

The proposed amendment to OCD Rule 711 was prompted by numerous requests from the operators of OCD permitted surface waste management facilities. This amendment would allow such facilities to accept wastes generated outside the oil and gas industry. OCD has evaluated the nature and characteristics of these wastes and has concluded that there is no difference in the environmental impact between these wastes and the storing and treatment of oilfield wastes.

In March 2001, with the concurrence of the NM Environment Department, the Division promulgated a rule that authorized the disposal of oilfield wastes at facilities permitted by the Environment Department. Allowing the disposal of non-oilfield wastes at OCD permitted sites will ensure environmentally safe disposal of such wastes and it is the position of the Division that this amendment is in the best interests, both economically and environmentally, of the state of New Mexico.

On March 12, 2003 the NM Environment Department through Tracy Hughes, General Counsel, submitted comments requesting clarification on two points of the original proposed rule. Proposed changes for clarification appear in blue on the redline/strikeout copy..

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

RECEIVED

MAR 13 2003

Oil Conservation Division

**APPLICATION OF THE NEW MEXICO
OIL CONSERVATION DIVISION,
THROUGH THE ENVIRONMENTAL
BUREAU CHIEF, FOR ADOPTION OF
AMENDMENT TO RULE 711**

Case No. 13013


**THE NEW MEXICO ENVIRONMENT DEPARTMENT'S COMMENTS TO
PROPOSED AMENDMENTS TO RULE 711**

1. The New Mexico Environment Department ("NMED") and the Oil Conservation Division ("OCD") are "constituent agencies" under the Water Quality Act, with both agencies administering and enforcing specific aspects of the Water Quality Act ("WQA") and Water Quality Control Commission Regulations. NMSA 1978, §74-6-4(E).
2. OCD has jurisdiction under the WQA pertaining to surface and ground water discharges at oil and natural gas production sites, oil refineries, natural gas processing plants, geothermal installations, carbon dioxide facilities, natural gas transmission lines and discharges associated with activities of the oil field service industry.
3. In the proposed amendment to 19.15.9.711 NMAC, at page 6 line 7 of subsection (c), it states "if the waste is similar in nature to the oilfield wastes". NMED requests that the phrase "similar in nature" be clarified or further defined.

4. In the proposed amendment, at page 6, line 8, it states "(1) exempt; or".
Upon information and belief, "exempt" is intended to mean exempt from the RCRA Subtitle C hazardous waste regulations. NMED requests a clarification be added the amendment by adding "RCRA Subtitle C hazardous waste" before the word "exempt."

Respectfully submitted,

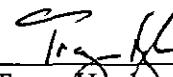
NEW MEXICO ENVIRONMENT
DEPARTMENT



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(505) 827-2855
Attorney for NMED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing New Mexico Environment Department's Comments to Proposed Amendments to OCC Rule 711 was hand-delivered this 2nd day of March, 2003.



Tracy Hughes

- (2) Facilities permitted as treating plants will not accept sediment oil, tank bottoms and other miscellaneous hydrocarbons for processing unless accompanied by an approved Form C-117A or C-138.
- (3) Facilities will only accept oilfield related wastes except as provided in Subsection C, Paragraph (4), Subparagraph (c) of 19.15.9.711 NMAC below. Wastes which are determined to be RCRA Subtitle C hazardous wastes by either listing or characteristic testing will not be accepted at a permitted facility.
- (4) The permittee shall require the following documentation for accepting wastes, other than wastes returned from the wellbore in the normal course of well operations such as produced water and spent treating fluids, at commercial waste management facilities:
 - (a) Exempt Oilfield Wastes: As a condition to acceptance of the materials shipped, a generator, or his authorized agent, shall sign a certificate which represents and warrants that the wastes are: generated from oil and gas exploration and production operations; exempt from Resource Conservation and Recovery Act (RCRA) Subtitle C regulations; and not mixed with non-exempt wastes. The permittee shall have the option to accept on a monthly, weekly, or per load basis a load certificate in a form of its choice. While the acceptance of such exempt oilfield waste materials does not require the prior approval of the Division, both the generator and permittee shall maintain and shall make said certificates available for inspection by the Division for compliance and enforcement purposes.
 - (b) Non-exempt, Non-hazardous Oilfield Wastes: Prior to acceptance, a "Request For Approval To Accept Solid Waste", OCD Form C-138, accompanied by acceptable documentation to determine that the waste is non-hazardous shall be submitted to the appropriate District office. Acceptance will be on a case-by-case basis after approval from the Division's Santa Fe office.
 - (c) Non-oilfield Wastes: Non-hazardous Non-oilfield wastes may be accepted in an emergency if ordered by the Department of Public Safety. Prior to acceptance, a "Request To Accept Solid Waste", OCD Form C-138 accompanied by the Department of Public Safety order will be submitted to the appropriate District office and the Division's Santa Fe office. With prior approval from the Division, other non-hazardous non-oilfield waste may be accepted into a permitted surface waste management facility if the waste is similar in nature to the oilfield wastes authorized at that facility and is either: (1) exempt; or (2) has tested non-hazardous and is not listed as hazardous. Prior to acceptance, a "Request For Approval To Accept Solid Waste." OCD Form C-138, accompanied by acceptable documentation to characterize the waste shall be submitted to the Division's Santa Fe office.
- (5) The permittee of a commercial facility shall maintain for inspection the records for each calendar month on the generator, location, volume and type of waste, date of disposal, and hauling company that disposes of fluids or material in the facility. Records shall be maintained in appropriate books and records for a period of not less than five years, covering their operations in New Mexico.

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