

MEMORANDUM

TO: DISTRICT SUPERVISORS
OIL CONSERVATION DIVISION

FROM: MARK E. FESMIRE, P.E., DIRECTOR
OIL CONSERVATION DIVISION

SUBJECT: DRILLING PIT CLOSURE

DATE: NOVEMBER 12, 2004

There have been questions and some confusion on the start date for beginning closure requirements for drilling and workover pits constructed before April 15, 2004.

19.15.2.50.B(3)(b) reads: "Existing pits or new below-grade tanks. For each pit or below-grade tank in existence on April 15, 2004 that has not received an exemption after hearing as allowed by OCC Order R-3221 through R-3221D inclusive, the operator shall submit a notice not later than April 15, 2004 indicating either that use of the pit or below-grade tank will continue or that such pit or below grade tank will be closed. If use of a pit or below-grade tank is to be discontinued, discharge into the pit or use of the below-grade tank shall cease not later than June 30, 2005. If use of a pit or below-grade tank will continue, the operator shall file a permit application not later than September 30, 2004. If an operator files a timely, administratively complete application for continued use, use of the pit or below-grade tank may continue until the division acts upon the permit application."

19.15.2.50.F(1) reads: "Closure. Except as otherwise specified in Section 50 of 19.15.2 NMAC, a pit or below-grade tank shall be properly closed within six months after cessation of use. As a condition of a permit, the division may require the operator to file a detailed closure plan before closure may commence. The division for good cause shown may grant a six-month extension of time to accomplish closure. Upon completion of closure a closure report (form C-144), or sundry notices and reports on wells shall be submitted to the division. Where the pit's contents will likely migrate and cause ground water or surface water to exceed water quality control commission standards, the pit's contents and the liner shall be removed and disposed of in a manner approved by the division."

Case 14186
OCD v. McElvain Oil & Gas
OCD Exhibit A

1.) Question: When does the initial six month closure requirement as stated in **19.15.2.50.F(1)** start for pits constructed prior to April 15, 2004 and not declared by April 15, 2004?

Response: If notice was not submitted on or before April 15, 2004 declaring the intended disposition of the pit, the operator of the pit is technically in violation of the rule. If, after evaluating available information and in the opinion of the Division, the pit is posing a threat to fresh water or public health, the pit will be required to be closed immediately. If the pit poses little or no threat to fresh water or public health, the Division, in the interest of fairness, will require these pits be closed within six months of the date of this memo. In those cases where the pit does not pose a threat and there are extenuating circumstances, the Division has the ability to grant a six month extension to this period. By this memo I am granting the District supervisors of the four OCD Districts the authority to grant extensions as authorized in **19.15.2.50.F(1)**. Any extensions shall be granted only after careful consideration of the circumstances and the potential impact to the state's resources and public health.

2.) Question: What are the closure requirements for pits constructed prior to April 15, 2004 and declared pursuant to **19.15.2.50.B(3)(b)** by April 15, 2004?

Response: For those pits where use is to be discontinued, discharge into the pit shall cease not later than June 30, 2005 and will be closed by December 31, 2005 without any extension granted beyond that time frame. For those pits where use will continue as a drilling pit, the operator must have filed a application not later than September 30, 2004 and the Division will evaluate the application for compliance with the requirements of Rule 50 prior to approval. If an application was not filed by September 30, 2004, discharge into the pit shall cease not later than June 30, 2005 and will be closed by December 31, 2005 without any extension granted beyond that date.

3.) Question: When does the time frame for closing drilling pits constructed after April 15, 2004 start?

Response: The six month time frame for closing drilling pits constructed after April 15, 2004 will start on the date the last string of casing is set or the well is properly plugged and abandoned if the well is a dry hole. Where the pit does not pose a threat to fresh waters or public health and with extenuating circumstances, the Division may grant a six month extension to this period. If the pit is to be used for completion and an extension will not allow sufficient time, the operator will need to re-apply for use of the pit as a workover pit and the Division will evaluate the application for compliance with the requirements of Rule 50 for the type of pit applied for.

4.) Question: By taking the scoring out of the guidelines is that meant to no longer require depth to ground water, distance to nearest surface water, and distance to nearest fresh water well be provided on our permit applications for drilling and workover pits?

Response: As long as the operator is using the guidelines, they do not have to score the site, however, the depth to ground water, distance to nearest surface water, and distance to nearest fresh water well must be provided on the application and/or closure report.

5). Question: What is the procedure for handling applications that do not follow the guidelines?

Response: Until further notice, any application that does not follow the guidelines will be handled by forwarding the application and the district recommendation to Roger Anderson in the Santa Fe office. The Environmental Bureau will evaluate the application and recommendation for protection of fresh water. The Environmental Bureau will then return the application with their recommendation to the District Supervisor for further action.