



New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson
Governor

Joanna Prukop
Cabinet Secretary
Reese Fullerton
Deputy Cabinet Secretary

Mark Fesmire
Division Director
Oil Conservation Division



March 2, 2009

Ms. Sarah Cotrell
Mr. Justin Miller
Mr. Vincent Ward
Office of the Governor
490 Old Santa Fe Trail
Room 400
Santa Fe, NM 87501

e-mail: Sarah.cotrell@state.nm.us; Justin.miller@state.nm.us; Vincent.ward@state.nm.us

Via mail and e-mail

Re: Application of the Oil Conservation Division for Rule Amendment

Dear Ms. Cotrell, Mr. Miller and Mr. Ward:

The Oil Conservation Division (OCD) is proposing to amend 19.15.17 NMAC (the "Pit Rule"), statewide.

The intended effect of the proposed rule changes is: (a) to allow an operator of a below-grade tank existing on June 16, 2008, that has side walls entirely open for visual inspection, but which does not conform to the design and construction requirements of the pit rule as adopted on that date, to continue operating that tank until a sale or transfer of the tank or facility, so long as the tank maintains demonstrated integrity; (b) to require that any below-grade tank that does not conform to the design and construction requirements adopted on June 16, 2008, (Non-conforming tank) be either closed or retrofitted to conform to those standards prior to sale or transfer of the tank or facility; (c) to extend the retention requirement for below-grade tank inspection records from five years to the life of the tank; (d) to require an operator of a non-conforming tank, if the tank's integrity fails, to comply with applicable tank closure requirements prior to replacing the tank; (e) to require an operator who retrofits or replaces a non-conforming below-grade tank to inspect the area underneath the tank, report any evidence of contamination to the Division, and, if the Division determines that the contamination poses an imminent danger to the environment, to comply with applicable tank-closure requirements prior to retrofitting or replacing the tank; (f) to extend the time for an operator to request a permit or permit modification for an existing, lined permanent pit, or for an existing below-grade tank, to two-years from June 16, 2008, provided that the operator complies with registration requirements set forth in these amendments; and (g) to increase the chloride waste standard for closure of temporary pits or drying pads by on-site trench burial from 250 mg/l to the greater of 3000 mg/l or background.

With this letter the OCD is providing the Office of the Governor with a copy of its application and the notice of hearing. As you will see, the Oil Conservation Commission has scheduled the hearing on the OCD's application for **April 2, 2009** in Porter Hall at the Wendell Chino Building, 1220 S. St. Francis Drive, in Santa Fe. If you have any questions, please do not hesitate to call.

Sincerely,

David Brooks
OCD Attorney
(505) 476-3450

