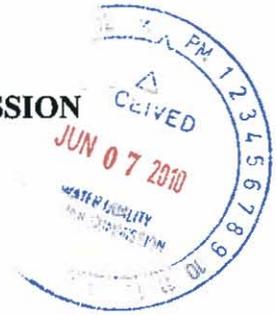


STATE OF NEW MEXICO
BEFORE THE WATER QUALITY CONTROL COMMISSION



)
)
In the Matter of:)
)

PROPOSED AMENDMENT)
TO 20.6.2 NMAC (Diary Rules))
)
_____)

No.: WQCC 09-13 (R)

SUPPLEMENTAL NOTICE OF PROPOSED LANGUAGE CHANGES

The New Mexico Environment Department ("Department") hereby supplements its Notice of Proposed Language Changes, filed on June 3, 2010. In addition to the proposed changes the Department filed on June 3, it also proposes a change to the language of section 3230. The purpose of the proposed change is to clarify the closure requirements for impoundments that receive stormwater at dairies that are undergoing complete closure, and to give dairies one year rather than six months to empty the impoundments. The Department is also proposing clarification language for closure of impoundments where the dairy is replacing the impoundment. In addition, in Subsection C, the Department is clarifying that monitoring well abandonment must be in accordance with requirements of the State Engineer. The proposed changes are attached.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT
OFFICE OF GENERAL COUNSEL

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CERTIFICATE OF SERVICE

I certify that on May 7, 2010, I served this **SUPPLEMENTAL NOTICE OF PROPOSED LANGUAGE CHANGES**, by electronic mail, to:

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20.6.2.3230 CLOSURE REQUIREMENTS FOR ALL DAIRY FACILITIES:

A. Permanent Closure of Dairy Facility or Impoundments: The following closure actions shall be performed at dairy facilities:

(1) For permanent closure of a dairy facility:

(a) The department shall be notified no later than 30 days after wastewater discharge has permanently ceased at the dairy facility.

(b) Installation of all monitoring wells shall be completed pursuant to Section 20.6.2.3223 NMAC.

(c) All wastewater and combination wastewater/stormwater impoundments shall be emptied ~~of wastewater and stormwater~~ within six months of permanently ceasing wastewater discharge at the dairy facility. ~~combination wastewater/stormwater impoundments may continue to receive stormwater after removal of the impounded wastewater/stormwater.~~ All stormwater and combination wastewater/stormwater impoundments shall be emptied of stormwater within ~~six months~~ one year of removing all livestock from the dairy facility. Wastewater and stormwater removed from impoundments shall be applied to the designated land application area, as authorized by a discharge permit. In the event that land application is not authorized by a discharge permit, a disposal plan shall be submitted for department approval and the plan implemented upon department approval.

(d) Manure solids and compost shall be removed from surface areas at the dairy facility and applied to the designated land application area, as authorized by a discharge permit, or transferred off-site for proper disposal within one year of removing all livestock from the facility.

(e) Complete removal of manure solids from the wastewater impoundment(s) shall be achieved within two years of permanently ceasing wastewater discharge. Complete removal of manure solids from the stormwater and combination wastewater/stormwater impoundment(s) shall be achieved within two years of removing all livestock from the dairy facility. Manure solids shall be applied to the designated land application area, as authorized by a discharge permit. In the event that land application is not authorized by a discharge permit, a disposal plan shall be submitted for department approval and the plan implemented upon department approval.

(f) Impoundment liners shall be perforated or removed and the impoundments shall be re-graded with clean fill to blend with surface topography to prevent ponding within two years of permanently ceasing wastewater discharge and removing all livestock from the facility.

(2) For closure of ~~existing-an~~ impoundments upon replacement with new impoundments at a facility not undergoing permanent closure (e.g., existing impoundment replaced with new impoundment):

(a) ~~Existing-I~~ mpoundments shall be emptied of wastewater and stormwater within six months of ~~completion of the new~~ ceasing receipt of wastewater or stormwater into the impoundments. Wastewater and stormwater removed from ~~existing~~ impoundments shall be applied to the designated land application area, as authorized by a discharge permit. ~~In the event that~~ If land application is not authorized by a discharge permit, a disposal plan shall be submitted for department approval and the plan implemented

upon department approval.

(b) Complete removal of manure solids from ~~existing~~ impoundments shall be achieved within two years of ~~completion of the new~~ ceasing receipt of wastewater or stormwater into the impoundments. Manure solids shall be applied to the designated land application area, as authorized by a discharge permit. ~~If in the event that~~ land application is not authorized by a discharge permit, a disposal plan shall be submitted for department approval and the plan implemented upon department approval.

(c) ~~Existing~~ Liners in impoundments ~~liners~~ shall be perforated or removed and the ~~existing~~ impoundments shall be re-graded with clean fill to blend with surface topography to prevent ponding within two years of ~~completion of the new~~ ceasing receipt of wastewater or stormwater into the impoundments. ~~unless the impoundment will be maintained for another use as specified in a closure plan.~~

C. Monitoring Well Abandonment: Upon notification from the department, the permittee shall abandon monitoring wells pursuant to Part 19.27.4 NMAC and the following requirements.

(1) The well casing shall be removed and ~~bentonite cement grout,~~ neat cement grout, ~~or~~ bentonite ~~grout~~ based plugging material, or other sealing material approved by the state engineer in accordance with Part 19.27.4 NMAC prepared as specified in Section 20.6.2.3223 NMAC, shall be placed from the bottom of the borehole to the ground surface using a tremmie pipe.

(2) If the casing cannot be removed, ~~bentonite cement grout,~~ neat cement grout, ~~or~~ bentonite ~~grout~~ based plugging material, or other sealing material approved by the state engineer in accordance with Part 19.27.4 NMAC shall be emplaced in the well using a tremmie pipe from the bottom of the well to the ground surface.

(3) A well abandonment report shall be prepared by the permittee and shall provide information equivalent to the plugging record requirements of Part 19.27.4 NMAC. The well abandonment report shall be submitted to the department within 60 days of completion of well plugging activities.