

From: [Griswold, Jim, EMNRD](#)
To: [Fulks, Brett](#); [Yu, Olivia, EMNRD](#); [Menoud, Denise](#); [Hernandez, Christina, EMNRD](#)
Subject: RE: [EXT] RE: [EXTERNAL] RE: Initial C-141 - Spill 9/2/18 Rattlesnake Treatment Facility
Date: Wednesday, September 26, 2018 11:02:24 AM
Attachments: image001.png

Brett,

The need for released and recovered volume information is reasonably implied by the rule, but not directly stated. First, there is the obvious distinction between major and minor. Second, the characterization limits of a spill are defined not just by the depth to water and siting parameters, but also if the spill is of unknown volume or greater than 200 bbls of unrecovered produced water [19.15.29.11 (A)(5)(c)(ii) NMAC]. As such, the Division needs to know how an operator arrived at the stated volumes. In general, it is just good practice to provide supporting information and we know this can be difficult.

With respect to photographs, they are an explicit requirement under the rule for closure of an excavation. During release characterization or for closure of a release that totally occurred within a lined containment, it is a request and thus optional. But we sure would like them. Geotagging is helpful because unfortunately the Division has been provided false information in the past.

Thanks.

Jim

From: Fulks, Brett <Brett.Fulks@dvn.com>
Sent: Wednesday, September 26, 2018 10:19 AM
To: Yu, Olivia, EMNRD <Olivia.Yu@state.nm.us>; Menoud, Denise <Denise.Menoud@dvn.com>; Hernandez, Christina, EMNRD <Christina.Hernandez@state.nm.us>; Mann, Ryan <rmann@slo.state.nm.us>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>
Subject: RE: [EXT] RE: [EXTERNAL] RE: Initial C-141 - Spill 9/2/18 Rattlesnake Treatment Facility

Olivia,

Thanks for your input on this.

We were planning to visibly “demonstrate liner integrity” as outlined in 19.15.29.11, I apologize for not mentioning that previously, however it was not my understanding that the demonstration required photo documentation or any other documentation other than (a)(i) of that section that stipulates we must certify on form C-141 that the responsible party has visually inspected the liner where the release occurred.

As far as release calculations, the definition of a major or minor release did not materially change with this rule, and yet the NMOCD has never required that an operator submit calculations prior to now, so I was just confused when you asked me for the calculations. I’ve only been in NM for a little over three years now, but have never been asked for this before, and it seems the initial definition of

minor/major release based on volume goes back to when the first iteration of the rule.

We will provide photos for this incident because as you pointed out I mistakenly stated that we would in the initial notification, this in part was due to your repeated requests following the initial release of the new rule that had me mistakenly thinking such requests were actually in the rule. After a closer read, I realize that they aren't.

We will work on getting you the photos you requested, though I can't promise that they will be geotagged. We will also make sure your office receives 48 hours' notice of the inspection as dictated by the rule.

Thanks,

Brett Fulks
EHS Representative

Devon Energy Corporation
6488 Seven Rivers Highway
Artesia, New Mexico 88210
575 748 1844 Direct
432 301 3223 Mobile



From: Yu, Olivia, EMNRD [<mailto:Olivia.Yu@state.nm.us>]
Sent: Tuesday, September 25, 2018 4:31 PM
To: Fulks, Brett <Brett.Fulks@devon.com>; Menoud, Denise <Denise.Menoud@devon.com>; Hernandez, Christina, EMNRD <Christina.Hernandez@state.nm.us>; Mann, Ryan <rmann@slo.state.nm.us>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>
Subject: RE: [EXT] RE: [EXTERNAL] RE: Initial C-141 - Spill 9/2/18 Rattlesnake Treatment Facility

Mr. Fulks:

Thank you for your strict interpretation of the revised 19.15.29 NMAC.

How do you propose to 'demonstrate liner integrity'? [19.15.29.11](#) NMAC has the other two options after an 'and'

(5) **Soil/waste characteristics.** The responsible party must determine the lateral and vertical extents of soil contamination, as follows.

(a) If the release occurred within a lined containment area, the responsible party

must demonstrate liner integrity after affected material is removed and the affected area of the liner is exposed and provide:

(i) certification on form C-141 that the responsible party has visually inspected the liner where the release occurred and the liner remains intact and had the ability to contain the leak in question; and

(ii) at least two business days' notice to the appropriate division district office before conducting the liner inspection.

As for release calculations, what is the evidence to indicate that this is major or minor release? The Responsible Party can similarly affirm that this release was not an 'unauthorized'.

Furthermore, if the Responsible Party will not provide documentation for verification of volume released, initial response activities, site/waste characterization, remediation and closure, then the initial notification should not have been written to indicate as such. See attachment.

Since the Responsible Operator wrote that photos will be provided, for this incident, photos are expected.

Thanks,
Olivia

From: Fulks, Brett <Brett.Fulks@dvn.com>

Sent: Tuesday, September 25, 2018 3:23 PM

To: Yu, Olivia, EMNRD <Olivia.Yu@state.nm.us>; Menoud, Denise <Denise.Menoud@dvn.com>; Hernandez, Christina, EMNRD <Christina.Hernandez@state.nm.us>; Mann, Ryan <rmann@slo.state.nm.us>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>

Subject: [EXT] RE: [EXTERNAL] RE: Initial C-141 - Spill 9/2/18 Rattlesnake Treatment Facility

Olivia,

I have added comments/questions for the below requests in red, could you please review them and get back to me when you can?

Thank you for your help as we both work through this new rule!

Thanks,

Brett Fulks
EHS Representative

Devon Energy Corporation
6488 Seven Rivers Highway
Artesia, New Mexico 88210
575 748 1844 Direct



From: Yu, Olivia, EMNRD [<mailto:Olivia.Yu@state.nm.us>]
Sent: Tuesday, September 25, 2018 2:50 PM
To: Menoud, Denise <Denise.Menoud@dvn.com>; Hernandez, Christina, EMNRD <Christina.Hernandez@state.nm.us>; Mann, Ryan <rmann@slo.state.nm.us>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>
Cc: Fulks, Brett <Brett.Fulks@dvn.com>
Subject: [EXTERNAL] RE: Initial C-141 - Spill 9/2/18 Rattlesnake Treatment Facility

Mr. Fulks:

Based on the GPS coordinates provide of the release point, the release location is in the vicinity of Rattlesnake 2 Recycling Facility and Containment (1RF-4). Please verify.

Please be advised that

1. The initial portion of the C-141 form does not include the calculations to determine the release volume. Visual estimation is not sufficient nor adequate. Please submit measurements in volume estimation; including dimensions, soil parameters (porosity, texture, bulk density, etc). For releases in lined facilities, documentation from a meter suffices. I have searched 19.15.29 NMAC for any reference to calculation requirements similar to those requested and can't find them. Can you please point me to where this requirement is in the rule?
2. Dated, geo-referenced photo documentation are needed for verification that the initial response activities have been employed to contain the release. Below is a section from [19.15.29.11](#) A(5)(a) dealing with releases into lined containment:

(5) Soil/waste characteristics. The responsible party must determine the lateral and vertical extents of soil contamination, as follows.

(a) If the release occurred within a lined containment area, the responsible party must demonstrate liner integrity after affected material is removed and the affected area of the liner is exposed and provide:

(i) certification on form C-141 that the responsible party has visually inspected the liner where the release occurred and the liner remains intact and had the ability to contain the leak in question; and

(ii) at least two business days' notice to the appropriate division district office before conducting the liner inspection.

In the above section, I do not see the requirement to submit geo-referenced photo documentation It does appear that we have failed to schedule a liner inspection with you or Christina, so I can notify you two business days in advanced of when we do another liner inspection on this location in order to get closure on this release.
3. If applicable, per [19.15.29.13](#) NMAC, regulations of corresponding agencies supersede NMOCD's.

Until photos are submitted, the release within the lined containment will not be closed. Please keep in mind that one of the photos needs to demonstrate that the release source has been repaired/addressed.

Also, please keep track of the deadlines. The C-141 form was not submitted within 15 days as per [19.15.29.10](#) NMAC.

Thanks,

Olivia Yu
Environmental Specialist
NMOCD, District I
Olivia.yu@state.nm.us
575-393-6161 x113

OCD approval does not relieve the operator of liability should their operations fail to adequately investigate and remediate contamination that may pose a threat to ground water, surface water, human health or the environment. In addition, OCD approval does not relieve the operator of responsibility for compliance with any other federal, state, local laws and/or regulations.

From: Menoud, Denise <Denise.Menoud@dvn.com>
Sent: Wednesday, September 19, 2018 11:07 AM
To: Hernandez, Christina, EMNRD <Christina.Hernandez@state.nm.us>; Yu, Olivia, EMNRD <Olivia.Yu@state.nm.us>; Mann, Ryan <rmann@slo.state.nm.us>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>
Cc: Menoud, Denise <Denise.Menoud@dvn.com>; Fulks, Brett <Brett.Fulks@dvn.com>
Subject: Initial C-141 - Spill 9/2/18 Rattlesnake Treatment Facility

Please see attached Initial C-141 for a spill that occurred on 9/2/18 at the Rattlesnake Treatment Facility. Thank you.

Denise Menoud
Admin Field Support,
Completions - Reclamations - Regulatory
Office: 575-746-5544
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