

POINTS OF UNDERSTANDING

The Oil Conservation Commission (Commission) met on Friday, December 14, 2007 to consider the evidence that the parties presented in the Oil Conservation Division's application for rulemaking, Case No. 14015, for the repeal of 19.15.2.50 NMAC and the adoption of a new rule governing pits, below grade tanks and closed loop systems. Subject to their receipt of the hearing transcript and their review of the parties proposed modifications, the hearing transcript and other evidence in the case, the commissioners reached the following understandings.

1. Below Grade Tanks

The commissioners deferred the decision whether to accept the Oil Conservation Division's proposed language or the Industry Committee's proposed modifications (or some combination of the two) concerning below grade tanks until they had reviewed the transcript and proposed modifications. However, the commissioners reached the following understandings.

- a. Below-grade tanks (whether the sidewalls are buried or visible) shall be permitted or registered.
- b. Below-grade tanks where the sidewalls are visible, the bottom is capable of being inspected and a detection liner is placed below the tank do not need to have secondary containment (the ConocoPhillips design). This applies to existing tanks as well as those that may be used in the future.
- c. Existing below-grade tanks where the sidewalls are visible and that have a gravel pad and a detection liner placed under the tank but where the bottom is not capable of being inspected will not require replacement or retrofitting.
- d. If the below grade tanks sidewalls are buried then secondary containment is required. Secondary containment shall not include securing or "banding" a secondary liner to the tank.

2. Siting Requirements

- a. In order to add more certainty to what is meant by "other watercourse" as used in Subsection A and Subsection C of 19.15.17.10 NMAC, the commissioners agreed to add the word "significant" between "other" and "watercourse" in A(1)(b), A(2)(b), A(3)(a) and C(2) and to define "significant watercourse". The commissioners agreed to define significant watercourse as "any watercourse with a defined bed and bank either named on a USGS 7.5 minute quadrangle map or a first order tributary of such watercourse".

b. The commissioners also agreed to adopt the Oil Conservation Division's proposed setback distance requirements from watercourses in A(1)(b), A(2)(b), A(3)(a) and C(2).

3. Revegetation

a. The commissioners agreed that it would be appropriate to use the revegetation requirements for landfarms in 19.15.36 NMAC for revegetation of all areas associated with closed-loop systems, pits and below-grade tanks including associated access lanes that are not needed for production activities.

b. The commissioners agreed to adopt the Oil Conservation Division's proposed soil cover requirement of four feet for closure of on-site burial.

c. The commissioners agreed that the operator must begin revegetation the next growing season after closure of the pit, removal of the closed-loop system, etc. subject to a waiver from the division if drought conditions exist that would prevent revegetation.

4. Temporary Pits

a. The commissioners agreed to adopt the Oil Conservation Division's proposed siting criteria that would prohibit the location of a temporary pit where ground water is less than 50 feet below the bottom of the pit.

b. The commissioners agreed that when an operator plans to use a pit the operator shall provide the proposed pit location on form C-102.

c. The commissioners agreed that when an operator uses a pit, the operator shall provide a plat of the pit location on C-105 upon closure of the pit.

d. In order to address concerns about the need to use pits for cavitation of coal bed methane wells when ground water is less than 50 feet below the bottom of the pit, the commissioners agreed to allow an exception for use of pits for cavitation during drilling and workover operations so long as ground water is protected, any liquids in the pit are removed promptly, etc.

5. On-site Burial of Waste

a. The commissioners agreed to adopt the Oil Conservation Division's proposal to not allow on-site burial of waste where ground water would be less than 50 feet below the bottom of the waste.

b. The commissioners agreed not to adopt the Oil Conservation Division's proposal to prohibit on-site burial of waste where the site is located

within a 100 mile radius of a division-approved facility or an out-of-state waste management facility.

c. The commissioners agreed to allow, by exception to the general rule, in place burial of waste where the stabilized waste meets the applicable small landfarm closure standards for disposal in place in 19.15.36 NMAC when the bottom of the waste is between 50 to 100 feet to ground water.

d. The commissioners agreed to allow, by exception to the general rule, in place burial where the stabilized waste meets the applicable landfarm closure standards for disposal in place in 19.15.36 NMAC when the bottom of the waste is greater than 100 feet to ground water.

e. The commissioners agreed to require the operator to place a permanent marker at sites where there is on-site burial of waste occurs and file a deed notice of such burial with the county clerk in the county where the burial occurs. In addition, a majority of the commissioners agreed to require the operator to notify the landowner of burial rather than adopting the Oil Conservation Division's proposal to require landowner approval.

f. The commissioners did not reach agreement on whether to allow on-site deep trench burial of waste in circumstances other than those where the stabilized waste meets the 19.15.36 NMAC small landfarm and landfarm criteria for disposal in place.

6. Liners

a. The commissioners agreed to adopt the Oil Conservation Division's proposal to require the use of a 20 mil string reinforced liner in temporary pits and that all field seams be welded.

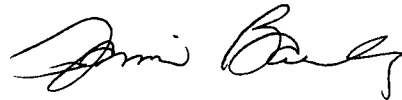
7. Hot Spot

The commissioners agreed to adopt the New Mexico Citizens for Clean Air & Water's recommended change regarding detection of liner leaks by replacing the term "hot spot" in Subsection B(1)(b), C(3) and E(4) of 19.15.17.13 NMAC with "area that is wet, discolored or showing other evidence of a release".

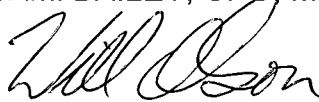
8. Anchor Trenches

The commissioners agreed to adopt the Oil Conservation Division's proposed requirement in 19.15.17.11.F(8) NMAC that an anchor trench be at least 18 inches deep.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION



JAMI BAILEY, CPG, Member



WILLIAM OLSON, Member



MARK E. FESMIRE, P.E., Chair