

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATGURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION**

**APPLICATION OF THE NEW MEXICO OIL AND GAS ASSOCIATION AND
APPLICATION OF THE INDEPENDENT PETROLEUM ASSOCIATION FOR THE
AMENMENT OF CERTAIN PROVISIONS OF TITLE 19, CHAPTER 15 OF THE NEW
MEXICO ADMINISTRATIVE CODE CONCERNING PITS, CLOSED-LOOP
SYSTEMS, BELOW-GRADE TANKS, AND SUMPS AND OTHER ALTERNATIVE
METHODS RELATED TO THE FOREGOING MATTERS, STATEWIDE.**

**CASE NO: 14784
CASE NO. 14785
COMBINED**

FOR THE RE-OPENED HEARING OF JANUARY 9-10, 2013

**FINDINGS OF
THE NEW MEXICO CITIZENS FOR CLEAN AIR & WATER**

Pursuant to the Commission's instructions, the New Mexico Citizens for Clean Air & Water ("NMCCAW") hereby submits its Findings to the Oil Conservation Commission based upon evidence presented in the hearing. Citations are to the transcript of the re-opened hearing.

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Finding 1: Relative to environmental protection, mobility is a major concern with wastes in soils and buried wastes.

If the liner of a pit and trench containing buried wastes were perfectly secure, there would logically be no concern with the mobility of the wastes, because the wastes could not move beyond the liner. Expert witnesses acknowledged that it is the mobility that the rule seeks to measure and limit.

(tr. P. 3894 L. 22 - P. 3895 L. 14; P. 4063 L. 3 - 9)

Finding 2: Of the two tests for chloride proposed in Table I and Table II, the EPA Method 300.0 without the 1312 extraction procedure is preferable.

The EPA 300.0 method without the 1312 procedure:

- Allows all specifications to be in mg/kg units.
- Utilizes mg/kg units that can be understood by the operator and by the public, persons who may have no interest in the details of laboratory procedures.
- Accents chloride mobilized by water rather than total chloride.
- Allows approximate comparison between concentrations in mg/kg units and concentrations in other units that describe biological effects.

(tr. P. 4021 L 20 - 22; P. 4063 L. 13 - P. 4064 L. 9)

Finding 3: Approximate conversions between units enables the Commission to establish concentration limits based on its knowledge of transport, threats to biota, and threats to water.

Concentration limits expressed in mg/kg units, combined with the approximate conversions offered in testimony, enable the Commission to scale the predictions of models and to compare those predictions with threats to water and to plant life.

(tr. P. 4025 L 13 - 25)

Finding 4: As proposed, Table I ignores the depth of contaminant penetration that may occur beneath a leak of a below-grade tank or a pit.

Although Table I sets different limits for contaminants found on the surface when a tank or pit liner is removed, it ignores the depth to which contaminants at that concentration may have penetrated.

(tr. P. 3957 L. 19 - P. 3958 L. 4; P. 4066 L. 2 - P. 4067 L. 3)

CERTIFICATE OF SERVICE

I hereby certify that on or before the sixteenth day of January, 2013, I have caused a copy of this statement of findings in the re-opened hearing for Cases 14784 and 14785 to be delivered by hand delivery or by electronic means to the following persons:

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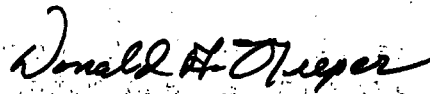
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