

**Marathon Oil Company's Revised Recommended Changes to
Rule 116 Committee's Proposed Amendments to
OCD Rules 7, 19 and 116**

Additions are shown with underline, deletions with strike-through.

General:

- 1) Defined terms should not be capitalized when used in the text of the rules.

Rule 7:

- 1) Page 1--Insert the following new definition: "DIRECTOR shall mean the Director of the Oil Conservation Division of the New Mexico Energy, Minerals and Natural Resources Department."
- 2) Page 1--HAZARD TO PUBLIC HEALTH exists when water which is used or is reasonably expected to be used in the future as a human drinking water supply exceeds at the time and place of such use, one or more of the numerical standards of 20 NMAC 6.2.3103.A, or the naturally occurring concentrations, whichever is higher, or if any toxic pollutant as defined at 20 NMAC 6.2.1101 affecting human health is present in the water. In determining whether a release would cause a hazard to public health to exist, the Director shall investigate and consider the purification and dilution reasonably expected to occur from the time and place of release to the time and place of withdrawal for use as human drinking water.
- 3) Page 2--REMEDIATION PLAN shall mean a written ~~document~~ description of a program to address reportable unauthorized releases that will not with reasonable probability reach ground water or surface water, and that will likely be remedied within one (1) year. When ground water is affected, a remediation plan may be required for releases that will be remedied within one (1) year. The plan may include appropriate information, including assessment data, health risk demonstrations, and corrective action(s). The plan may also include an alternative proposing no action beyond the submittal of a spill report.

Rule 19:

- 1) Page 3, 19.B.(6)(a)(i)2--Add a right parenthesis after "Paragraph B".
- 2) Page 3, 19.B.(6)(a)(iii) & (iv)--Strike (iii) and renumber (iv) as (iii).
- 3) Page 3, 19.B.(6)(b)--Between the first and second sentences, insert the following sentence: "The petition may include an analysis of the feasibility of point-of-use treatment, a transport, fate and risk assessment in accordance with accepted methods, and other information as the petitioner deems necessary to support the petition."

- 4) Page 4, 19.B.(6)(b)(xi), (xii) & (xiii)--Strike paragraphs (xi) and (xiii) and renumber (xii) as (xi).
- 5) Page 5, 19.B.(7)--Modification of Abatement Standards. If applicable abatement standards are modified after abatement measures are approved, the abatement standards that are in effect at the time that the Stage 2 abatement plan is approved shall be the abatement standards for the duration of the abatement plan action, unless the Director determines that additional action is necessary to protect public health and the environment compliance with those standards may with reasonable probability create a present or future hazard to public health or the environment. In any appeal of the Director's determination that additional actions are necessary, the Director shall have the burden of proof.
- 6) Page 6, 19.D.(1)(e)--under the authority of a ground-water discharge plan approved by the Director, provided that such abatement is consistent with the requirements and ~~provision~~ provisions of Paragraphs A, B, ~~(3)~~ E(3), E(4), F, and K of this Rule.
- 7) Page 6, 19.D.(1)(f)--under the authority of a Letter of Understanding, Settlement Agreement or Administrative Order on Consent or other agreement signed by the Director or his designee prior to (insert effective date of rule), 1996, provided that abatement is being performed in full compliance with the terms of the Letter of Understanding, Settlement Agreement or Administrative Order on Consent or other agreement; and
- 7) Page 6, 19.D.(1)(g)--on an emergency basis, or while abatement plan approval is pending, or in a manner that will likely result in compliance with the standards and requirements set forth in Paragraph B within one year after notice is required to be given pursuant to 19 NMAC 15.C.116.B provided that the Division does not object to the abatement action.
- 8) Page 10, 19.G--Insert a new 19.G.(1) as follows and renumber the succeeding paragraphs accordingly: "Within thirty (30) days of filing of a Stage 1 abatement plan proposal, the Division Environmental Bureau Chief shall issue a news release summarizing:
 - (a) the source, extent, magnitude and significance of water pollution, as known at that time;
 - (b) the proposed Stage 1 abatement plan investigation; and
 - (c) the name and telephone number of Division contact who can provide additional information."
- 9) Page 10, 19.G.(1)--On line 2, strike "Stage 1 and".

- 10) Page 11, 19.G.(2)--On line 1, strike "Stage 1 and".
- 11) Page 11, 19.G.(2)--On line 2, strike "plans are" and insert "plan is"
- 12) Page 12, 19.H.(2)--Strike and renumber succeeding paragraphs accordingly.
- 13) Page 13, 19.L--On line 2, strike "Section 116.E" and insert "Section 116.D".
- 14) Page 14, 19.N--Strike.