

February 22, 2006

Mr. David K. Brooks
Assistant General Counsel
Energy, Minerals, and Natural Resources Department
State of New Mexico
1220 St. Francis Drive
Santa Fe, NM. 87505

Chevron U.S.A. comments: Case No. 13590: Amendment of rules 7 definitions, 202 plugging and abandonment, and 50 pits and below grade tanks (*via e-mail*)

Dear Mr. Brooks:

General comments: Chevron appreciates the opportunity to comment on the OCD proposed pit and below grade tank rule amendments. We fully support science-based "common sense" improvements in pollution prevention, and protection of New Mexico's water resources. We are an active participant in the industry working group technical issue review and presentation, and also support the comments to this docket by the New Mexico oil and Gas Association. We will comment here on general issues other than detailed closure standards and criteria, on which the joint technical work group will focus.

The proposed rule contains several elements currently contained in OCD pit closure guidance, and as proposed would reduce compliance flexibility important to industry, the OCD, and surface owners. Potential conflicts and overlaps with the proposed Surface Waste Management rules also must be identified and addressed.

One of our key recommendations is that the rule specifically authorizes closure alternatives consistent with an operators currently approved in situ closure plans, where soils are defined as "not contaminated based on closure criteria. In all cases the OCD rule should also retain the flexibility for District Office consideration of the range of closure methods described in OCD guidance.

Definitions: Pits are defined in 19.15.1.7 B; although no change is proposed in this draft, we recommend that the definition of a "pit" be modified to include the phrase "intended for use in oil and gas operations". The OCD should clarify which pits used in oil and gas operations are considered within this scope; following is a generally accepted list for reference. The inclusion of "downstream facilities" has potentially very broad application to a great number of sumps and similar small structures, which should be excluded. We also recommend excluding emergency, limited or temporary use storage and blow down pits from permit requirements, in addition to drilling and workover pits as provided in Sec.50B(2).

(1) Basic sediment pit--Pit used in conjunction with a tank battery for storage of basic sediment removed from a production vessel or from the bottom of an oil storage tank. Basic sediment pits were formerly referred to as burn pits.

(2) Brine pit--Pit used for storage of brine which is used to displace hydrocarbons from an underground hydrocarbon storage facility.

(3) Collecting pit--Pit used for storage of saltwater prior to disposal at a tidal disposal facility, or pit used for storage of saltwater or other oil and gas wastes prior to disposal at a disposal well or fluid injection well. In some cases, one pit is both a collecting pit and a skimming pit.

(4) Completion/workover pit--Pit used for storage or disposal of spent completion fluids, workover fluids and drilling fluid, silt, debris, water, brine, oil scum, paraffin, or other materials which have been cleaned out of the wellbore of a well being completed or worked over.

(5) Drilling fluid disposal pit--Pit, other than a reserve pit, used for disposal of spent drilling fluid.

(6) Drilling fluid storage pit--Pit used for storage of drilling fluid which is not currently being used but which will be used in future drilling operations. Drilling fluid storage pits are often centrally located among several leases.

(7) Emergency saltwater storage pit--Pit used for storage of produced saltwater for limited period of time. Use of the pit is necessitated by a temporary shutdown of disposal well or fluid injection well and/or associated equipment, by temporary overflow of saltwater storage tanks on a producing lease or by a producing well loading up with formation fluids such that the well may die. Emergency saltwater storage pits may sometimes be referred to as emergency pits or blowdown pits.

(8) Flare pit--Pit which contains a flare and which is used for temporary storage of liquid hydrocarbons which are sent to the flare during equipment malfunction but which are not burned. A flare pit is used in conjunction with a gasoline plant, natural gas processing plant, pressure maintenance or repressurizing plant, tank battery, or a well.

(9) Fresh makeup water pit--Pit used in conjunction with drilling rig for storage of water used to make up drilling fluid.

(10) Gas plant evaporation/retention pit--Pit used for storage or disposal of cooling tower blowdown, water condensed from natural gas, and other wastewater generated at gasoline plants, natural gas processing plants, or pressure maintenance or repressurizing plants

(11) Mud circulation pit--Pit used in conjunction with drilling rig for storage of drilling fluid currently being used in drilling operations.

(12) Reserve pit--Pit used in conjunction with drilling rig for collecting spent drilling fluids; cuttings, sands, and silts; and wash water used for cleaning drill pipe and other equipment at the well site. Reserve pits are sometimes referred to as slush pits or mud pits.

(13) Saltwater disposal pit--Pit used for disposal of produced saltwater.

(14) Skimming pit--Pit used for skimming oil off saltwater prior to disposal of saltwater at a tidal disposal facility, disposal well, or fluid injection well.

(15) Washout pit--Pit located at a truck yard, tank yard, or disposal facility for storage or disposal of oil and gas waste residue washed out of trucks, mobile tanks, or skid-mounted tanks.

(16) Water condensate pit--Pit used in conjunction with a gas pipeline drip or gas compressor station for storage or disposal of fresh water condensed from natural gas.

Re-vegetation is a new definition, [use of predominately native plants], and the required surface restoration must be done within 6 months instead of a year from closure. It is essential that the proposed rule be coordinated with, and give "full faith and credit" to, any independent valid agreement between the operator and the surface owner or the surface management agency concerning restoration.

Watercourse: the current definition is expanded to include evidence of "occasional flow"; we support the NMOGA recommendations revising the definition to more closely align with current definitions of "Waters of the US".

Pits and Below-Grade Tanks- Chevron submits for your consideration the following specific comments on the proposal, which:

- [p. B(3)] Requires closure of all pits within 6 months after completion of plugging operations [currently 1 year] unless an extension for cause is obtained from the Division. - In general there appears to be no justification for abandoning the current one year requirement; six months can be difficult in the dry New Mexico climate. The provision should include the phrase "in addition, a single six-month extension shall be approved by the District Office upon an operators application if based on an approved in situ pit closure method, or other factors identified in the operators reasonable, prudent engineering judgment including but not limited to weather conditions."
- [p.3,A(20)] Specifies that close loop systems as allowable and provides no requirements including permitting. We recommend that references to "closed loop- systems" be deleted from the rule; the rule essentially exempts them already.
- [p.4, (4)] Contains extensive new engineering design review and liner specifications; while this is appropriate in some cases, the rule should provide that District Offices have flexibility to accept an operator's currently or subsequently approved regional or area-wide closure plan in lieu of case-by-case documentation.
- [p.5,(e)] Requires the use of PVC or equivalent ASTM liners, with no engineering justification provided; this might not allow continued use of polyethylene. The proposal requires "immediate" removal of any visible oil from drilling pits is required after cessation of drilling operations. This is

subjective, impractical and could interfere with normal conduct of drilling operations; we recommend replacing it with “as soon as practical prior to revegetation”; this is more consistent with safe drillsite operations.

- [p.6, (g)] Creates new fencing requirements for municipalities and population areas, “to prevent access by unauthorized persons”. In some areas within city limits and/or close to highways, operators currently using barbed-wire will be required to upgrade fences. We recommend the addition of a “usual and customary fencing” requirement (e.g., gated/ locked chain link).
- [P. 7, E] Specifically requires operators to dispose of drilling fluids and cuttings by recycling, offsite transfer to an approved facility, “or otherwise as approved by the Division. We recommend adding after “dispose of” and before “or”, the phrase “as authorized by this rule”. This is consistent with our recommendations for flexible rule-based and District Office authorizations.
- [p. 8, F(2)] Requires surface owner and Division notice of intent to close a pit, and a separate notice 72 hours to a week prior to the district office. These notices should be consolidated into one. Similar to the current rule, Subpart G allows alternative closure methods and exemption after surface owner waivers, notification/ lack of objection, or after objection/ hearing. While it is in the operator’s best interests and common courtesy to notify the landowner, the rule should not require it where no contamination was found and a standard or previously approved closure method is authorized. Typical landowners have no expertise or experience in pit closure techniques and should not be given an “apparent” approval role; it is not uncommon for interests other than environmental protection to come into play
- [p.8, F(3b)] Specifies as the only “standard closure practice”, evacuation of all contents to a division-approved disposal facility, and requires 5-point sampling to determine if contamination exists [specific 4d listed concentrations are exceeded]. As discussed above, we believe this is unduly restrictive for the operator, OCD and landowners in most cases, and again recommend that the rule specifically authorize approval of standard operator and area-specific closure methods, such as encapsulation and deep burial.
- Should establish a sound science and reasonable risk-based procedure for District Office one-time approval of additional or new commonly used methods. If test results demonstrate that soil has not been contaminated, as required in subsection B ii, we recommend that the waste management options contained on page 14 of the November 2004 Guidelines be specifically authorized as standard closure methods.

- [p.9, F4(c)] Includes specific water protection ranking criteria, the source and basis for which are not identified.
- [p.9, F4(d)] Contains new soil closure concentration standards, in addition to general characterization and ground/ surface water proximity ranking [e.g., chlorides 250 mg/kg or background]. We believe that the TPH levels in the proposal are overly conservative. TPH is not a good indicator of adverse impact to health or the environment. Closure limits for benzene and BTEX are appropriate. TPH resulting from crude oil contains many hydrocarbon compounds that are non-hazardous and immobile. The source and technical basis for the standards is not identified.
- [p.9, (5)] Requires surface restoration/ revegetation within 6 months [currently 1 year]. Please refer to the prior discussion recommending a rule authorized one-time extension for good cause. In general there appears to be no justification for abandoning the current one year requirement; six months can be difficult in the dry New Mexico climate.
- [p. 10, G(2)] Allows but does not require the OCD to grant an exception to the rule requirements upon a showing of non-endangerment to fresh water, public health, or the environment. Given these standards and ongoing required OCD oversight, we believe it is appropriate for the word "may" to be deleted and replaced with "shall".
- [p. 10, G(3)] Authorizes a process, similar to current rules, for exemptions to conditions or requirements including standard closure methods (i. e. excavation of pit contents) based upon written waivers, lack of objection after notice, or hearing after objection. We recommend beginning the revised paragraph G(3) with the phrase "In addition to conditions, requirements, or procedures specifically authorized by this rule", and adding the "District" to all references to the "Division".

Chevron appreciates your consideration of our comments, and those provided by the industry working group and the New Mexico Oil and Gas Association. We remain committed to working with the OCD to protect New Mexico's vital air, water, and wildlife resources while developing the States' vital energy resources. Please contact the undersigned at 832 854 6600 if you have any questions or if we can provide any additional information.

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cc: Mr. Mark E. Fesmire, Director
Mr. Roger Anderson, Environmental Bureau Chief