

Davidson, Florene, EMNRD

From: Karin Foster [fosterassociates2005@yahoo.com]
Sent: Monday, October 22, 2007 5:18 PM
To: Davidson, Florene, EMNRD
Cc: John Byrom; Tom Mullins; Eric Hiser; Bill Carr
Subject: IPANM proposed Pit rule mods
Attachments: 483614330-IPANM proposed mods 10-22.pdf

Dear Ms. Davidson,

Please find attached the IPANM proposed modifications. Please note adoption and reliance on the Industry Committee comments which were forwarded to you this afternoon.

Thank you.

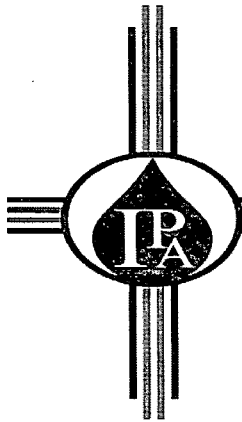
Sincerely,

Karin Foster

Karin Foster
President
Chatham Partners, Inc.
(505) 238-8385 - cell

This inbound email has been scanned by the MessageLabs Email Security System.

10/23/2007



**INDEPENDENT PETROLEUM
ASSOCIATION OF NEW MEXICO**

IPANM

PO Box 1836
Roswell, NM 88202
Tel: 505-622-2566

**Karin V. Foster, Esq.
Dir. Government Affairs**

7242 Via Contenta, NE
Albuquerque, NM 87113
Cell: 505-238-8385

FosterAssociates2005@yahoo.com

October 22, 2007

Ms. Florene Davidson
Commission Clerk
New Mexico Oil Conservation Commission
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

RE: CASE NO. 14015 THE MATTER OF THE APPLICATION OF THE NEW MEXICO
OIL CONSERVATION DIVISION FOR REPEAL OF EXISTING RULE 50
CONCERNING PITS AND BELOW GRADE TANKS AND ADOPTION OF A NEW
RULE GOVERNING PITS, BELOW GRADE TANKS, CLOSED LOOP SYSTEMS
AND OTHER ALTERNATIVE METHODS TO THE FOREGOING, AND AMENDING
OTHER RULES TO CONFORMING CHANGES STATEWIDE.

Dear members of the Oil Conservation Commission:

Pursuant to 19.15.14.1204 NMAC, please find following our recommended modifications to the Pit rule (case no. 14015). IPANM also wholly adopts and supports all recommendations made by the Industry Committee which were sent to you this afternoon. IPANM intends to submit further comment on the rule by October 29, 2007 which will include all legal and non technical arguments. In addition, through counsel, IPANM intends to present testimonial evidence at the hearing demonstrating a lack of science and economic rationale supported by statutory authority to promulgate the Pit rule. This letter is not intended to be a complete statement of concerns or disputes with the proposed rule and as such this letter does not waive the right to raise further concerns in additional comments, during the hearing or at a later date.

Technical comments:
§19.15.1.7.B(5)

Below-grade tank shall mean a vessel, excluding sumps and or pressurized pipeline drip traps, placed so that any part of the vessel's sidewalls is covered with soils such that the condition and integrity of the tank cannot be visually inspected where a portion of the tank's sidewalls is below the ground surface and not visible.

Reasoning:

With the currently proposed definition, if only an inch is judged to be below the surface at any point, then the whole tank might be considered below grade when in practical matter it is an above grade tank. This definition must also be consistent with other regulations such as the Spill Prevention, Control and Countermeasure (SPCC) rule which distinguishes between aboveground, below grade, partially buried and completely buried tanks.

§19.15.17.7(H) "Sump" means an impermeable vessel, or a collection device incorporated, ~~[within a secondary containment system]~~ with a capacity less than 500 gallons, which remains predominantly empty, serves as a drain or receptacle for de minimis releases on an intermittent basis and is not used to store, treat, dispose of or evaporate products or wastes.

Rationale: A sump is already a secondary containment vessel, used to catch drips for something else that is leaking. Not for fluid storage.

§19.15.17.9(B)(2) *Temporary pits. An engineering design plan for a temporary pit shall use appropriate engineering principles and practices and follow applicable manufacturers' recommendations. The engineering design plan shall include operating and maintenance procedures, a closure plan and a hydrogeologic report that provides sufficient information and detail on the site's topography, soils, geology, surface hydrology and ground water hydrology to enable the appropriate division district office to evaluate the actual and potential effects on soils, surface water and ground water. An engineering design plan for a temporary pit may incorporate by reference a standard design for multiple temporary pits that the operator files with the application or is presently on file with the appropriate division district office.*

Rationale: Industry should have the ability to file a standard pit design that can be used by multiple companies by reference.

§19.15.17.9(B)(3) *Closed-loop systems. An engineering design plan for a closed-loop system shall use appropriate engineering principles and practices and follow applicable manufacturers' recommendations. The engineering design plan shall include operating and maintenance procedures and a closure plan. An engineering design plan for a closed-loop system may incorporate by reference a standard design for multiple projects that the operator files with the application or is presently on file with the appropriate division district office.*

Rationale: Industry should have the ability to file a standard pit design that can be used by multiple companies by reference.

§19.15.17.9(B)(4) Below-grade tanks. An engineering design plan for a below-grade tank shall use appropriate engineering principles and practices and follow applicable manufacturers' recommendations. The engineering design plan shall include operating and maintenance procedures, a closure plan and a hydrogeologic report that provides sufficient information and detail on the site's topography, soils, geology, surface hydrology and ground water hydrology to enable the appropriate division district office to evaluate the actual and potential effects on soils, surface water and ground water. An engineering design plan for a below-grade tank may incorporate by reference a standard design for multiple below-grade tanks that the operator files with the application or is presently on file with the appropriate division district office.

Rationale: Industry should have the ability to file a standard pit design that can be used by multiple companies by reference.

§19.15.17.10(A)(1)(b) Siting Requirements

(b) within 300 feet of a continuously flowing watercourse, or~~200~~ 10 feet of any other watercourse, lakebed, sinkhole or playa lake (measured from the ordinary high-water mark), unless the appropriate division district office approves an alternative distance based upon the operator's demonstration that surface and ground water will be protected;

Reasoning: 200' is absolutely unworkable in many areas of the state. 10 ft. from the edge of the pit or dirt pile to the edge of a nonflowing watercourse is more than ample. A leak from the pit lining is not going to cause the contents to go sideways. Groundwater also has to be more than 50' below already per (a). In addition, with the lining requirements of the proposed rule, it shouldn't matter how far away the non-flowing water is.

§19.15.17.10(A)(2)(b) within 300 feet of a continuously flowing watercourse, or~~200~~ 10 feet of any other watercourse, lakebed, sinkhole or playa lake (measured from the ordinary high-water mark), unless the environmental bureau in the division's Santa Fe office approves an alternative distance based upon the operator's demonstration that surface and ground water will be protected;

Rationale: same as above

§19.15.17.10(A)(3)(b) within 300 feet of a continuously flowing watercourse, or~~200~~ 10 feet of any other watercourse, lakebed, sinkhole or playa lake (measured from the ordinary high-water mark), unless the environmental bureau in the division's Santa Fe office approves an alternative distance based upon the operator's demonstration that surface and ground water will be protected;

Rationale: same as above

§19.15.17.10(C)(2) within 300 feet of a continuously flowing watercourse, or[200] 10 feet of any other watercourse, lakebed, sinkhole or playa lake (measured from the ordinary high-water mark), unless the environmental bureau in the division's Santa Fe office approves an alternative distance based upon the operator's demonstration that surface and ground water will be protected;

Rationale: same as above

§ 19.15.17.11 DESIGN AND CONSTRUCTION SPECIFICATIONS:

§19.15.17.11(F)

(2) *A temporary pit shall have a properly constructed foundation and interior slopes consisting of a firm, unyielding base, smooth and free of rocks, debris, sharp edges or irregularities to prevent the liner's rupture or tear. ~~The operator shall construct a temporary pit so that the slopes are no steeper than two horizontal feet to one vertical foot (2H:1V). The appropriate division district office may approve an alternative to the slope requirement if the operator demonstrates that it can construct and operate the temporary pit in safe manner to prevent contamination of fresh water and protect public health and the environment.~~*

(3) *The operator shall design and construct a temporary pit with a geomembrane liner. The geomembrane liner shall consist of [20] 12-mil string reinforced LLDPE or equivalent liner material that the appropriate division district office approves. The geomembrane liner shall be composed of an impervious, synthetic material that is resistant to petroleum hydrocarbons, salts and acidic and alkaline solutions. The liner material shall be resistant to ultraviolet light. Liner compatibility shall comply with EPA SW-846 method 9090A.*

Rationale: Consideration must be given to winter installations - The 20 mil liners are difficult to handle in winter conditions and result in problematic liner installation.

(7) *The operator shall anchor the edges of all liners in the bottom of a compacted earth-filled trench. ~~[The anchor trench shall be at least 18 inches deep.]~~*

Reason: Field evidence demonstrates that anchor trenches are not needed. The current practice of burying the overlapping liner under a berm is more cost effective and efficient.

19.15.17.12 OPERATIONAL REQUIREMENTS:

§19.15.17.12(A)(2)

The operator shall recycle, reuse or reclaim or otherwise dispose of all drilling fluids in a manner that prevents the contamination of fresh water and protects public health and the environment.

Reason: This language effectively prohibits the options of evaporation or injection well disposal which are perfectly sound scientific and economic methods that prevents contamination and protects the public and environment

§19.15.17.12(B)(5)

The operator shall remove all free liquids from a workover pit within ~~[45]~~ 30 days from the date that the operator releases the workover rig. The appropriate division district office may grant an extension of up to three months.

Reason: 30 days is more reasonable to give the operator time to arrange for hauling or other removal method without burdening the OCD with a request for extension.

19.15.17.13 CLOSURE REQUIREMENTS:

§19.15.17.13(A)(4)

An existing below-grade tank that is not equipped with secondary containment and leak detection shall be closed within five years after _____, 200_ [effective date], if not retrofitted with secondary containment and leak detection in accordance with Subsection I of 19.15.17.11 NMAC. This does not include tanks that have the sidewalls visible to their base. These steel tanks only require a mechanism to deflect any leak from underneath the tank to the outer perimeter of the tank where it can be visually detected by the operator.

See Industry committee definition of Below grade tank which is adopted in whole by this document.

§19.15.17.13(B) Closure methods for temporary pits. The operator of a temporary pit shall remove all liquids from the temporary pit prior to implementing a closure method and dispose of the liquids in a division-approved facility or recycle, reuse or reclaim or evaporate the liquids in a manner that the appropriate division district office approves. The operator shall close the temporary pit by one of the following methods.

§19.15.17.13(B)(1) to (G)(3) Delete in its entirety. Rely on Industry committee comments for proposed reasons.

Thank you for the opportunity to comment on this very important proposed regulation. I look forward to discussing all these issues and other at the upcoming proceedings.

Sincerely,

Karin V. Foster
Director of Government Affairs
IPANM