APPLICATION FOR ADOPTION OF AMENDED RULE:
CASE NO. 12897 OCC HEARING HELD ON July 19, 2002
REPEAL CURRENT HYDROGEN SULFIDE RULE 118 AND ADOPT NEW H_2S RULE.

Comments received by OCD during the comment period are attached hereto for reference. OCD has evaluated these comments. Below each comment OCD has made recommendations for OCC consideration.

1. Comments: Two operators and one oil and gas industry association commented on surface waste management facilities covered under OCD Rule 711 and have expressed their concern to have these facilities covered under this proposed rule.

OCD Response: OCD's original draft rule covered all facilities regulated by the OCD. During the hearing on July 19, 2002 questions were raised by the commission concerning this intent. OCD has re-evaluated its original intent and has concluded that surface waste management facilities should continue to be regulated under the current Rule 711 that incorporates hydrogen sulfide requirements for the protection of public health.
The new rule is a public safety rule based on short term or acute consequences and on known engineering data in which safety measures may be measured and calculated in which contingency plans may be designed pursuant to those calculations.

Surface waste management facilities have the ability to generate H_2S in quantities that is harmful to public health or long term or chronic exposure consequences, but basically cannot be pre-measured or calculated and thus the radius of exposure is virtually unknown. Current Rule 711 imposes fence line monitoring for the protection of public health . ***OCD recommends no change in the wording of the draft rule.***

2. Comments: Two operators submitted comments concerning the following items:

E.3- Input of Emergency Response Authorities:

The rule reads: E3. Input of Emergency Response Authorities and the Division. The person, operator or facility shall seek input on the proposed H_2S contingency plan from the division, the New Mexico department of public safety (and as appropriate the New Mexico state police), the local emergency planning committee, the county sheriff, city or municipal police, and/or police and fire departments.

The main concern appeared to be with the phrase "shall seek input" because it did not define what the words meant and how it would be achieved, especially in remote locations.

In order for the rule to comply with the New Mexico Hazardous Materials Emergency Response Plan, governmental agencies and industry is required to coordinate these type of activities. Therefore OCD recommends the following changes.

OCD Recommends the following changes:

E3. Input of Emergency Response Authorities and the Division. The person, operator or facility shall ~~seek input on~~ coordinate the proposed H_2S contingency plan ~~from~~ with the division, the New Mexico department of public safety (~~and as appropriate~~i.e. the New Mexico state police), and as appropriate the local emergency planning committee, the county sheriff, city or municipal police, and/or police and fire departments. A statement in the contingency plan indicating which agencies have been notified shall suffice as proof of coordination.

3. E.9.- Activation Levels- Two operators requested that the definition of property line be stricken. OCD agrees and proposes " facility boundary" be inserted. The term "facility boundary" allows the operator some flexibility in determining the threshold for activation and at the same time provides them with a definite activation number to implement the contingency plan. OCD feels this provides the best protection for the public while allowing operators the flexibility needed to prevent nuisance activation of contingency plans.

OCD Recommends the following changes:

E.9. Activation Levels. The H_2S contingency plan shall be activated in the event of a release of a potentially hazardous volume of H_2S above the respective thresholds (i.e. 500 ppm radius at any public road, 100 ppm radius at any public area, etc.) or if a sustained concentration of H_2S exceeds 50 ppm at the facility boundary ~~property line~~ of any facility, well or operation.

K1. Activation of the H_2S Contingency Plan. The person, operator or facility shall activate the H_2S contingency plan immediately upon an H_2S release where the potential exists for exposure to a potentially hazardous volume of H_2S, or where a concentration of H_2S greater than 50 ppm exists at the facility boundary of any well, facility or operation.

4. F.2.a.- Before Commencing Operations-

The comment indicated the term "operations" was vague. OCD has reviewed the comments and feels that the current language is satisfactory when the "scope" of the Rule is considered. ***OCD recommends no change in the wording.***

5. F.2.c.i - Safety, Detection and Monitoring Equipment

Comments expressed concern that OCD was relaxing the current safety rules. It was the workgroup's intent that the proposed rule have some flexibility in the warning system to allow for nuisance tripping of alarms. The 20 ppm activation level is a minimum standard and operators may choose to set more stringent levels. ***OCD recommends no change in the wording.***

6. F.3.c.iii- Drilling Operations

Two operators commented on the requirement of BOP stack arrangements. The H_2S workgroup had the same concerns. OCD requires these BOP arrangements only if the location is in a 100 ppm PHV area. Also if BOPs are already designed with choke and kill lines it is the intent for OCD to approve these designs. ***OCD recommends no change in the wording.***

7. F.3.d. Mud Programs-

One commenter was concerned that the language did not address the need for "sufficient amount of weighting material on hand to prevent influxes". OCD believes this commenter is concerned about loss control and appreciates their concern. The current rule reads as "d. Mud Program. A mud program, including de-gassing and flaring, capable of handling H_2S conditions and well control shall be used." OCD believes the capability of "well control" addresses this issue. ***OCD recommends no change in the wording.***

Another comment requested that the weighting material requirement be limited to wells within municipal boundaries. OCD points out that the rule only covers operations where there is an anticipation of H_2S in excess of 100 ppm. OCD feels very strongly that wells that have the capability of discharging H_2S in quantities of greater than 100 ppm, a contingency to maintain additional mud on hand is warranted. ***OCD recommends no change in the wording.***

8. F.3.e- Well Testing- Two commenter had concerns about being able to notify the OCD 24 hours in advance of drill stem test and felt that closed systems were not warranted due to additional equipment expense and standby time. OCD recognizes the burden but needs to point out this portion of the rule only applies if an H_2S contingency plan is required. OCD feels that such well testing requires this additional precaution in order to provide the proper safety to the public. ***OCD recommends no change in the wording.***

9. G.2.a.ii- Signage- Two operators commented that there is no need to post danger signs at each flow line on the well pad since the site is already required to have signs.

OCD agrees and recommends the following changes.

ii. Signage. A danger sign or signs shall be posted within 50 feet of each facility to alert the public of the potential hydrogen sulfide danger. If fenced, a danger sign at the gates shall suffice. ~~Danger signs shall be posted at each flow line and gathering line on the well pad that contains hydrogen sulfide gas.~~ The signs shall read "DANGER - POISON GAS - HYDROGEN SULFIDE PRESENT", or, as appropriate "CAUTION - POISON GAS - HYDROGEN SULFIDE MAY BE PRESENT" or equivalent language approved by the division. Each sign shall be painted in colors that satisfy Table 1 of ANSI standard Z53.1-1967 or regulations of the federal occupational safety and health administration. The signs shall be legible and large enough to be read by all persons entering the well site. . A sign shall be placed at each point where a flow line or gathering line crosses a public road. Each sign shall be legible and shall contain the name of the owner or operator and an emergency telephone number.

10. G.2.a.iii- Fencing- One operator commented that "the need for a 5 foot chain link fence topped by two strands of barbed wire outside the municipal boundaries of a town should be at the discretion of the operator not the OCD. The H_2S workgroup had consensus on this issue and wanted to make a standard to assist operators, but acknowledged that there could be exceptions. ***OCD recommends no change in the wording.***

11. OCD received the following comments from an oil and gas association via conference call on August 14, 2002:

The association was concerned that thousands of wells would have to be tested in which they already have operating and process knowledge on a formation or pool basis. OCD agrees that the intent was not to have the operators test every single well or operation if previous knowledge is available.

OCD agrees and recommends the following changes.

D. Determination of Hydrogen Sulfide Risk.

1. Determination of Hydrogen Sulfide Concentration.

a. Each person, operator or facility to which this Section applies shall determine the hydrogen sulfide concentration within each of its operations or systems. A representative sample or previous process knowledge for each system or operation may be used for testing provided that the person, operator or facility can demonstrate that the concentration derived from a test or process knowledge ~~of the representative sample~~ is reasonably representative of the hydrogen sulfide concentration within the operation, pool or system.

b. The tests referred to in the previous Subparagraph shall be conducted in accordance with applicable ASTM or GPA standards or by other methods approved by the division.

c. If a representative sample from a system or operation was tested within one (1) year of the effective date of this Section, new testing shall not be required; provided, however, new testing shall not be required for a producing well that was tested at any time prior to the effective date of this Section.

Another concern was in the contingency plan area. The association felt that the contingency plans required in the rule could be interpreted to be very comprehensive with no flexibility for remote operations or in areas where there would be little impact on public safety. They would like to see a reaction plan be accepted in lieu of.

OCD agrees and recommends the following changes.

E.4.C. vii. ~~in lieu of the previous subparagraph~~, Where the operator can demonstrate that the risk to public safety is minimal such as in remote locations then a simplified ~~a~~ reaction-type plan may be prepared and submitted that provides for mass notification of a hydrogen sulfide leak and for an evacuation of affected areas;