMMISSION FOR THE PURPOSE OF CONSIDERING:	)	CASE NO. 12,897
APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENVIRONMENTAL BUREAU CHIEF, FOR THE ADOPTION OF AMENDMENTS TO DIVISION RULE 118 (HYDROGEN SULFIDE GAS)	)	

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: LORI WROTENBERY, CHAIRMAN
JAMI BAILEY, COMMISSIONER
ROBERT LEE, COMMISSIONER

October 25th, 2002

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission, LORI WROTENBERY, Chairman, on Friday, October 25th, 2002, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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I N D E X

October 25th, 2002
Commission Hearing
CASE NO. 12,897

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Submission by Mr. Ross, not offered or admitted:

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A P P E A R A N C E S

FOR THE COMMISSION:

STEPHEN C. ROSS
Assistant General Counsel
Energy, Minerals and Natural Resources Department
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505

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WHEREUPON, the following proceedings were had at 9:28 a.m.:

CHAIRMAN WROTENBERY: And then I believe we just have one other item we need to discuss today, although we won't plan to take action on it, and this is Case 12,897, the Application of the New Mexico Oil Conservation Division for the adoption of amendments to Division Rule 118 concerning hydrogen sulfide gas.

Steve, you have some information for us, I believe?

MR. ROSS: Yes, madame Chairman.

The record's been closed in this case now twice, and it's been closed for a substantial time now. The last item that we received when the record was open was the consensus report of the work group, and I forwarded that to all of you.

When you compare the consensus draft against the Commission's draft, it's apparent that there are about six issues which I'll need some direction on before I can draft a final order and final Rule in this matter, and I'll just run down them.

What I have done -- What I've put together is a packet for each of you with a strikeout version of the Rule, modified pursuant to the consensus work group's draft. It's kind of a conceptual document to give you

something to look at, to react against. It's my work product, and it's not intended exactly to be your work product at this point, but it's a discussion draft.

And what I'd like to do is give one of these to each of you and ask as you look at it and think about it in the upcoming days or weeks before we actually meet to enact the Rule. What the little packet contains is a strikeout -- you know, our usual line-out, strikeout version. This is the latest one. And it also contains the draft order.

The draft order, of course, is a work in progress, because we don't -- without knowing exactly which direction we're going to go on these six issues, I had to guess. So this is offered for what it's worth.

Let me run down --

CHAIRMAN WROTENBERY: Let me just make one thing clear for the record. This is your work product, and it's not intended for public display?

MR. ROSS: Right, I'm not going to distribute this, it's just for your codification. It's just -- free to think about it in the next few days. It's not intended to be a final product or anything like that. So look at it, react to it.

Let me run down the six main issues, though, that we're confronted with. Unfortunately, the consensus draft and the previous draft left unresolved some issues which

you'll need to decide at some point, and they are as follows.

The first issue that's arisen between the older drafts and this latest draft is the timelines that are applicable to things like doing your testing, doing your determination of the radius of exposure and for developing a plan, a hydrogen sulfide contingency plan.

As you'll recall, the way the Rule works is, once the Rule becomes effective, the operator is required to test their wells or systems or plants, what have you, and determine what concentration of hydrogen sulfide exists in the gas that they're handling. And the issue is, how long should they be permitted after the Rule is enacted to conduct that test and then to determine the radius of exposure, if applicable?

The Rule as drafted now -- and I don't there's any -- there really hasn't been any dispute about this provision all along, is that once you make a determination that you have a potentially hazardous volume, that you subsequently have to write a contingency plan to provide for response actions and other activities in the event of a release.

So there's another issue there about how long should you have to prepare this plan, given the fact that there are no such plans required at this point, or -- I

gather there's some sort of a plan, but even the consensus draft provides quite a laundry list of things that have to be in the plans. I think it's safe to say nobody has a plan like that right now, or if they do they haven't been submitted to the Division.

So those are basically the two areas where you as a body need to decide how much time you want to provide.

CHAIRMAN WROTENBERY: And what's in the various drafts?

MR. ROSS: In the earlier drafts you had 180 days, half a year, six months, to do your initial determination and your initial testing. And then you had six months after that to prepare your contingency plan. The consensus work draft has extended that time period to one year.

CHAIRMAN WROTENBERY: For both?

MR. ROSS: It's not completely clear to me -- Yeah, for both. It's not clear to me whether the draft provides for a one-year time period for testing and then a subsequent one-year period for developing your plan. I don't think it says that, but the earlier drafts provided that those things would happen in succession.

So that seems to be one of the main issues that you're going to have to look at, is how much time should we give? Should it be successive, should it be cumulative?

CHAIRMAN WROTENBERY: Let me just say, I don't know what the sense of the other Commissioners is, but I think the way it was laid out initially where they had six months to do the initial testing or determination -- it's not really right to say testing, because they can make a determination based on process knowledge as well, but in the earlier draft they had six months to do the determination and the calculation of the radius of exposure and then another six months to do a plan, if one was required, and I would think that would be adequate time.

Do you have a sense?

COMMISSIONER LEE: No, it -- Can they speak out now?

MR. ROSS: The record is actually closed, unless you want to re-open the record, in which case we probably would have to publish that, take it up at a subsequent time.

CHAIRMAN WROTENBERY: Well, I guess I'd just say draft it with six months for the determination calculation and another six months for the plan, and then we can make a final decision on that we take final action.

MR. ROSS: Okay, the next item that seems to be an issue is -- revolves around the activation of the contingency plan and what should trigger the activation of the plan. The consensus work draft appears to require that

a plan be activated when there's a release that could produce a potentially hazardous volume.

COMMISSIONER LEE: I don't understand. Can you repeat that?

MR. ROSS: Okay. When you've gone through your determination and determined that you have a potentially hazardous volume present in your gas stream, which is -- by reference to the equations that we discussed with Mr. Price, then you're required to produce a contingency plan, which provides for certain actions in the event of a release.

The issue here is, when should you be required to put that plan into action? When should you call in the troops, when should you start making phone calls, evacuating, taking measures to control releases, calling the state police, doing all that kind of stuff? It's the threshold, and you pretty much have to set a threshold, a threshold level or time describing in some manner so that operators know when they have to make a call.

COMMISSIONER LEE: So if they have a rupture of the wellhead --

MR. ROSS: Right.

COMMISSIONER LEE: -- you want to know when they should call?

MR. ROSS: Right

COMMISSIONER LEE: I thought it was right away.

MR. ROSS: Well, it's not so much right away, it's what constitutes an event that would require them to make the call. Like, say, you knock a valve off on a small line and you have a small leak. Does that require you to make the calls, or does it have to be a catastrophic failure, a blowout, something like that?

And the way the consensus draft is drafted, which is different from earlier drafts, is that a release would only merit -- or you'd only require that a plan be activated in the event of a catastrophic failure, not some lesser failure.

CHAIRMAN WROTENBERY: Steve, would you check the work group draft? Because I think that issue was addressed in the work group draft in the section on the activation level. I think where there was still an issue was in the section on when a plan is required, and there is some language that says a plan should be required when there is a --

MR. ROSS: Well, I mean, it just -- It says under the Plan Activation, hydrogen sulfide plan shall address the activation level and events that would lead to that threshold. Minimum criteria for activations, minimum criteria --

CHAIRMAN WROTENBERY: It has minimum criteria.

MR. ROSS: -- shall include an event that could result in a -- they recite, 100 p.p.m. in a public area, 500 p.p.m. at a public road, 100 p.p.m. 3000 feet from the site of the release, or 50 p.p.m. for ten minutes at the boundary of the facility.

Aside from the last factor, it's a --

COMMISSIONER LEE: Is the document you're based upon right now, it's a consensus of the producers and the -- Wayne and Roger's -- the final version?

MR. ROSS: Right. Right. That's the exhibit that Mr. Brooks submitted to us a few weeks ago, which I e-mailed to you.

COMMISSIONER LEE: Uh-huh. But I thought they had another meeting to come out with this consensus, right?

MR. ROSS: That's what this is.

COMMISSIONER LEE: Is this -- Right? Is that right? Or -- You don't have to say it, okay?

CHAIRMAN WROTENBERY: That is right, and they submitted that to us. There are still some issues remaining --

COMMISSIONER LEE: All right.

CHAIRMAN WROTENBERY: -- in the --

COMMISSIONER LEE: All right.

CHAIRMAN WROTENBERY: -- consensus draft --

COMMISSIONER LEE: All right.

CHAIRMAN WROTENBERY: -- and that's what Steve's trying to highlight for you.

COMMISSIONER LEE: All right.

MR. ROSS: I'm putting it in your lap, actually.

COMMISSIONER LEE: Right.

COMMISSIONER BAILEY: May I see the work group draft just briefly?

I think the issue that's still of concern is this language in E.1 where it says "A hydrogen sulfide contingency plan is a written document that provides a plan of action that will be used to alert and protect persons at risk in the release of hydrogen sulfide gas that could produce a PHV." That's the language of the work group draft.

That particular provision is not adequate, because there can be releases at levels significantly less than a PHV that would still have a possible detrimental effect on people within the area of exposure. And we talked about that during the last hearing, and the issue was addressed in the paragraph on the activation level, but I think it was probably an oversight. This PHV language remains in this provision that describes the purpose of the plan.

And my recommendation to the Commission would be that we just leave it as it was. It's a general statement

of the purpose of the plan, which is to protect persons at risk in the event of a potentially significant release of hydrogen sulfide gas. I think that's a pretty basic statement.

COMMISSIONER BAILEY: Uh-huh.

CHAIRMAN WROTENBERY: There are other provisions that actually say when a plan is required and refer to the existence of a potentially hazardous volume and all, but that reference to PHV in that particular context, I think, is not appropriate.

MR. ROSS: Shall I move on to the third issue?

CHAIRMAN WROTENBERY: Uh-huh.

MR. ROSS: The third issue pertains to signs, and the sign provision seemed to have provoked a lot of controversy over the course of the rulemaking. The present draft, the consensus work draft, condensed all the prior thoughts on the sign issue into some very simple regulatory language, which seems to be a big improvement.

However, in one area it differed from prior drafts, and that is that it essentially grandfathered existing signs that comply with other applicable regulations, and some examples that are given are the Department of Transportation and OSHA.

And so I guess the issue presented by this change is, should we grandfather sign provisions?

CHAIRMAN WROTENBERY: And I'll share with the Commissioners my view on that particular point.

I think at this stage the work group has done a good job of simplifying the sign requirement and basically pulling out the essence of the provision and setting some basic requirements for signs without being too terribly prescriptive. And I think the requirements that they have there should give the operators a lot of flexibility, and I would expect that a lot of the signs would meet the requirements of the revised draft -- the signs that the operators already have out there.

The requirements that are in the Rule now are pretty basic requirements, the essential elements necessary to advise the public of the hazard, and so I'm not inclined to go along with the grandfather provision.

I would -- I do recognize that it may take some time to verify that all signs are in compliance, and I would suggest, perhaps, that we include a provision in there that gives the operators some time to review their signage and bring their compliance up to standards. But I do not concur with the grandfathering.

COMMISSIONER BAILEY: How much time do you think would be reasonable?

CHAIRMAN WROTENBERY: I don't know. At least a year. I would be willing to consider more time than that,

but --

COMMISSIONER BAILEY: It seems like we gave a year for the last time we dealt with signs, a couple of years ago.

CHAIRMAN WROTENBERY: Okay.

COMMISSIONER BAILEY: I think that that did work out --

CHAIRMAN WROTENBERY: Uh-huh.

COMMISSIONER BAILEY: -- whatever that time period was.

CHAIRMAN WROTENBERY: Okay.

MR. ROSS: Want me to dash some language permitting that?

CHAIRMAN WROTENBERY: That instead of a grandfather clause gives a compliance period.

MR. ROSS: Another issue which has actually been prevalent throughout this rulemaking has been an issue of other plans. The BLM's Onshore Order requires contingency plans that are similar but not identical with the plan that's apparently provided for -- I guess they could be identical, but they don't necessarily have to be identical, with the plan that's proposed in the consensus work draft -- and the issue as to what extent that we should recognize those plans and obviate operators from coming up with a new plan on the same well, for example, or having to duplicate

or triplicate, even, this work.

The previous Division drafts -- and I haven't researched this thoroughly, but this issue has changed in the various drafts slightly from time to time -- I think the previous drafts permitted submission of a plan that's required for some other regulatory program, either in support of an exemption or just as -- for the Division to review and determine whether it meets the requirements of this Rule.

This draft changes that a bit, and I'll just read you what it says. They've added a paragraph called Multiple Jurisdiction and it says, "Where an existing operation or facility is subject to multiple jurisdictions...and is in compliance with the respective hydrogen sulfide rules of that jurisdiction, it shall be presumed that the operation or facility is also in compliance with this rule."

So as you can see, this takes that concept we've been struggling with and broadens it to the requirements of the entire Rule, not just the requirement to submit a plan. It's a bit of a significant departure from earlier drafts, and I wanted to bring that to your attention to try and get some guidance on how to handle that one.

I mean, the obvious problem is that the regulations of other jurisdictions -- Texas, the BLM, what

have you, OSHA -- are not going to be identical with whatever version you decide to adopt of this Rule. There are going to be differing standards. If you agree to this language, you would essentially agree to waive the provisions of your Rule in the event another jurisdiction, say the BLM, has a less restrictive rule on a given point.

COMMISSIONER BAILEY: I haven't studied the BLM rule. I have no idea how...

CHAIRMAN WROTENBERY: I haven't either, in detail. I don't know how the two size up, and I don't think we have any real evidence in the record that addresses that point specifically. I'm not even sure we have a --

MR. ROSS: Onshore Order 6 --

CHAIRMAN WROTENBERY: Do we have a copy of Onshore Order 6 in the record?

MR. ROSS: I have one in my office --

CHAIRMAN WROTENBERY: But not in the record?

MR. ROSS: -- and I have, you know, the Texas rule.

CHAIRMAN WROTENBERY: Yeah. My general view on these questions of multiple jurisdiction is that the agency should work together to try to eliminate conflict and avoid, as much as possible, duplication of effort. I am not generally a proponent of deferring to another agency's

regulations.

It has -- For one thing, the language that's in the work group draft is confusing to me. It establishes some kind of presumption that if they're in compliance with the BLM order, for instance, that they're in compliance with this Rule.

I'm not sure what that means in practice. I don't know if that's intended to say that if the Division wants to enforce a provision of this Rule it first has to call the operator in and establish through a hearing process that the BLM rule was not as stringent as the state rule or what. I just don't understand the purpose of that presumption language and how the agency is supposed to defeat the presumption.

I also have had unsatisfactory experience with some other places where we've deferred to other federal requirements that are less stringent than the state requirements, as in the bonding area.

COMMISSIONER BAILEY: Uh-huh.

CHAIRMAN WROTENBERY: There have been times when we've plugged orphan wells on federal lands, and the cost to the state ended up being greater because the federal bond requirement was less than the state bond requirement.

So I do feel strongly that we need to make sure that -- even on federal lands, that the operations are

meeting the requirements of this particular Rule. For one thing, the people that we're trying to protect are the public of the State of New Mexico that are probably in most cases not residents of federal lands.

So the federal-state distinction doesn't take me far enough, really.

COMMISSIONER BAILEY: And doesn't it go to the traditional question of who has authority in New Mexico?

CHAIRMAN WROTENBERY: Uh-huh.

COMMISSIONER BAILEY: I think you need to --

CHAIRMAN WROTENBERY: It raises that question.

COMMISSIONER BAILEY: -- raise that question and ask if this doesn't create more of a problem, a sort of precedence, that the state agency defers to the federal government. And I think that there are so many examples of where that creates a problem, such as in the mining area.

CHAIRMAN WROTENBERY: Uh-huh.

COMMISSIONER BAILEY: There are always questions in the Mining and Minerals Division, who has authority. And I would prefer to see the OCD continue its historical assertion that it has jurisdiction over all lands in New Mexico, and not abdicate any authority over federal lands.

CHAIRMAN WROTENBERY: Now, that being said, what I would suggest is that we very clearly include a statement in the -- at least the contingency-planning portion of the

Rule and maybe some other portions as well, that if an operator submits a plan that has been prepared for BLM or for some other jurisdiction that meets the requirements of this Rule, then OCD will accept that plan in satisfaction of these requirements.

COMMISSIONER BAILEY: It's the OCD's role to make that determination.

CHAIRMAN WROTENBERY: Uh-huh.

COMMISSIONER BAILEY: I can buy off on that.

MR. ROSS: And then don't forget that if -- There's still a broad exemption paragraph in all the drafts that have been running around. And if an operator believes that their compliance with another rule means that they don't need to comply with this particular Rule and they have good reasons for that, they can always apply to the Director for an exemption from any part of the Rule. It's very broadly stated in that paragraph.

Of course there has been, and I think there still is in all these drafts, language under the contingency-plan portion that you're welcome to submit a plan that you've prepared for another jurisdiction, and as long as it meets the requirements of this Rule, which -- in the consensus draft they've backed off from earlier drafts where there was a lot of detail provided in the contingency-plan portion of the Rule, you have to do this, you have to do

this, you have to submit this. They've backed off now and require you to address subjects, you know, subject matters in the Rule, rather than specific points, you know, have this, provide this.

So there's a little bit more flexibility there to prepare a plan for BLM that addresses all the same subjects and then suddenly just change the header, or not even change the header. The Environmental Bureau has the plan that satisfies this Rule. So...

CHAIRMAN WROTENBERY: Okay, I think draft it up without the multi-agency jurisdiction provision -- I'm not sure how that was captioned, but -- and then include some specific language indicating that a plan that has been submitted to another agency or prepared for another agency may be submitted to the OCD in satisfaction of this Rule, if it meets the requirements of this one.

COMMISSIONER LEE: So they can apply to BLM and they don't have to fill out your form, they can directly get those forms to me?

MR. ROSS: The latest draft doesn't require the specific form, it just requires --

COMMISSIONER LEE: And how you want to specify it, they have to fill it out again?

MR. ROSS: No.

COMMISSIONER LEE: No.

MR. ROSS: No, we don't. We don't want to create busy work, I wouldn't think.

CHAIRMAN WROTENBERY: Dr. Lee, I know some of the smaller companies have expressed concern about the burden of putting together this plan. Is this something PRRC could help with --

COMMISSIONER LEE: Yes, yes.

CHAIRMAN WROTENBERY: -- setting up some kind of a --

COMMISSIONER LEE: Yes, we will work with you -- not we, they -- they will work with you and the industry to come up with something.

CHAIRMAN WROTENBERY: Okay.

COMMISSIONER LEE: On line or --

CHAIRMAN WROTENBERY: It would probably be helpful to have it in several different formats.

COMMISSIONER LEE: Okay. Then Martha will thank you for giving her more jobs.

CHAIRMAN WROTENBERY: Okay. Next?

MR. ROSS: All right, number five, the issue of electronic submission has been an issue through the whole process, and it's an issue I guess you're ultimately going to have to decide. I know the Division is working towards a lot of paperless --

COMMISSIONER LEE: We can do that.

MR. ROSS: -- processes, and then --

CHAIRMAN WROTENBERY: Huh?

COMMISSIONER LEE: We can do that.

CHAIRMAN WROTENBERY: Okay.

MR. ROSS: -- some of the earlier drafts that require plans and other items in the Rule be submitted electronically to the Division, those provisions have been loosened over time, I know, but they're still in there, and they're -- the consensus draft proposes to do away with them in large part.

CHAIRMAN WROTENBERY: Entirely, I think.

MR. ROSS: Yeah. I think that some of the smaller operators aren't able to e-mail. Perhaps they don't have an e-mail service, or they in some cases may not even have computers. So this -- it would be an issue for some of them to submit electronically.

CHAIRMAN WROTENBERY: Are they able to mail in a disk?

MR. ROSS: The way the thing has always read, it's submitted electronically. And you could interpret that as permitting mailing in a disk or something like that. I think people are interpreting that as --

CHAIRMAN WROTENBERY: -- over the Internet.

MR. ROSS: -- over the Internet or through e-mail.

COMMISSIONER LEE: We can encourage them, but we cannot force it.

CHAIRMAN WROTENBERY: Well, we do -- You know, for production reports, for instance, for operators with over 100 wells, we require them to submit electronically. And we don't interpret that as over the Internet. It means -- a lot of them send in a disk with a spreadsheet on it.

COMMISSIONER LEE: I mean if somebody has only two or three wells --

CHAIRMAN WROTENBERY: Uh-huh.

COMMISSIONER LEE: -- they don't want to --

CHAIRMAN WROTENBERY: Well, let me ask you this. Are operators really going to be typing contingency plans?

MR. ROSS: You mean on a typewriter?

CHAIRMAN WROTENBERY: Uh-huh. I don't know.

MR. ROSS: Well, the Division owns one typewriter.

(Laughter)

MR. ANDERSON: A type- what?

(Laughter)

CHAIRMAN WROTENBERY: It really seems to me that most of them will be doing this, or their contractors will be doing this, on some type of computer, so that they could send in a disk. There may be a few that fill in the blanks on a form in handwritten --

COMMISSIONER LEE: That's a different --

CHAIRMAN WROTENBERY: -- by hand or on a typewriter, I don't know, but --

COMMISSIONER LEE: I think the production data, the same thing. We write a manual --

CHAIRMAN WROTENBERY: Uh-huh.

COMMISSIONER LEE: -- with your signature on it --

CHAIRMAN WROTENBERY: Uh-huh.

COMMISSIONER LEE: -- and we go out to visit people and we --

CHAIRMAN WROTENBERY: Uh-huh.

COMMISSIONER LEE: -- make sure they get some, you know --

CHAIRMAN WROTENBERY: Uh-huh.

COMMISSIONER LEE: When do you need this? Four months? Two months?

CHAIRMAN WROTENBERY: Probably in a few months.

COMMISSIONER LEE: Can we charge Burlington?

CHAIRMAN WROTENBERY: With what?

(Laughter)

MR. FOPPIANO: They're not allowed to talk.

CHAIRMAN WROTENBERY: Now you're using it as a shield.

COMMISSIONER LEE: Okay, we'll talk about

details, but we will -- you know, we --

CHAIRMAN WROTENBERY: Okay. So what's the -- I will say, the Division does not want paper. However we get there, let's get there. And I think it's only fair that we're working very hard to scan all of our hard copy documents right now and make that information available. We've set systems up so we can take production reports electronically and APDs electronically. The future is going to be in the area of electronic communication. We're getting rid of our file cabinets, we're not going to have a place to put all of this paper. And so we need the information in some sort of electronic form. Anything that we get in paper we will be having to scan, and we'd like to minimize that work, so --

COMMISSIONER LEE: Can you tell Jan about it? Jan is in charge of this? Or Ben?

CHAIRMAN WROTENBERY: Ben, probably.

COMMISSIONER LEE: Ben and Michael Stogner.

CHAIRMAN WROTENBERY: But you better not have a requirement for electronic filing on it, or --

COMMISSIONER LEE: I think for the people with two or three -- the production, you didn't require them to file electronically.

CHAIRMAN WROTENBERY: Not the smaller ones.

COMMISSIONER LEE: Right, so --

CHAIRMAN WROTENBERY: Uh-huh.

COMMISSIONER LEE: -- I think the same thing can be --

CHAIRMAN WROTENBERY: Okay.

MR. ROSS: Some sort of a threshold --

CHAIRMAN WROTENBERY: If we get a flood of contingency plans a year from now, can we send them to PRRC for --

COMMISSIONER LEE: Sure, sure, we --

CHAIRMAN WROTENBERY: Okay.

COMMISSIONER LEE: -- have offices at NMOGA, we can put it there.

CHAIRMAN WROTENBERY: Oh, NMOGA, okay. Okay.

COMMISSIONER LEE: But that's your decision, that's not our decision.

CHAIRMAN WROTENBERY: What's -- what's --

COMMISSIONER LEE: Whether you require people to send it electronically.

CHAIRMAN WROTENBERY: That's the Commission's decision, so you're here with us. Okay.

Any suggestions?

COMMISSIONER BAILEY: I'd like to see consistency. Companies with more than a hundred wells have to file electronically, it seems to me those are the same operators who should be required to file electronically

here. For those companies that have one or two and are not computer literate, I can see where it would create problems and I think if we set that threshold that if there are more than 25, more than 50 contingency plans that are to be filed, they have to be electronic. But some sort of threshold like that.

COMMISSIONER BAILEY: Okay. Do you want to mull that one over, Steve, and --

MR. ROSS: I think one could draft language that set a threshold.

CHAIRMAN WROTENBERY: Okay.

MR. ROSS: I'd have to think about how to do it because obviously the Rule doesn't just apply to wells, but I think it could be done.

CHAIRMAN WROTENBERY: Okay. Why don't we look at something like that?

MR. ROSS: Okay, the last issue is the -- there's been a paragraph in the draft for some time -- it was M in earlier drafts -- that the consensus draft proposes to eliminate, and it pertains to corrective actions. The paragraph -- It's really only one sentence. It says the Division may require corrective actions if necessary to maintain control of a well or any other facility or to safeguard public safety.

It really just states the obvious. The Oil and

Gas Act permits us to require corrective actions to maintain control of a well without stating it here, but I know that at some point during this process -- I think it came through one of the Bureau's witnesses -- they felt it is important to restate this so as to avoid any confusion about their authority when they order somebody to fix something, something along those lines.

That's -- whether that should -- Even if the paragraph is deleted, we probably maintain that authority anyway, under the Oil and Gas Act. So the decision is whether to leave it in as a reminder of that authority or whether to take it out.

CHAIRMAN WROTENBERY: And I'll say, the work group language is lengthy and is missing a conjunction somewhere that I think affects the meaning, and I think it raises more questions than it answers.

MR. ANDERSON: It has a verb.

CHAIRMAN WROTENBERY: I know, it has several verbs.

(Laughter)

COMMISSIONER LEE: But I will say, the shorter version that was, I think, previously agreed to by the work group, by the initial work group -- I don't know if that's true or not, actually, because we've had so many different drafts.

The shorter version, like Steve says, is just a statement of our statutory authority. So on the one hand I'd feel comfortable just striking the provision entirely, because we've got that authority.

I will say, our District Offices have requested a statement in the Rule of this authority, because they run into situations where they're asking an operator or an operator's representatives to address an issue, and the response is, well, where does it say this in the Rules? And so the District Offices have asked that there be some statement of the Division's authority in this area, within the Rule itself.

And I -- I can go either way. It's very clearly within the Division's authority.

COMMISSIONER BAILEY: My feeling is, if it duplicates language of the Oil and Gas Act --

CHAIRMAN WROTENBERY: Uh-huh.

COMMISSIONER BAILEY: -- if it could create confusion over interpretation of any action the Division would take --

CHAIRMAN WROTENBERY: Uh-huh.

COMMISSIONER BAILEY: -- that it should not be there.

CHAIRMAN WROTENBERY: Uh-huh. Well, that's definitely true of the work group language, that it could

create confusion.

COMMISSIONER BAILEY: It seems to me the Division's concerns could be addressed in another vein by a policy statement or a --

CHAIRMAN WROTENBERY: We have a --

COMMISSIONER BAILEY: -- new policy.

(Laughter)

CHAIRMAN WROTENBERY: Yes, because of all of the policy statements that get issued, we said that our policies will be written in our Rules.

COMMISSIONER BAILEY: I like that, I like that. I'll just give them a copy of the statute.

CHAIRMAN WROTENBERY: Yes, a copy of the statute.

COMMISSIONER BAILEY: Give them that, we can hand that out.

COMMISSIONER LEE: So we're taking out --

CHAIRMAN WROTENBERY: I think that -- I would strongly advise against using the work group language. We could use the language that was in the last Commission draft --

COMMISSIONER LEE: I think we --

CHAIRMAN WROTENBERY: -- but given the controversy on the point, I'd be comfortable leaving it out. What's there is just a statement of the Commission's and the Division's statutory authority --

COMMISSIONER LEE: So just take --

CHAIRMAN WROTENBERY: -- so --

COMMISSIONER LEE: -- this all out?

CHAIRMAN WROTENBERY: I think we could --

COMMISSIONER LEE: Okay.

CHAIRMAN WROTENBERY: -- just leave it out and maybe provide some guidance to the District Offices that includes both the provisions of the Rule and the provisions of the statute that would apply to help them in their inspection and enforcement efforts.

COMMISSIONER BAILEY: Let's not confuse --

CHAIRMAN WROTENBERY: Okay, so we'll strike that provision.

COMMISSIONER LEE: You're going to hurt Bruce's feelings. He wrote this.

CHAIRMAN WROTENBERY: I hope he didn't write that.

(Laughter)

COMMISSIONER LEE: This is engineering writing.

CHAIRMAN WROTENBERY: I think, to me, that has all the hallmarks of a committee effort.

(Laughter)

CHAIRMAN WROTENBERY: I wouldn't blame any one person for that language.

MR. ROSS: You may get input whether you like it

or not.

CHAIRMAN WROTENBERY: Yes. Okay.

MR. ROSS: Okay, so those are the six key big issues that I identified with this latest draft. The question is where to go from here, and that's why I whipped up this version for you to think about, which I'll give you after the meeting, and the order. But I'll be able to define those documents a lot more, given your input today, and maybe I should do that and then e-mail you amended documents.

CHAIRMAN WROTENBERY: And what we're thinking is, we may be able to take final action on this Tuesday at the beginning of the meeting. We do have it on the agenda. And so, Steve, do you think by the end of the day you could get a --

MR. ROSS: Uh-huh.

CHAIRMAN WROTENBERY: -- revised version of the draft order out, and that will give us some time to look at it before Tuesday morning.

MR. ROSS: Uh-huh.

CHAIRMAN WROTENBERY: Any other questions, or any issues that the Commissioners might have wanted to raise, based on the work group draft?

COMMISSIONER BAILEY: Was there a question on the use of the word "reasonable"?

MR. ROSS: Well, that word appears in the two paragraphs that --

CHAIRMAN WROTENBERY: We've deleted --

MR. ROSS: -- I understand you want me to delete.

CHAIRMAN WROTENBERY: So I think we took care of that issue.

(Laughter)

COMMISSIONER BAILEY: That's all I have.

CHAIRMAN WROTENBERY: Okay. Anything else, then, for today?

I'll entertain a motion to adjourn.

MR. ROSS: You might want to make it --

CHAIRMAN WROTENBERY: Oh, I'm sorry.

MR. ROSS: -- clear that we're continuing this case until Tuesday.

CHAIRMAN WROTENBERY: Okay, yes, we are continuing this case until Tuesday. It is on the --

MR. ROSS: It is on the agenda.

CHAIRMAN WROTENBERY: -- agenda for Tuesday and -- so just for the record we'll make that clear, that we will be taking this up Tuesday.

I'll entertain a motion to adjourn.

COMMISSIONER BAILEY: I so move.

COMMISSIONER LEE: Second.

CHAIRMAN WROTENBERY: All in favor say "aye".

COMMISSIONER BAILEY: Aye.

COMMISSIONER LEE: Aye.

CHAIRMAN WROTENBERY: Aye. Thank you.

(Thereupon, these proceedings were concluded at 10:15 a.m.)

* * *

CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Commission was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL November 8th, 2002.

STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006

19.15.2.52 Hydrogen Sulfide Gas (Hydrogen Sulfide)

~~A. In General. Hydrogen sulfide gas is a flammable, poisonous gas that may occur naturally as a component of crude petroleum and natural gas. The gas has a distinct and characteristic odor of rotten eggs but due to olfactory fatigue may not be sensed by the human sense of smell.~~

~~B~~A. Applicability. This section is a public safety ~~standard~~ rule that applies to any person, operator or facility subject to the jurisdiction of the Division, including, but not limited to, any person, operator or facility engaged in drilling, stimulating, injecting into, completing, working over or producing any oil, natural gas or carbon dioxide well or any person, operator or facility engaged in gathering, transporting, storing, processing or refining of crude oil, natural gas or carbon dioxide. This section shall not act to exempt or otherwise excuse surface waste management facilities permitted by the division pursuant to 19 NMAC 15.I.711 from more stringent conditions on the handling of hydrogen sulfide required of such facilities by 19 NMAC 15.I.711 or more stringent conditions existing in permits issued thereunder, nor shall such facilities be exempt or otherwise excused from the requirements set forth in this section by virtue of permitting under 19 NMAC 15.I.711.

~~C~~B. Definitions (specific to this section).

1. ANSI. The acronym "ANSI" means the american national standards institute.
2. API. The acronym "API" means the american petroleum institute.
3. Area of Exposure. The phrase "area of exposure" means the area within a circle constructed with the point of escape at its center and the radius of exposure as its radius.
4. ASTM. The acronym "ASTM" means the american society for testing and materials.
5. Dispersion Technique. A "dispersion technique" is a mathematical representation of the physical and chemical transportation characteristics, dilution characteristics and transformation characteristics of hydrogen sulfide gas in the atmosphere.
6. ~~6.~~ Escape Rate. The "escape rate" is the maximum volume (Q) that is used to designate the possible rate of escape of a gaseous mixture containing hydrogen sulfide.
   a) For existing gas operations and facilities, t~~T~~he escape rate is calculated using the maximum daily rate of the gaseous mixture produced, handled, or the best estimate thereof. For an existing natural gas well, the escape rate shall be calculated by using the current daily absolute open flow rate against atmospheric pressure or the best estimate of that rate.
   b) For new gas operations and facilities, the escape rate will be calculated as the maximum anticipated flow rate through the system. For a new natural gas well, the escape rate shall be calculated using the maximum open-flow rate of off set wells, or the field average of current maximum open-flow rates.
   c) For ~~an~~ existing oil wells and facilities, the escape rate shall be calculated by multiplying the producing gas/oil ratio by the maximum daily production rate or the best estimate thereof.
   d) For a new oil well, the escape rate shall be determined by multiplying the producing gas/oil ratio by the maximum daily production rate of offset wells or the field average of current wells. ~~For an oil or natural gas well drilled in a developed area, the escape rate may be determined by using data from offset wells completed in the interval in question, or using some other reasonable means to calculate the escape rate. For facilities or operations not mentioned, the escape rate shall be calculated using the actual flow of the gaseous mixture through the facility or operation~~.
   e) For facilities or operations not mentioned, the escape rate shall be calculated using the actual flow, or a reasonable estimate thereof, of the gaseous mixture through the facility or operation.
7. GPA. The acronym "GPA" means the gas processors association.

8. LEPC. The acronym "LEPC" means the local emergency planning committee established pursuant to the emergency planning and community right-to-know act, 42 U.S. C. § 11001.

9. NACE. The acronym "NACE" refers to the national association of corrosion engineers.

10. PPM. The acronym "ppm" means "parts per million" by volume.

11. Potentially Hazardous Volume (hereinafter referred to as a ~~"potentially hazardous volume"~~PHV) means the volume of hydrogen sulfide gas of such concentration that:

a. the 100-ppm radius of exposure includes any public area as defined herein;

b. the 500-ppm radius of exposure includes any public road as defined herein; or

c. the 100-ppm radius of exposure is ~~equal to or~~ in excess of 3,000 feet.

12. Public Area. A "public area" is any occupied building or structure that is not associated with the well, operation or system for which the radius of exposure is being calculated and that is used as a dwelling, office, place of business, church, school, ~~school bus stop,~~ hospital, or government building, or any portion of a park, city, town, village or ~~or~~ an ~~school bus stop or~~ established school bus stop or other similar area where members of the public may reasonably be expected to be present.

13. Public Road. A "public road" is any federal, state, municipal or county road or highway ~~or postal route~~.

14. Radius of Exposure. The radius of exposure (hereinafter referred to as "radius of exposure" or "ROE") is that radius constructed with the point of escape as its starting point and its length calculated using the following Pasquill-Gifford derived equation, or by such other method as may be approved by the division:

a. For determining the 100-ppm radius of exposure: $X= [(1.589)(\text{hydrogen sulfide concentration})(Q)]^{(0.6258)}$, where "X" is the radius of exposure in feet, the "hydrogen sulfide concentration" is the decimal equivalent of the mole or volume fraction of hydrogen sulfide in the gaseous mixture, and "Q" is the escape rate expressed in cubic feet per day (corrected for standard conditions of 14.73 psia and 60°F).

~~or~~

b. For determining the 500-ppm radius of exposure: $X=[(0.4546)(\text{hydrogen sulfide concentration})(Q)]^{(0.6258)}$, where "X" is the radius of exposure in feet, the "hydrogen sulfide concentration" is the decimal equivalent of the mole or volume fraction of hydrogen sulfide in the gaseous mixture, and "Q" is the escape rate expressed in cubic feet per day (corrected for standard conditions of 14.73 psia and 60°F).

c. For a well being drilled, completed, recompleted, worked over or serviced in an area where insufficient data exists to calculate a radius of exposure but where hydrogen sulfide could reasonably be expected to be present in concentrations in excess of 100 ppm in the gaseous mixture, a 100-ppm radius of exposure equal to 3,000 feet shall be assumed.

~~D~~C. ~~Determination of Hydrogen Sulfide Risk~~~~Testing for~~Presence of Hydrogen Sulfide.

1. Determination of Hydrogen Sulfide Concentration.

a. Each person, operator or facility to which this section applies shall determine the hydrogen sulfide concentration within each of its ~~wells,~~ operations or systems. A representative sample or process knowledge may be used in lieu of individual testing of wells~~wells,~~ operations or systems provided that the person, operator or facility can demonstrate that the concentration derived from the representative sample or process knowledge is reasonably representative of the hydrogen sulfide concentration within the well~~well,~~ operation or system.

b. The tests used to make the determination referred to in the previous subparagraph shall be conducted in accordance with applicable ASTM or GPA standards or by other methods approved by the division.

c. If a valid, representative sample from an ~~well,~~ operation or system was tested at any time prior to the effective date of this section, ~~within one (1) year of the effective date of this~~

section, new testing shall not be required; provided, however, new testing shall not be required for a producing well that was tested at any time prior to the effective date of this section.

2. Tested Concentrations Below 100 ppm. If the concentration of hydrogen sulfide in a given well, operation or system is less than 100 ppm, no further actions shall be required pursuant to this section.

3. Tested Concentrations Above 100 ppm; Calculation of the Radius of Exposure. a. If the concentration of hydrogen sulfide in a given well, operation or system is 100 ppm or greater, then the person, operator or facility must calculate the radius of exposure and comply with other applicable requirements of this rule. pursuant to this sectionParagraph D and comply with the signage requirements outlined in paragraph F.

.4. Retesting. If any change or alteration to an operation or system can materially increase the concentration of hydrogen sulfide, then the operator must retest that operation or system.

D. Determination of Radius of Exposure

1. For all operations subject to this section, the radius of exposure (ROE) shall be determined by following the definition given in B.14.

b2. If calculation of the radius of exposure reveals that a potentially hazardous volume is present, the person, operator or facility shall provide the results of the determination of the hydrogen sulfide concentration and the calculation of the radius of exposure to the division.

3. For an well, operation or system existing on the effective date of this section, the determination, calculation and submission required herein shall be accomplished within 180360 days of the effective date of this section; for any well, operation or system that commences operations after the effective date of this section, the determination, calculation and submission required herein shall be accomplished, preferably before operations begin but no later than -60 days after initial productionbefore operations begin.

4. Recalculation. The person, operator or facility shall calculate or recalculate the radius of exposure if an operational change or production alteration causes the hydrogen sulfide concentration in an well, operation or system to increase to 100 ppm or greater or, if the hydrogen sulfide concentration in a well, operation or system was already 100 ppm or greater, causes a 25% or greater increase in the actual volume fraction of hydrogen sulfide. If calculation or recalculation of the radius of exposure reveals that a potentially hazardous volume is present, the person, operator or facility shall provide the results to the division within thirty (30) daysas soon as possible, but no later thanwithin sixty (60) days.

E. Hydrogen Sulfide Contingency Plan.

1. In General. A hydrogen sulfide contingency plan is a written document that provides a plan of action that will be used to alert and protect persons at risk in the event of a potentially significant release of hydrogen sulfide gas that could produce a PHV. The hydrogen sulfide contingency plan shouldshall be developed withdeveloped with due consideration of API Standard RP-55 entitled "Recommended Practices for Oil and Gas Producing and Gas Processing Plant Operations Involving Hydrogen Sulfide" but, as a minimum ,must shall be developed in accordance with the following paragraphs.

2. When Required. A hydrogen sulfide contingency plan must be prepared whenever a potentially hazardous volume of hydrogen sulfide is present or , in the case of a well being drilled, deepened, or re-entered, may reasonably expected to be encountered.

3. Input of Emergency Response Authorities and the Division. The person, operator or facility shall develop a proposed hydrogen sulfide contingency plan and provide a copy to the division, the New Mexico department of public safety (*i.e.*, the New Mexico state police), and the local emergency

~~planning committee. If the potential source of release is within a municipality, a copy shall be provided to the municipal police and fire department. If the potential source of the release is outside the boundaries of a municipality, a copy shall instead be provided to the county sheriff and the county fire department or departments. Input on the proposed plan shall be sought from each of the foregoing; if an emergency response authority provided with a copy of the proposed plan fails to provide input or fails to respond at all, that fact shall be stated in the final hydrogen sulfide contingency plan submitted to the division. The input provided by the emergency response authorities shall be considered when preparing the final plan for submission to the division but failure to include any specific suggestion shall not affect the validity of the plan or cause disapproval of the plan by the division.~~

3. Plan Contents~~4. Elements~~.

The contingency plans shall contain, but not be limited to, information on the following subjects, as appropriate for the operation or system to which it applies:

a. Emergency Procedures
   1. Responsibilities of personnel
   ~~2.~~ Immediate Action plan
   ~~3.~~ Telephone numbers and communication methods for public agencies, emergency response organizations, and public authorities as appropriate
   ~~4.~~ Locations of nearby residences, businesses, parks, schools, churches, roads, medical facilities, etc.
   ~~5.~~ Evacuation routes and road block locations
   ~~6.~~ Procedures for public notification (lists or reaction plans)
   ~~7.~~ A statement describing how emergency response actions will be coordinated with the division and the New Mexico state police, consistent with the New Mexico hazardous materials emergency response plan (HMER).
   ~~8.~~ Location and availability of necessary safety equipment and supplies.

b. Characteristics of Hydrogen Sulfide and Sulfur Dioxide
c. Maps, and Drawings
   1. Plats or maps detailing the areas affected by the ROE, specifically delineating any affected public areas and public roads
d. Training and Drills
   1. Responsibilities and duties of essential personnel
   2. On-site or classroom drills
   3. Informing nearby residents on protective measures in emergency situations as appropriate
   4. Training and attendance documentation
   5. Briefing of public officials on issues such as evacuation or shelter-in-place plans

4. Plan Activation. The hydrogen sulfide contingency plan shall address the activation threshold and the events that could lead to that threshold. ~~be activated in the event of a significan release of hydrogen sulfide gas that could produce a PHV.~~ Minimum criteria for activation shall include an event that could result in: a 100-ppm in any public area, a 500 ppm at any public road, 100 ppm 3000 feet from the site of the release, or 50 ppm for 10 minutes at the boundary of the facility.

~~a. Elements Required for Each Plan:~~

~~i. A detailed description of each action to be taken in the event of a release of hydrogen sulfide requiring activation shall be included in each hydrogen sulfide contingency plan, including provisions for alerting and accounting for personnel, controlling any release of hydrogen~~

sulfide gas, eliminating possible ignition sources, alerting the public (directly or through appropriate government agencies), evacuating persons in the affected area, using the call list to alert company officials and emergency response authorities, making recommendations to public officials to block access to affected areas and conducting evacuations and coordinating emergency response with emergency response authorities. A plan that addresses the items described in paragraph 7.6 of the guidelines published by the API in its publication entitled "Recommended Practices for Oil and Gas Producing and Gas Processing Plant Operations Involving Hydrogen Sulfide," RP-55, most recent edition, shall be adequate for this purpose;

ii. A call list including the following as applicable:

aa. local supervisory personnel;

bb. county sheriff;

cc. department of public safety and state police;

dd. city or municipal police;

ee. appropriate division district office; and

ff. other public agencies as appropriate;

iii. A plat or map detailing the area within the radius of exposure of a potentially hazardous volume; and

iv. A list of the names and telephone numbers of all personnel to be contacted when a release is reported or suspected.

b. Where the 500-ppm radius of exposure encompasses any public road, the person, operator or facility shall include the following additional elements in the hydrogen sulfide contingency plan:

i. A plat or map detailing the area of exposure, including the locations of public roads; and

ii. A plan to divert traffic and safely get existing traffic off the road and out of danger.

c. Where the 100-ppm radius of exposure encompasses any public area, the following additional elements shall be included in the hydrogen sulfide contingency plan:

i. A call list including all the persons set forth in Sub subparagraph E(4)(a)(ii), above, and the following:

aa. ambulance services;

bb. hospitals;

cc. county and city fire departments;

dd. doctors;

ee. contractors for supplemental or emergency equipment; and

ff. other public agencies as appropriate;

ii. A statement describing how emergency response actions will be coordinated with the division and the New Mexico state police, consistent with the New Mexico hazardous materials emergency response plan (HMER);

iii. A plat or map detailing the area of exposure, including the locations of public areas and public roads;

iv. The names and telephone numbers of all persons living within the area of exposure and contact persons for areas of public concentration such as churches, schools, hospitals, offices and places of business;

v. Provision for advance briefing of affected persons within the radius of exposure. Such advance briefing shall include the hazards and characteristics of hydrogen sulfide, the necessity for a hydrogen sulfide contingency plan, the possible sources of hydrogen sulfide within the radius of exposure, instructions for reporting a gas leak, the manner in which persons will be notified in the event of an emergency and steps to be taken in an emergency;

vi. In lieu of the provision for advance briefing of persons within the radius of exposure described in the previous subsubparagraph, a reaction-type plan may be prepared and

~~submitted that provides for mass notification of a release of hydrogen sulfide and for evacuation of affected areas; and~~

~~vii. Additional support information, if applicable, such as the location of emergency evacuation routes, the location of safety and life-support equipment, the location of facilities containing hydrogen sulfide, the location of nearby telephones or other means of communication and special instructions for conditions at a particular installation such as local terrain and the effect of various weather conditions.~~

~~d. Additional Requirements. The division may impose additional requirements or modify requirements based on site-specific conditions, population density or special circumstances.~~

5. Submission. ~~The hydrogen sulfide contingency plan shall be submitted to the division and a copy shall be submitted to the local emergency planning committee, if one exists.~~ A hydrogen sulfide contingency plan for a ~~well,~~ system or operation existing on the effective date of this section shall be submitted to the Division within ~~180~~360 days from the effective date of this section. A hydrogen sulfide contingency plan for a new ~~well,~~ system or operation shall be submitted, preferably before operations begin, but no later than 60 days of commencing ~~before~~ operations ~~commence~~. ~~A hydrogen sulfide contingency plan shall be submitted within 180 days if a public area or public road is established that creates a potentially hazardous volume where none previously existed. The hydrogen sulfide contingency plan~~ ~~f~~For a drilling, completion, workover or well servicing operation, the hydrogen sulfide contingency plan must be on-file with the division prior to commencing work. The plan may be submitted separately or along with the application for permit to drill (APD) or must be on-file from a previous submittal. On an annual basis, the operator shall file with the applicable local emergency planning committee, and the state emergency response commission, an inventory of the operations and systems where contingency plans are on file with the division and a point of contact

6. Failure to Submit Plan. Failure to submit a hydrogen sulfide contingency plan when required may result in denial of an application for permit to drill that well, cancellation of an allowable or other appropriate enforcement action.

7. ~~Annual Review, Amendment~~Updating Provisions. The ~~person, operator or facility shall review the hydrogen sulfide contingency plan on an annual basis, or more frequently if activation of a plan reveals a deficiency or, if changes to processes, concentrations of hydrogen sulfide or other circumstances occur, or if a new public area and/or a new public road is established that creates a potentially hazardous volume. The person, operator or facility shall submit any amendments to the division and to the local emergency planning committee. Reasonable efforts shall be taken to update on an annual basis the lists of names and telephone numbers in the hydrogen sulfide contingency plan~~Contingency Plan shall be periodically reviewed and updated any time its provisions or coverage materially change.

8. Retention and Inspection. The hydrogen sulfide contingency plan shall be reasonably accessible in the event of a release and maintained on file at all times and shall be available for inspection by the division.

9. Plan Adequacy. Additional requirements may be required in the contingency plan if it has been determined inadequate by the division to protect public safety.

F. Signage at ~~Wells~~, Facilities or Operations. ~~For every well, operation or system to which this section applies that contains a concentration of hydrogen sulfide of 100 ppm or greater, the person, operator or facility must provide signage as set forth herein.~~

1. Where required. For every operation, or system to which this section applies that is determined to contain a hydrogen sulfide concentration of 100 ppm or greater, signs or markers meeting the requirements outlined below must be installed and maintained.
2. Signs and Markers Specifications. The sign or marker shall conform with the current ANSI standard Z53.1 and shall contain sufficient information and be readily readable by the public to warn that a potential danger exists and shall contain the words "Poison Gas". Signs or markers that have been installed prior to the effective date of

this section and that are in compliance with other applicable regulations (Department of Transportation, OSHA, etc.) shall satisfy the requirements of this section. Other signs and markers that have been installed prior to the effective date of this section shall be acceptable provided that they indicate the presence of a potential hazard. For drilling, workover, completion, and recompletion operations, additional warning measures (e.g., red flags, signs, etc) shall be prominently posted whenever an imminent danger situation exists.

3. Location. Signs and/or markers shall be prominently posted at appropriate locations (e.g., entrance points) for facilities and operations subject to this section.

~~Drilling, Completion, Workover, and Well Servicing Operations. A danger or caution sign shall be displayed at each drilling, completion, workover and well servicing operation along each point of access to the site. The signs shall read "DANGER - POISON GAS, HYDROGEN SULFIDE PRESENT" or, as appropriate, "CAUTION - POISON GAS - HYDROGEN SULFIDE MAY BE PRESENT" or use equivalent language approved by the division, and shall state in smaller lettering: "Do Not Approach If Red Flag is Flying" or use equivalent language approved by the division. Each sign shall be painted in colors that satisfy Table 1 of ANSI standard Z53.1-1967 or regulations of the federal occupational safety and health administration, or in another color approved by the division. The signs shall be legible and large enough to be read by all persons entering the well site and shall be placed a minimum of 200 feet but no more than 500 feet from the well site and at a location that allows vehicles to turn around at a safe distance prior to reaching the site.~~

~~2. Crude Oil Pump Stations, Producing Wells, Tank Batteries and Associated Production Facilities, Refineries, Gas Plants and Compressor Stations. A danger sign or signs shall be posted within 50 feet of each crude oil pump station, producing well, tank battery and associated production facility, refinery, gas plant and compressor station to alert the public of the potential hydrogen sulfide danger. If fenced, a danger sign at the gates shall suffice. The signs shall read "DANGER - POISON GAS - HYDROGEN SULFIDE PRESENT," or, as appropriate, "CAUTION - POISON GAS - HYDROGEN SULFIDE MAY BE PRESENT" or use equivalent language approved by the division. Each sign shall be painted in colors that satisfy Table 1 of ANSI standard Z53.1-1967 or regulations of the federal occupational safety and health administration, or in another color approved by the division. The signs shall be legible and large enough to be read by all persons entering the site. A sign shall be placed at each point where a flow line or gathering line crosses a public road; each sign shall be legible and shall contain the name of the owner or operator and an emergency telephone number.~~

~~3. Tanks or Vessels. A danger sign or signs shall be posted on or within 50 feet of any storage tank to alert persons of the potential hydrogen sulfide danger. For any storage tank for which fencing is required, a danger sign posted at the locked gates shall suffice. The signs shall read "DANGER - POISON GAS - HYDROGEN SULFIDE PRESENT," or, as appropriate "CAUTION - POISON GAS - HYDROGEN SULFIDE MAY BE PRESENT," or equivalent language approved by the division. Each sign shall be painted in colors that satisfy Table 1 of ANSI standard Z53.1-1967 or regulations of the federal occupational safety and health administration or another color approved by the division. The sign(s) shall be legible and large enough to be read by all persons entering the site.~~

G. Compliance Requirements

1. Protection from Hydrogen Sulfide During Drilling, Completion, Workover, and Well Servicing Operations.

a. API Standards. All drilling, completion, workover and well servicing operations ~~where it is reasonably expected that a potentially hazardous volume of hydrogen sulfide will be encountered~~ shall be conducted with due consideration to the guidelines published by the API entitled "Recommended Practice for Oil and Gas Well Servicing and Workover Operations Involving Hydrogen

Sulfide," RP-68, and "Recommended Practices for Drilling and Well Servicing Operations Involving ~~of~~ Wells Containing Hydrogen Sulfide," RP-49, most recent edition.

~~2. Minimum Standards. At a minimum, each drilling, completion, workover and well servicing operation where a potentially hazardous volume of hydrogen sulfide may reasonably be expected to be encountered shall be conducted in accordance with the following:~~

~~a. Before Commencing Operations. Hydrogen sulfide training shall be completed and warning systems shall be operational before commencement of operations. Detection and monitoring equipment is not required for drilling from the surface to within 500 feet of the zone anticipated to contain hydrogen sulfide.~~

~~b. Egress Routes. The person, operator or facility shall maintain passable egress routes at all times during operations.~~

b. Detection and Monitoring Equipment. The person, operator or facility shall provide hydrogen sulfide detection and monitoring equipment as follows:

i. Each drilling and completion site shall have an accurate and precise hydrogen sulfide detection and monitoring system that is capable of automatically activat~~e~~sing visible and audible alarms when the ambient air concentration of hydrogen sulfide ~~reaches~~reaches a predetermined value set by the operator, not to exceed 20 ppm ~~is equal to or less than 20 ppm~~. There shall be a sensing point located at the shale shaker, rig floor and bell nipple for a drilling site and the cellar, rig floor and circulating tanks or shale shaker for a completion site.

~~ii. The detection system shall be calibrated and tested and the results recorded monthly. Each test of the hydrogen sulfide monitoring system shall be recorded on the driller's log or its equivalent.~~

~~iii~~ii. For workover and well servicing operations, one operational sensing point shall be located as close to the well bore as practical. Additional sensing points may be necessary for large or long-term operations.

~~iv~~iii. Hydrogen sulfide detection and monitoring equipment must be provided and must be made operational during drilling when drilling is within 500 feet of a zone anticipated to contain hydrogen sulfide and continuously thereafter through all subsequent drilling.

c. Wind Indicators.

i. Equipment to indicate wind direction shall be present and visible at all times. At least two devices to indicate wind direction shall be installed at separate elevations and visible from all principal working areas at all times.

ii. When a sustained concentration of hydrogen sulfide is detected in excess of 20 ppm at any detection point, red flags shall be displayed.

d. Special Requirements. Where drilling, workover, completion, and recompletion operations occur in areas where the 100 ppm ROE includes a public area, the following additional measures are required:

~~i.The operator shall install a choke manifold, mud gas separator, and flare line and provide a suitable method for lighting the flare.~~

~~ii.A remote controlled choke and accumulator shall be installed and operational.~~

i. Drilling. A remote controlled well control system shall be installed and operational at all times beginning when drilling is within 500 feet of the formation believed to contain hydrogen sulfide and continuously thereafter during drilling. The control system must include, at a minimum, a pressure and hydrogen sulfide-rated well control choke and kill system including manifold and blowout preventer that meets or exceeds the specifications API-16C and API-RP 53 or other specifications approved by the division. ~~The blowout preventer stack shall have at least one spool, or integral BOP spool for the kill and choke lines, one dual BOP with one pipe and one blind ram, one annular device and a rotating head. Operators may be required to have available float valves, internal BOP's, stabbing valves, drill stem valves, etc. and other additional~~

~~equipment in order to provide for public safety.~~ Mud-gas separators shall also be used. These systems shall be tested and maintained pursuant to the specifications referenced, according to the requirements of this part, or otherwise as approved by the division.

ii. Completion, Workover and Well Servicing. A remote controlled pressure and hydrogen sulfide rated well control system that meets or exceeds API specifications or other specifications approved by the division shall be installed and operational at all times before commencing work.

e. Flare System. For drilling and completion operations in an area where it is reasonably expected that a PHV of hydrogen sulfide will be encountered, the person, operator or facility shall install a flare system to safely gather and burn hydrogen sulfide bearing gas. Flare outlets shall be located at least 150 feet from the well bore. Flare lines shall be as straight as practical. The flare system shall be equipped with a suitable and safe means of ignition. Where noncombustible gas is to be flared, the system shall be provided supplemental fuel to maintain ignition.

f. If hydrogen sulfide was not anticipated but is encountered during drilling operations the requirements of this rule must be satisfied, and OCD notified within 24 hours, before drilling operation continues. The OCD may grant verbal approval pending contingency plan preparation.

g. Mud Program. A mud program, including de-gassing, capable of handling hydrogen sulfide conditions and well control shall be used.

h. Well Testing. Except with prior approval of the division, drill stem testing of a zone that contains hydrogen sulfide shall be conducted only during daylight hours, and formation fluids shall not be permitted to flow to the surface (closed-chamber only).

~~e. Flare System. For drilling and completion operations, the person, operator or facility shall install a flare system to safely gather and burn hydrogen sulfide-bearing gas. Flare outlets shall be located at least 150 feet from the well bore. Flare lines shall be as straight as practical. The flare system shall be equipped with a suitable and safe means of ignition. Where noncombustible gas is to be flared, the system shall be provided supplemental fuel to maintain ignition.~~

~~f. Use of Well Control Equipment.~~

~~i. Drilling. A remote controlled choke and accumulator shall be installed and operational at all times beginning when drilling is within 500 feet of the formation believed to contain hydrogen sulfide and continuously thereafter during drilling. The remote controlled choke must include, at a minimum, a pressure and hydrogen sulfide rated well control choke and kill system including manifold and blowout preventer that meets or exceeds the specifications API 16C and API RP 53 or other specifications approved by the division. The blowout preventer stack shall have at least one spool for the kill and choke lines, two pipe rams, one blind ram, one annular device and a rotating head. Mud-gas separators shall also be used. These systems shall be tested and maintained pursuant to the specifications referenced, according to the requirements of this part, or otherwise as approved by the division.~~

~~ii. Completion, Workover and Well Servicing. If feasible, the equipment described in the previous subsubparagraph shall be installed and operational at all times during completion, workover and well servicing of a well. If not feasible, a suitable alternative to a remote choke such as a remote controlled valve or blow out preventer with remote accumulator may be used, so long as the alternative equipment will be protective of public safety.~~

~~g. Mud Program. A mud program, including de-gassing and flaring, capable of handling hydrogen sulfide conditions and well control shall be used.~~

~~h. Well Testing. Except with prior approval by the division, drill stem testing of a zone that contains hydrogen sulfide shall be closed chamber only, in that formation fluids shall not be permitted to flow to the surface.~~

~~3. If Hydrogen Sulfide Encountered During Operations.~~

~~a. If hydrogen sulfide was not anticipated at the time the division issued a permit to drill but is encountered during drilling in a concentration of 100 ppm or greater in the gaseous mixture, the operator shall immediately ensure control of the well, suspend drilling operations unless detrimental~~

to well control, take whatever measures are necessary under the circumstances to assure public safety, calculate the radius of exposure and, if a potentially hazardous volume is present, prepare a hydrogen sulfide contingency plan and obtain materials and equipment to bring operations into compliance with this section. The operator shall notify the division of the event and the mitigating steps that have or are being taken as soon as possible, but no later than 24 hours following discovery.

b. If Hydrogen Sulfide Is Encountered During Use of Air, Gas, Mist or Other Non-Mud Circulating Media. If hydrogen sulfide gas in excess of 100 ppm is encountered while drilling with air, gas, mist or other non-mud circulating mediums, the well shall be killed with a water- or oil-based mud, and mud shall be used thereafter as the circulating medium for continued drilling. An alternate drilling method may be used if specifically approved by the division.

2. Protection from Hydrogen Sulfide at Crude Oil Pump Stations, Producing Wells, Tank Batteries and Associated Production Facilities, Refineries, Gas Plants and Compressor Stations.

a. API Standards. Operations at crude oil pump stations and producing wells, tank batteries and associated production facilities, refineries, gas plants and compressor stations containing a potentially hazardous volume of hydrogen sulfide shall be conducted with due consideration to the guidelines published by the API in its publication entitled "Recommended Practices for Oil and Gas Producing and Gas Processing Plant Operations Involving Hydrogen Sulfide," RP-55, latest edition.

2. Minimum Standards. At a minimum, operations at crude oil pump stations and producing wells, tank batteries and associated production facilities, refineries, gas plants and compressor stations containing a potentially hazardous volume of hydrogen sulfide shall also be conducted in accordance with the following subparagraphs and subsubparagraphs.

b. Security ProvisionsFencing. Fencing and gates shall be required when crude oil pump stations and producing wells, tank batteries and associated production facilities are located in a public area or within a 1/4 mile of a building or structure used as a dwelling, office, place of business, church, school, hospital or government building or within 1/4 mile of a park, playground or school bus stop. The fence shall consist of a 5-foot chain link topped by two stands of barbed wire or other design approved by the division. Gates shall be locked when unattendedWell sites or other unattended fixed surface facilities shall be protected from public access when the location is within ¼ mile of a public area. This provision shall be provided by fencing and locking, as appropriate. A surface pipeline shall not be considered as a fixed surface facility for this section.

c. Wind Direction Indicators. Wind direction indicators shall be required. Equipment to indicate wind direction shall be present and visible at all times. At least two devicesone device to indicate wind direction shall be installed at separate elevations shall be installed and visible from all principal working areas at all times

d. Special Requirements. For operations or systems occur in areas where the 100 ppm ROE includes a public area, the following additional measures are required:

i. Operators shall install safety devices (e.g. automatic shut-down devices) and maintain them in an operable condition or shall establish safety procedures designed to prevent the otherwise undetected undetected- continuing escape of hydrogen sulfide.

ii. Any well shall possess a secondary means of immediate well control through the use of appropriate christmas tree or downhole completion equipment. Such equipment shall allow the downhole accessibility (reentry) under pressure for permanent well control.

e. Secondary Well Control. Any well shall possess a secondary means of immediate well control through the use of appropriate christmas tree or downhole completion equipment. Such equipment shall allow downhole accessibility (reentry) under pressure for permanent well control operations.

d. Automatic Safety Valve or Shutdown. Any well shall possess an automatic safety valve or shutdown at the facility or wellhead or other appropriate shut-in control. The automatic

~~another jurisdiction with respect to hydrogen sulfide regulations (e.g., Bureau of Land Management Onshore Order 6) and is in compliance with those regulations, shall be deemed in compliance with this section.~~

~~N. Corrective Actions. The division may require corrective actions if necessary to maintain control of a well or any other facility or to safeguard public safety.~~

~~I~~.K Exemptions. Any person, operator or facility may petition the director, or the director's designee, ~~-~~for an exemption to any requirements ~~of~~ this section. Any such petition shall provide specific information as to the circumstances that warrant approval of the exemption requested and how the public safety will be protected. A safety plan required by other governmental agencies may accompany the petition for exemption. The director, or the director's designee, after considering all relevant factors, may approve an exemption if the circumstances warrant an exemption.

L. Corrective Actions. The division may require an operator to investigate a public safety concern within its operation and where necessary to safeguard public safety, may require the operator to implement the controls required by this rule or other controls (e.g., repair equipment), if reasonably necessary to contain an uncontrolled release of hydrogen sulfide.

~~safety valve shall be set to activate upon a release of a volume of hydrogen sulfide that may create a concentration of hydrogen sulfide of 100 ppm in any public area, 500 ppm at any public road or 100 ppm 3,000 feet from the site of release.~~

e. Tanks or vessels. Each stair or ladder leading to the top of any tank or vessel containing 300 ppm or more of hydrogen sulfide in the gaseous mixture shall be chained or marked to restrict entry. ~~Any tank or tank battery that requires fencing pursuant to this section may substitute a danger sign posted at the gates for chaining and signs.~~

f. Compliance Schedule. Each existing crude oil pump station and producing well, tank battery and associated production facility, refinery, gas plant and compressor station not currently meeting the requirements and minimum standards set forth herein shall be brought into compliance within one year of the effective date of this section. Each crude oil pump station and producing well, tank battery and associated production facility constructed following the effective date of this section shall be designed, constructed and operated to meet the requirements set forth herein.

3. Personnel Protection and Training. All persons responsible for the implementation of any hydrogen sulfide contingency plan shall be provided training in hydrogen sulfide hazards, detection, personal protection and contingency procedures.

~~J. Standards for Equipment That May Be Exposed to Hydrogen Sulfide. Persons, operators and facilities shall choose equipment with consideration for both the hydrogen sulfide working environment and anticipated stresses. NACE Standard MR0175 (latest edition) or some other standard approved by the division shall be used for selection of metallic equipment or, if applicable, adequate protection by chemical inhibition or other methods that control or limits the corrosive effects of hydrogen sulfide shall be used.~~

~~K. Exemptions. Any person, operator or facility may petition the director for an exemption to any requirements of this section. Any such petition shall provide specific information as to the circumstances that warrant approval of the exemption requested and how the public safety will be protected. A safety plan required by other governmental agencies may accompany the petition for exemption. The director, after considering all relevant factors, may approve an exemption if the circumstances warrant an exemption.~~

~~L Release. Upon a release of hydrogen sulfide the following actions must be taken:~~

~~1. Activation of the Hydrogen Sulfide Contingency Plan. The hydrogen sulfide contingency plan shall be activated in the event of a release that may create a concentration of hydrogen sulfide of 100 ppm in any public area, 500 ppm at any public road or 100 ppm 3,000 feet from the site of release.~~

~~4.~~H. Notification of the Division. The person, operator or facility shall notify the division upon a release of hydrogen sulfide requiring activation of the hydrogen sulfide contingency plan, ~~preferably within one hour of discovery of the release, but~~ as soon as possible, but not more than 4 hours after plan activation, recognizing that a ~~in cases where~~ prompt response should supercede notification. The person, operator or facility shall submit a full report of the incident to the division on Form C-141 no later than fifteen (15) days following the release.

~~5.~~I Standards of Equipment that May be Exposed to Hydrogen Sulfide. ***(Keep the wording that was in "J" of the commission draft, but specify that this applies to PHV areas only).***

~~M. Electronic Submission. Any submission to the division required by this section shall be made electronically in a generally accepted format that is compatible with the division's systems.~~

J. Multiple Jurisdiction. Where an existing operation or facility is subject to multiple jurisdictions (e.g., federal, tribe, transportation) and is in compliance with the respective hydrogen sulfide rules of that jurisdiction, it shall be presumed that the operation or facility is also in compliance with this rule. For a new operation or facilty that is subject to multiple jurisdictions, the operation or facility must comply with the most stringent requirements of the respective hydrogen sulfide rules and submit a copy of the contingency plan to the division. At the time that the division requests the operator to make reasonable changes in signage, the contingency plan or other compliance requirements, the operator shall either make those changes within a reasonable time period or petition the division for an exemption.~~H. Reciprocity. Any facility or operation, that is subject to~~