

# ValueFax

## **FAX COVERPAGE**

**To:** Bob Menzie voice ph 915-687-8312  
**Company:** Marathon Oil Co.  
**From:** D. A. Neeper  
**Company:** Home office in Los Alamos  
**Date:** Nov 11, 1996  
**Our Fax Number:** (505) 662 3534 by appointment only  
**Our Phone Number:** (505) 662 4592  
**Transmitting a total of 5 pages including this one.**

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please contact us immediately.**

**FAX FOR BOB MENZIE  
BOB, SEE INSTRUCTIONS ON LAST PAGE FOR FAXING YOUR DRAFT  
CHANGES TO ME. THANKS. NEEPER (SORRY I CAN'T CALL YOU FROM  
MY DAYTIME OFFICE PHONE 505-662-1357.**

CHANGES IN RULE 116

The New Mexico Citizens for Clean Air and Water (NMCCA&W) support the adoption of the draft OCD proposed replacement Rule 116 dated November 6, 1996, with the changes suggested below. Our suggested changes are intended to combine and simplify the proposed Rule 116 and Rule 19.N. We do not intend to alter the meaning of the proposed language, other than in 116.B where we suggest use of the term "facility" in place of "location". For clarity, we repeat wording of the November 6 draft Rule 116 where it is retained. Replacement wording is **in bold text**. Comments are in *italics*.

116.A. *[no change]*

116.B REPORTING REQUIREMENTS: Notification of an unauthorized release shall be made by the person operating or controlling either the release or the **facility** of the release in accordance with the following requirements:

- (1) A Major Release is either
  - (a) a release of a volume, excluding natural gases, in excess of 25 barrels; or
  - (b) a release of any volume which:
    - (i) results in a fire;
    - (ii) will reach **ground water, surface water, or a water course**;
    - (iii) may with reasonable probability endanger public health, **be detrimental to water, or cause an exceedance of the standards in 19 NMCA 15.A.19.B(1), B(2), or B(3)**; or
    - (iv) results in substantial damage to property or the environment; or
  - (c) a release of natural gases in excess of 500 mcf.
- (2) **A Major Release shall be reported by verbal notification within twenty-four (24) hours of discovery, and by written notification on Division Form C-141 within fifteen (15) days of discovery. The verbal notification shall contain the information to be presented on Form C-141, to the best of the reporting person's knowledge. The verbal and written notifications shall be made to:**
  - (a) **the District Office of the Division for the area within which the release takes place; and**
  - (b) **the Environmental Bureau Chief of the Division.**
- (3) A Minor Release is a release of a volume greater than 5 barrels but not more than 25 barrels; or greater than 50 mcf but not less than 500 mcf of natural gases.

- (4) A Minor Release shall be reported by verbal notification within twenty-four (24) hours of discovery, and by written notification on the Division Form C-141 within fifteen (15) days of discovery. The verbal notification shall contain the information to be presented on Form C-141, to the best of the reporting person's knowledge. The verbal and written notifications shall be made to the District Office of the Division for the area within which the release takes place.

116.C. and 116.D. *[delete the contents of draft 116.C and renumber 116.D to 116.Q]*

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ADDITION TO RULE 15.A.7

The New Mexico Citizens for Clean Air and Water support the adoption of the committee draft additions to Rule 15.A.7 with the added definition of remediation plan as suggested below. Added wording is in **bold text**.

**REMEDIATION PLAN** shall mean a written document to address unauthorized releases that the responsible person assures will be remedied within one (1) year after notice is required to be given pursuant to **RULE 116.B (19 NMAC 15.C.116.B.)** The plan may include description of the nature and extent of contamination; description of investigations and corrective actions to be taken; and description of monitoring that may be required for compliance with **19 NMAC 15.A.19.B.4.**

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CHANGES IN RULE 19

NMCCA&W supports the adoption of the committee draft Rule 19 with the changes suggested below. For clarity, we repeat retained wording. Added, inserted, or altered wording is **in bold text**. Comments are in *italics*. We present the complete, suggested wording of each subparagraph as a combination of ordinary and bold text to indicate the intent of our suggested changes.

19.D (1)

- (g) on an emergency basis, or while abatement plan approval is pending, or in a manner that will result in compliance with the standards and requirements set forth in Paragraph B **except subparagraph B.4** within one year after notice is required to be given pursuant to 19 NMAC 15.C.116.B, provided that the Division does not object to the abatement action.

19.G.2

**For purposes of this paragraph, an administratively complete Stage 1 abatement plan is a document that satisfies the requirements of 19.E.(3), and an administratively complete Stage 2 abatement plan is a document that satisfies the requirements of 19.E.(4)(b). Within fifteen (15) days after the Division determines that a Stage 1 abatement plan or a Stage 2 abatement plan is administratively complete the responsible person will issue a public notice in a form approved by the Division in a newspaper of general circulation in the county in which the release occurred and in a newspaper of general circulation in the State. The public notice shall include, as approved in advance by the Director:**

**(c) brief description of the source, extent, and estimated volume of release, whether the release occurred into the vadose zone, ground water or surface water; and a description of the proposed Stage 1 or Stage 2 abatement plan;**

*[Delete subparagraph (e) because it is redundant with subparagraph (g). Renumber (f) to (e). The replacement subparagraph (e) follows.]*

**(e) statement that a copy of the abatement plan can be viewed by the public at the Division's main office and at the Division's District office for the area in which the release occurred, and a statement describing how the abatement plan can be accessed by the public electronically from a Division-maintained site if such access is available.**

*[Renumber (g) to (f). The replacement (f) follows].*

**(f) statement that the following comments and requests will be accepted for consideration if received by the Director within thirty (30) days after the date of publication of public notice:**

- (i) written comments on the abatement plan; and**
- (ii) for a Stage 2 abatement plan, written requests for a public hearing that include reasons why a hearing should be held.**

19.G.3

Any person seeking to comment on a **Stage 1 abatement plan, or to comment or request a public hearing on a Stage 2 abatement plan**, must file written comments or hearing requests with the Division within thirty (30) days of the date of public notice, or within thirty (30) days of receipt by the Director of a proposed significant modification of a **Stage 2 abatement plan**. Requests for a public hearing must set forth the reasons why a hearing should be held. A public hearing shall be held if the Director determines that there is significant public interest or that the request has technical merit.

19.L.

[Typographical error replace 116.E with 116.D.]

19.N.

[Delete all of 19.N. It is redundant and in potential conflict with the revised Rule 116, if 116.B. is changed we suggest.]

19.H.

(1) The Director shall, within sixty (60) days of receiving an **administratively complete Stage 1 abatement plan**, a site investigation report, a technical infeasibility demonstration, or an abatement completion report, approve the document, or notify the responsible person of the document's deficiency, based upon the information available.

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**BOB NOTE:** I can receive your fax at my home on 505 662-3534, but you must make prior arrangement by calling 505-662-4592 to ask that the computer be set to receive fax.

# ValueFax

## **FAX COVERPAGE**

**To:** Florene Davidson (Rule 116 Hearing)  
**Company:** Oil Conservation Division  
**From:** D. A. Neeper  
**Company:** Home office in Los Alamos  
**Date:** Oct 25, 1996  
**Our Fax Number:** (505) 662 3534 by appointment only  
**Our Phone Number:** (505) 662 4592  
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**Notice of Intent to Testify at the Rule 116 hearing.**

**STATEMENT OF INTENT TO PRESENT TECHNICAL TESTIMONY**  
at the Oil Conservation Division hearing to amend  
Rule 116, and to enact a new rule regarding  
prevention and abatement of water pollution.

**Witness:** Donald A. Neeper, Ph.D.

**Affiliation:** New Mexico Citizens for Clean Air and Water

**Address:** 2708 Walnut St.  
Los Alamos, New Mexico 87544-2050  
phone (voice): (505) 662-4592  
fax can be received by prior arrangement  
e-mail: dneeper@aol.com

**Qualifications:** Dr. Neeper earned a doctorate in low-temperature physics from the University of Wisconsin. From 1968 to 1993, he was employed at the Los Alamos National Laboratory (LANL) where he conducted research in thermal physics and thermal engineering. During his last three years at the Laboratory, he conducted professional research on contaminant migration and vapor extraction for the remediation of contaminated soils. He also managed a RCRA Facility Investigation of a large site containing subsurface plumes of organic vapors and tritium. In 1993, Dr. Neeper retired from LANL. As an employee of a private company, he continues to research subsurface air motion and its relationship to the remediation of contaminated soils. He presented technical testimony at the abatement regulation hearings of the Water Quality Control Commission during 1994.

**Length of Testimony:** Approximately 40 minutes.

**Summary of Testimony:** Dr. Neeper will testify in support of the proposed amendments and new rule. He will present suggested changes in wording for clarity and improved public notice. His testimony will include the necessity for abatement regulations; a technical description of subsurface contaminant migration; the technical basis for requiring eight quarters of sampling; and the practical need for remediation of the vadose zone.

**Preferred date of Testimony:** November 14, 1996