

**Revised Modifications To The Proposed Surface Waste Facility Rules,
Based On OCD Draft of 12-6-05**

Submitted by Donald A. Neeper for ^{2005 DEC 28 PM 12 40}
The New Mexico Citizens for Clean Air & Water
December 28, 2005

Revised modifications to the proposed surface waste facility rules, based on OCD draft of 12-6. Proposed changes to Rules 53 E (3), 53 F (8), and 53 I (3) (b) have been deleted. Presented in strikeout and underline text: ~~Deleted language.~~ New or revised language.

Donald A. Neeper 12/23/05
=====

Rule 53 B (6)

A major modification is a modification of a facility that involves an increase in the land area that the permitted facility occupies, an increase in the land area within which wastes have been authorized to be treated or disposed, a change in the nature of the permitted waste stream or addition of a new treatment process, or any other modification that the division determines, after initial review, is sufficiently substantial that public notice and public participation in the application process are appropriate.

Rule 53 E (8)

To protect migratory birds, ~~all tanks exceeding eight feet in diameter, and exposed pits and ponds shall be screened, netted or covered~~ livestock and wildlife, all ponds, tanks, and other containers of liquid wastes shall be covered, netted, or enclosed in such a manner as to prohibit entry of birds or mammals. Upon the operator's written application, the division may grant an exception to ~~screening, netting or covering of a facility~~ this requirement, upon the operator's showing that an alternative method will ~~protect migratory birds~~ provide equivalent protection or that the facility is not hazardous to ~~migratory mammals or birds.~~ All waste management facilities shall be fenced in a manner approved by the division.

Rule 53 F (2)

Landfills shall be constructed using 40 mil high density polyethylene (HDPE) or equivalent double liners with leak detection systems as described in Paragraph (5) of Subsection H of 19.15.3.53 NMAC incorporated into the design, unless the operator shows to the division's satisfaction that fresh water will not be adversely impacted. Landfills shall be located in

New Mexico Citizens for Clean Air & Water Proposed Rule Revisions

December 28, 2005

Page 2

geologic strata or constructed with floor and walls of geologic material, such that vapors and waste materials will not migrate beyond the facility to protectable water or to the environment.

Rule 53 G (6)

A treatment zone in each landfarm cell shall be monitored to ensure that contaminants are not transferred to the underlying native soil or to the ground water. Such treatment zone shall not exceed ~~three~~ two feet in depth from the ground surface to the bottom of the treatment zone. One background soil sample shall be taken from the center of each landfarm cell two feet below the native ground surface prior to operation. The sample shall be analyzed for total petroleum hydrocarbons (TPH), major cations/anions, benzene, toluene, ethyl benzene and xylenes (BTEX), and heavy metals using approved United States environmental protection agency (EPA) methods. Thereafter, a minimum of four representative samples shall be taken from each landfarm cell six months after the first contaminated soils are received and then ~~semi-annually~~ at intervals not to exceed 12 months thereafter. The samples shall be taken from soils no deeper than ~~three~~ two feet below the cell's original surface. The soil samples shall be analyzed, using EPA approved methods, for total petroleum hydrocarbons (TPH) and benzene, toluene, ethyl benzene and xylenes (BTEX). The soil samples shall be analyzed, using approved EPA methods, for major cations and anions and RCRA metals, ~~annually~~. Reports showing the results of the analyses shall be submitted to the environmental bureau in division's Santa Fe office no later than 45 days after completion of the sampling. If the ~~semi-annual or annual~~ sampling results show concentrations of TPH, major cations/anions, BTEX or heavy metals that exceed the concentrations from the results of the background sampling a remediation plan shall be required.

Rule 53 G (8)

Contaminated soils that are to be land-spread shall be spread on the surface in six-inch, or less, lifts. Prior to the addition of an additional lift, the TPH concentration of each lift shall be reduced to 100 mg/kg prior to adding an additional lift. 2400 mg/kg as measured by an EPA approved method that includes measurement of organic compounds above the diesel range. Another lift shall not be added if the salinity or concentration of any ions or metals in the treated wastes or in the treatment zone exceed the landfarm closure standards of Subparagraph (d) of Paragraph (3) of Subsection I of 19.15.2.53 NMAC. The maximum thickness of land-spread soils in any cell shall not

New Mexico Citizens for Clean Air & Water Proposed Rule Revisions

December 28, 2005

Page 3

exceed two feet, at which time the soils shall be removed prior to adding additional lifts, or the cell shall be closed.

Rule 53 I (3) (d)

(i) ~~disking and addition of bioremediation enhancing materials continues until soils wastes~~ within the cells are remediated to a TPH concentration of 100 mg/kg, a benzene concentration of 0.2 mg/kg and a BTEX concentration of 50 mg/kg; the sum of concentrations of hydrocarbons with carbon number less than 37 together with all polycyclic aromatic hydrocarbons is less than 100 mg/kg; TPH including hydrocarbons above the diesel range is less than 500 mg/kg; and the concentrations of metals do not exceed the limits of the following table:

<u>Metal</u>	<u>Limit (mg/kg)</u>
Arsenic	1.8
Silver	390
Barium	79000
Cadmium	32
Chromium	210
Lead	120
Mercury	6.1
Selenium	390;

and

(ii) the salinity is such that the Electrical Conductivity measured by a saturated paste is less than 6 decisiemens per meter (mmhos/cm) and the Sodium Absorption Ratio is less than 5;

(~~iiii~~) [subparagraphs ii through vi of the 12-6 draft are renumbered iii through vii]

Rule 53 I (4)

Alternatives to re-vegetation. If the operator or owner of the land contemplates use of the land where a cell or facility is located for purposes inconsistent with re-vegetation, the operator may, with division approval, implement an alternative surface treatment appropriate for the contemplated use, provided that the alternative treatment will effectively prevent erosion. The portion of the financial assurance applicable to re-vegetation shall be retained until the contemplated use is in effect.