CASE NO. 14292
OCD EXHIBIT 6

Proposed Amendments To The "Pit Rule" 19.15.17 NMAC

State of New Mexico

Energy, Minerals, and Natural Resources Department

Oil Conservation Division

Brad A. Jones

Case # 14292

PROPOSED AMENDMENTS TO 19.15.17 NMAC

- The Oil Conservation Division (OCD) proposes amendments to the Pit Rule that allow most below-grade tanks that existed prior to June 2008 to be retrofitted or closed upon final closure, sale, or transfer.
- OCD proposes to increase the content (waste) burial standard for chlorides and to also include a comparison to background concentrations at the site with regard to the implementation of on-site trench burial closure method pursuant to Paragraph (3) of Subsection F of 19.15.17.13 NMAC.
- OCD proposes to extend the permit and permit modification application submittal dates for existing below-grade tanks and lined permanent pits to two years in regards to the transitional provisions of 19.15.17.17 NMAC.

PROPOSED AMENDMENTS REGARDING BELOW-GRADE TANKS

OCD proposes amendments to the Pit Rule that allow most below-grade tanks that existed prior to June 2008 to be retrofitted or closed upon final closure, sale, or transfer.

PROPOSED AMENDMENTS BELOW-GRADE TANK DESIGN AND CONSTRUCTION SPECIFICATION

OCD proposes to reclassify and identify below-grade tanks that were constructed and installed prior to the effective date of Part 17, June 16, 2008, and to identify the conditions and timeframes in which closure or a retrofit is required.

- OCD proposes to amend Paragraphs (5) and (6) of 19.15.17.11.I NMAC.
- The proposed amendments would allow operators of certain below-grade tanks presently required to be closed or retrofitted within five years of the effective date, June 16, 2008, to continue to operate until the tank's integrity fails or until sale or transfer.

PROPOSED AMENDMENTS BELOW-GRADE TANK DESIGN AND CONSTRUCTION SPECIFICATION

Proposed Amendments - Paragraph (5) of 19.15.17.11.I NMAC:

- "The operator of a below-grade tank constructed and installed prior to June 16, 2008 that ~~has the side walls open for visual inspection and is placed upon a geomembrane liner but~~ does not meet all the requirements in Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC and is not included in Paragraph (6) of Subsection I of 19.15.17.11 NMAC is not required to equip or retrofit the below-grade tank to comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC so long as it demonstrates integrity. If the existing below-grade tank does not demonstrate integrity, the operator shall promptly remove that below-grade tank and install a below-grade tank that complies with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC. The operator shall comply with the operational requirements of 19.15.17.12 NMAC."

PROPOSED AMENDMENTS BELOW-GRADE TANK DESIGN AND CONSTRUCTION SPECIFICATION

Proposed Amendments - Paragraph (6) of 19.15.17.11.I NMAC:

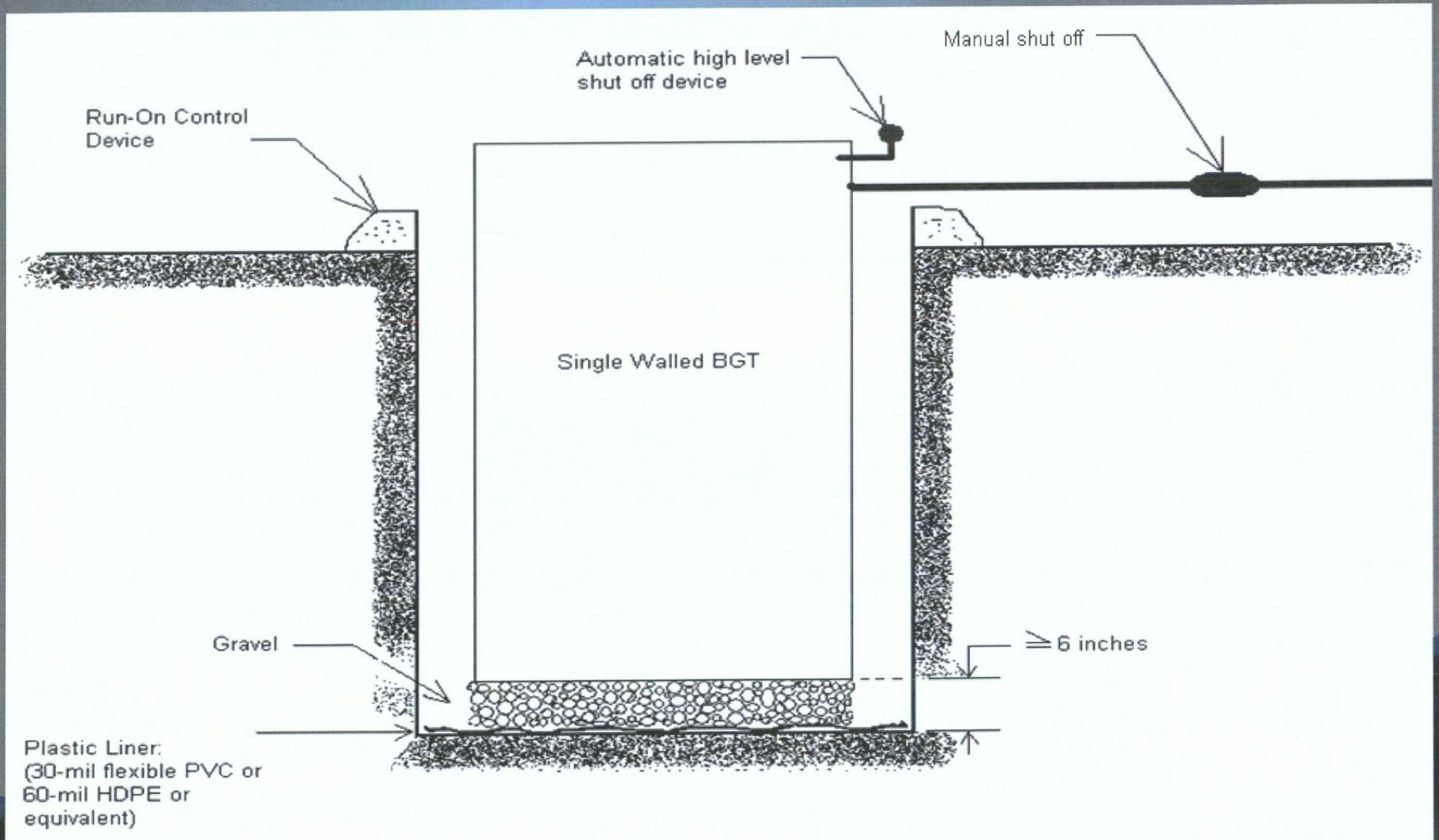
- "The operator of a below-grade tank constructed and installed prior to June 16, 2008 that ~~does not comply with Paragraph (1) through (4) of Subsection I of 19.15.17.11 NMAC or that does not comply with Paragraph (5) of Subsection I of 19.15.17.11 NMAC~~ is singled walled and where any portion of the tank sidewall is below the ground surface and not visible shall equip or retrofit the below-grade tank to comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC, or close it, within five years after June 16, 2008. If the existing below-grade tank does not demonstrate integrity, the operator shall promptly remove that below-grade tank and install a below-grade tank that complies with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC. The operator shall comply with the operational requirements of 19.15.17.12 NMAC."

PROPOSED AMENDMENTS BELOW-GRADE TANK DESIGN AND CONSTRUCTION SPECIFICATION

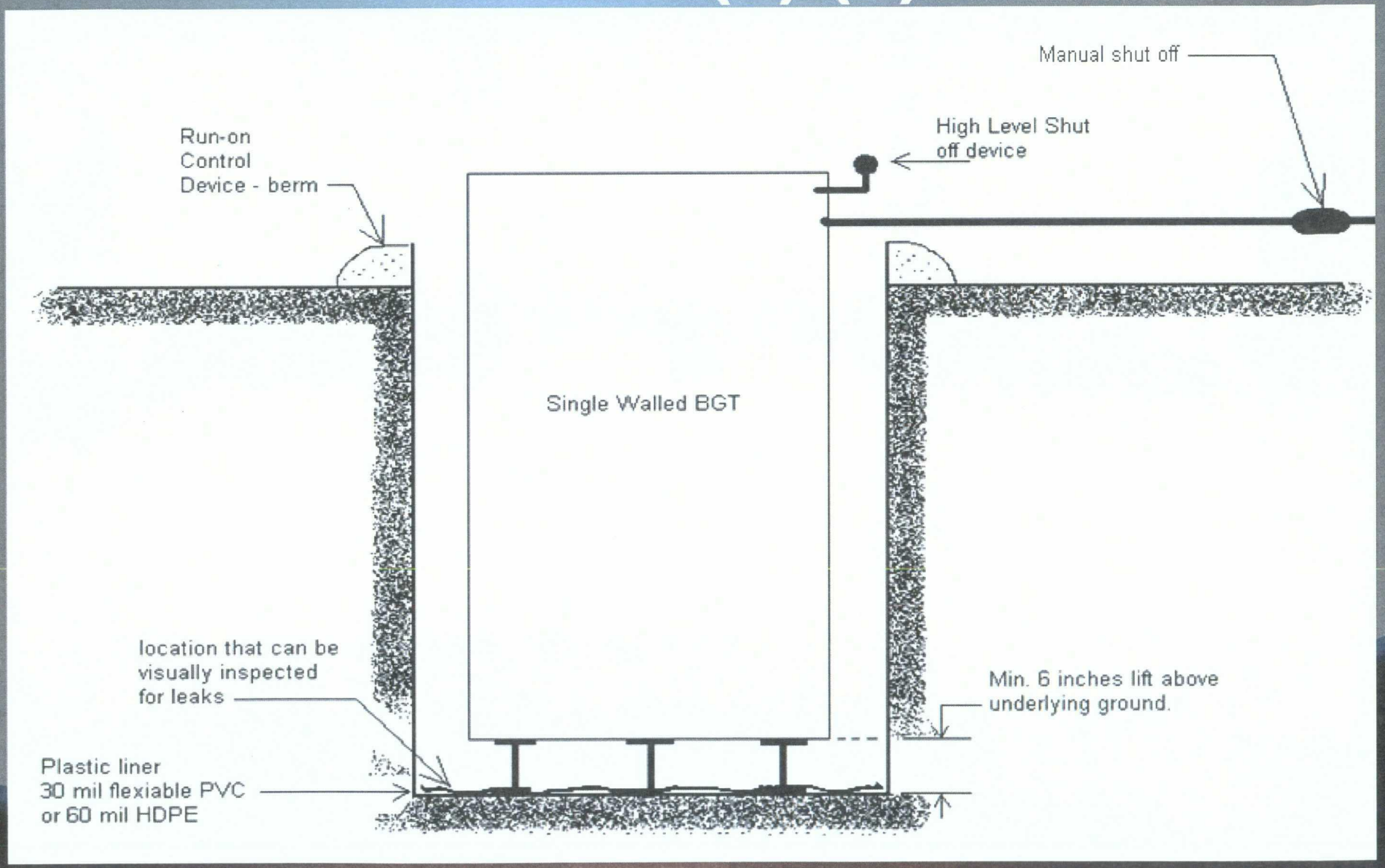
What does this all mean?

- Operators of below-grade tanks, constructed and installed prior to June 16, 2008, that have sidewalls open for visual inspection may continue to operate the tank until integrity fails or until sale or transfer, at which time the operator shall retrofit the below-grade tank.
- Only operators of below-grade tanks, constructed and installed prior to June 16, 2008, that are singled walled and have any portion of the tank's sidewall below the ground surface and not visible are required to retrofit the tank to comply with an approved design or close the tank, within five years of June 16, 2008, if the tank's integrity fails, or until sale or transfer, whichever occurs first.
- The amendments also specify that operators must comply with the operational requirements, especially the amendments that address integrity failures, releases, and retrofits.

AN APPROVED BELOW-GRADE TANK DESIGN 19.15.17.11.I (4) (a) NMAC



AN APPROVED BELOW-GRADE TANK DESIGN 19.15.17.11.I (4) (a) NMAC



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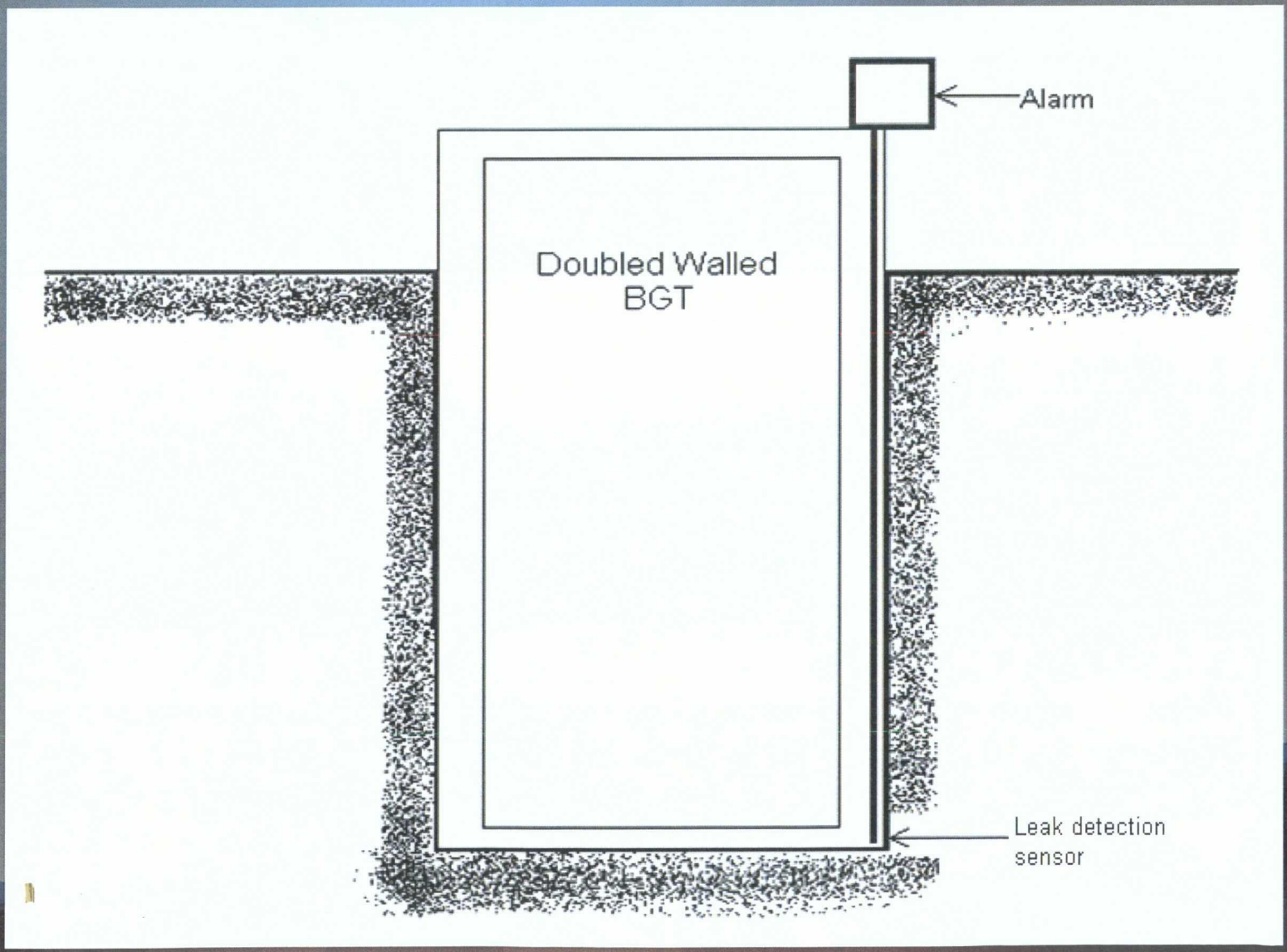

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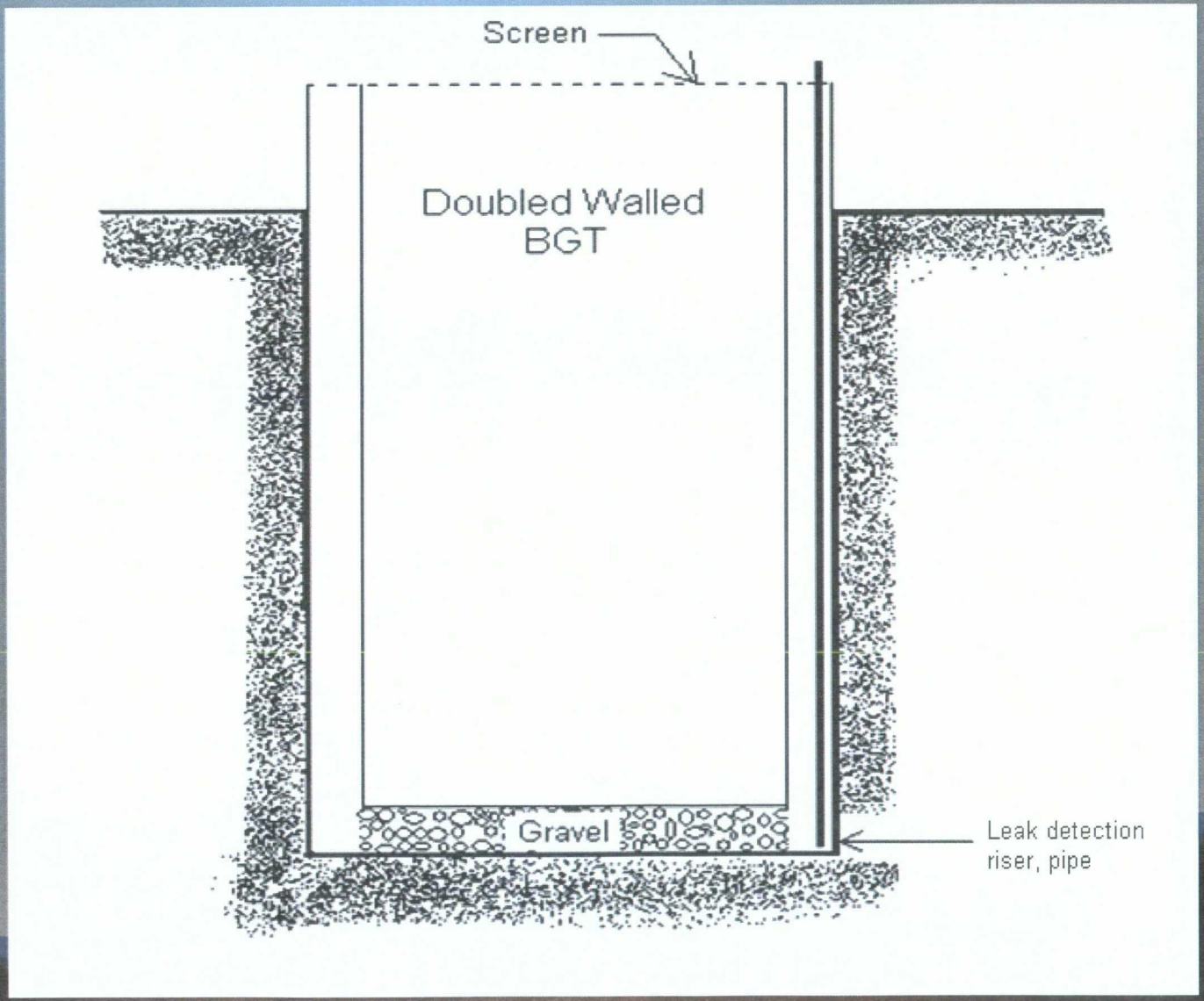
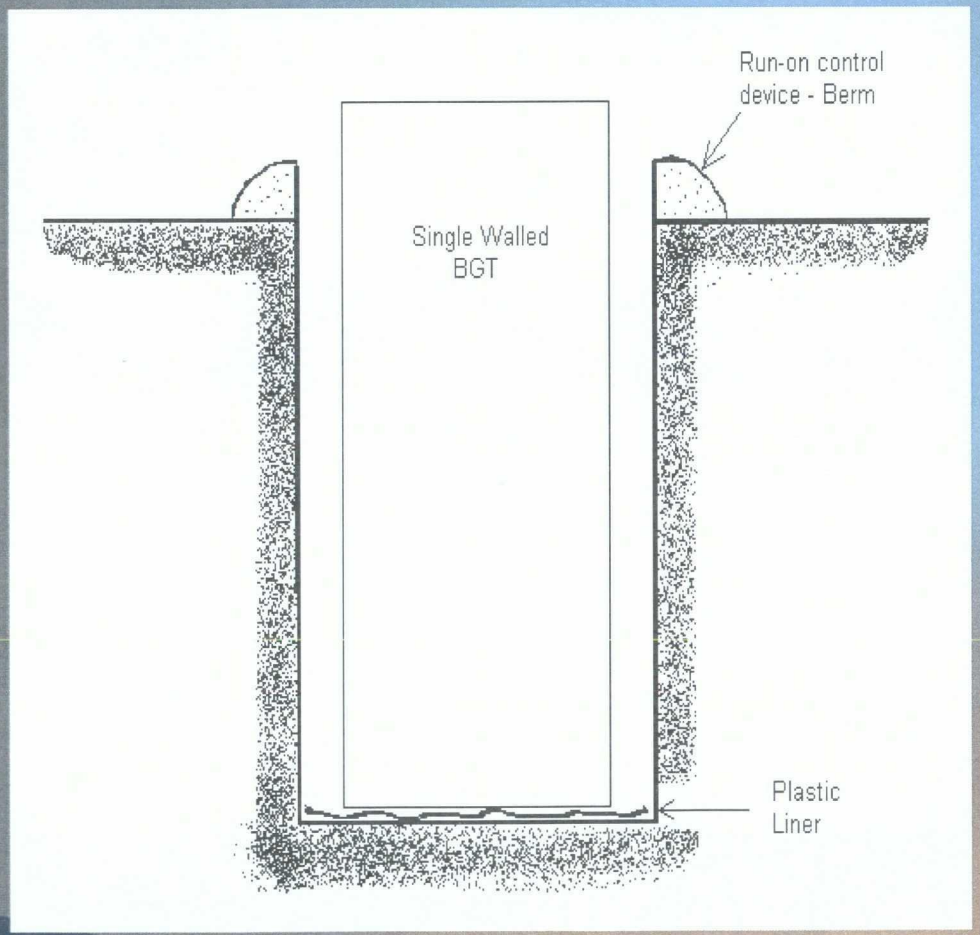


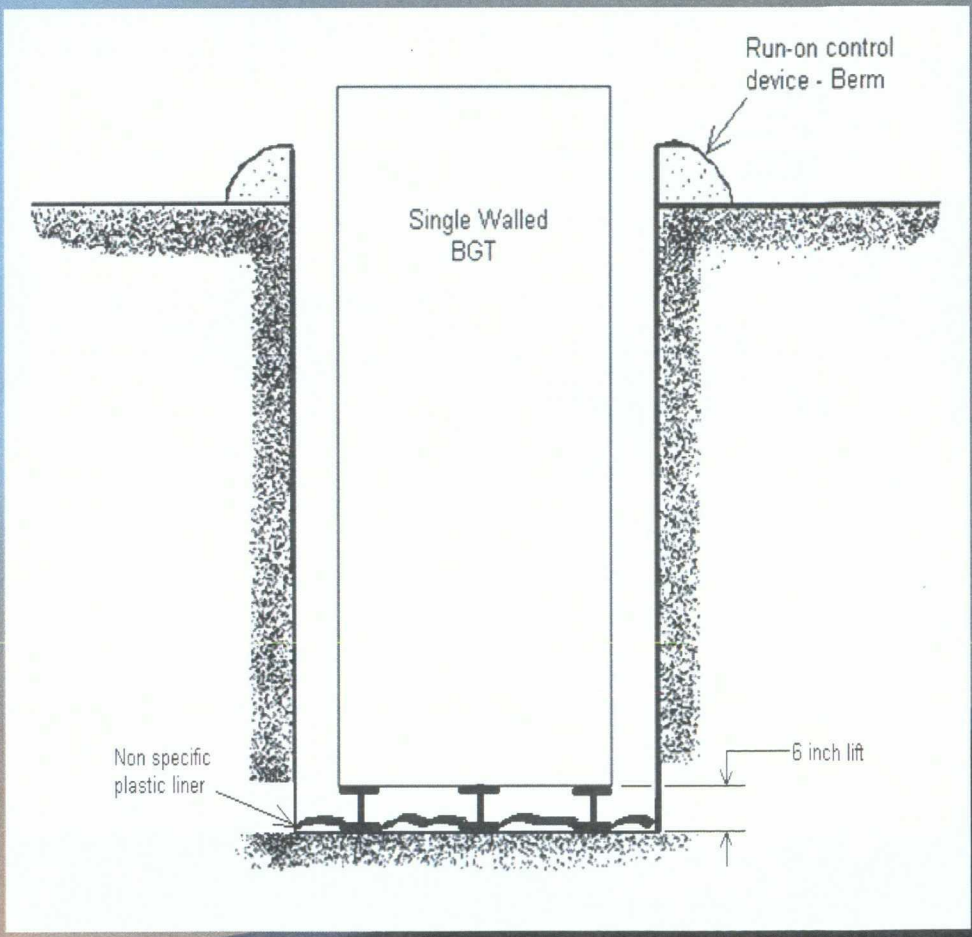
CURRENT BELOW-GRADE TANK INTERIM DESIGN 19.15.17.11.I (5) NMAC

Below-grade Tanks (19.15.17.11.I (5) NMAC):

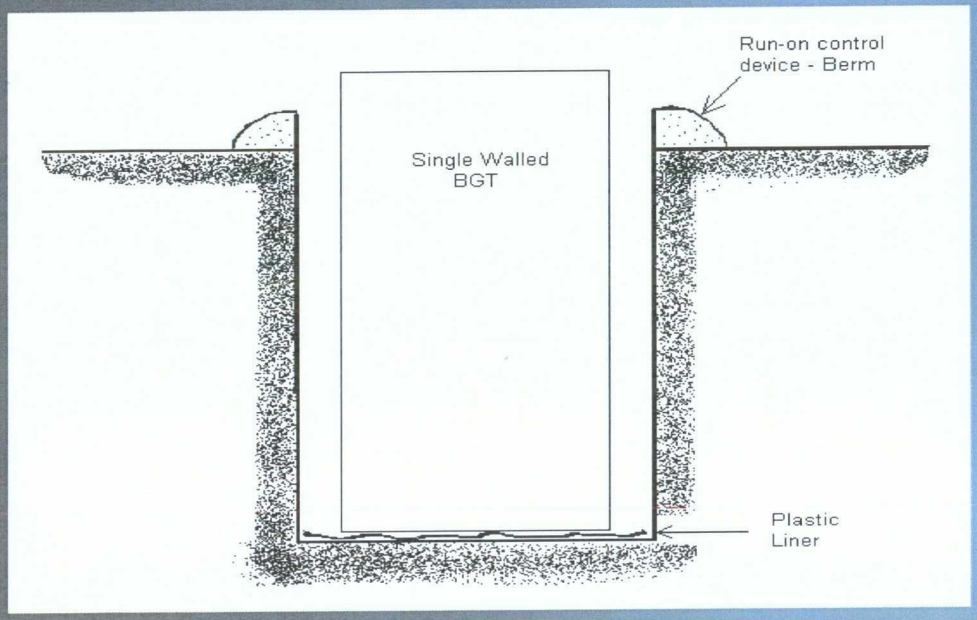
- Below-grade tanks constructed and installed prior to June 16, 2008, that have the side walls open for visual inspection and are placed upon a geomembrane liner
  - Do not satisfy all the requirements in Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC.
  - Not required to equip or retrofit the below-grade tank to comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC so long as the tank demonstrates integrity.
  - If the existing below-grade tank does not demonstrate integrity, the operator shall promptly remove that below-grade tank and install a below-grade tank that complies with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC.
  - May require a permit, if not previously permitted prior to the effective date.

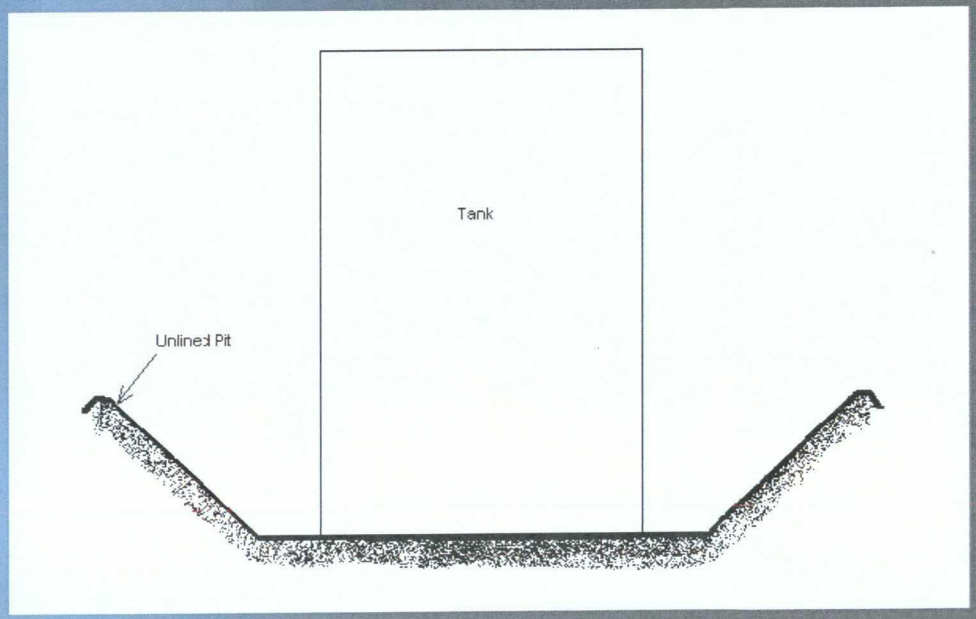
CURRENT BELOW-GRADE TANK INTERIM DESIGNS 19.15.17.11.I (5) NMAC

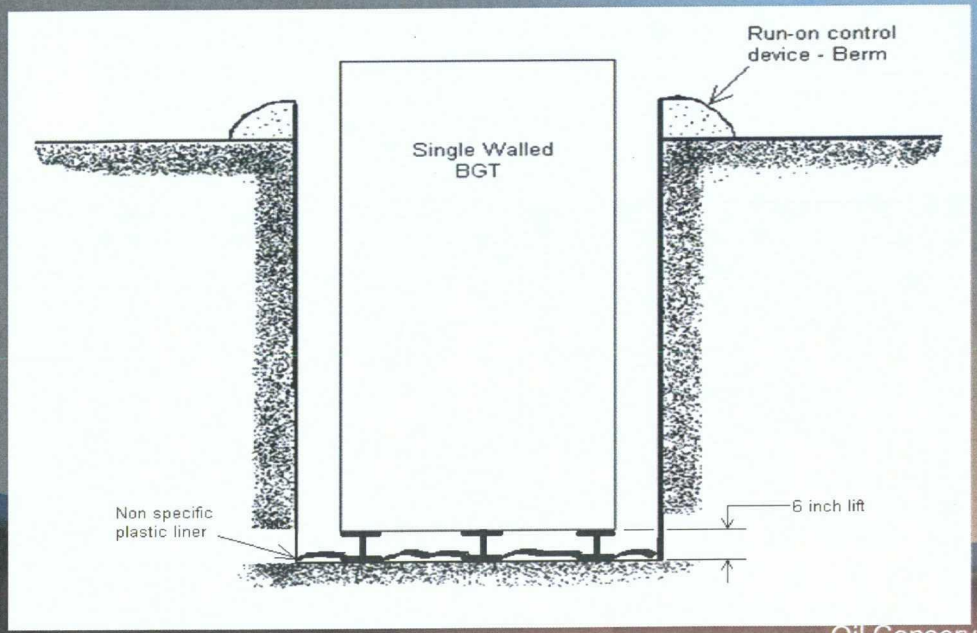


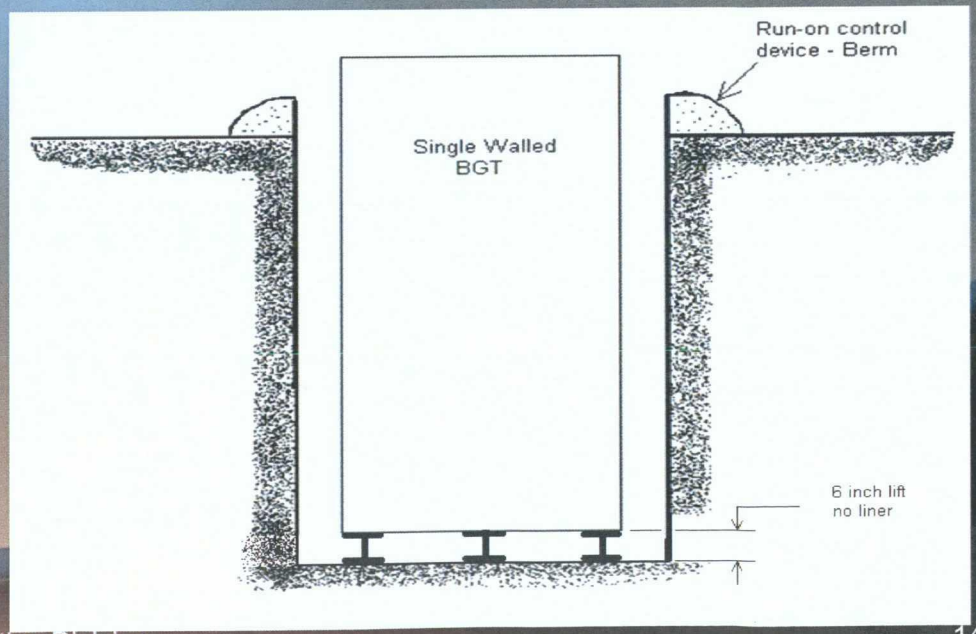


PROPOSED BELOW-GRADE TANK INTERIM DESIGNS 19.15.17.11.I (5) NMAC







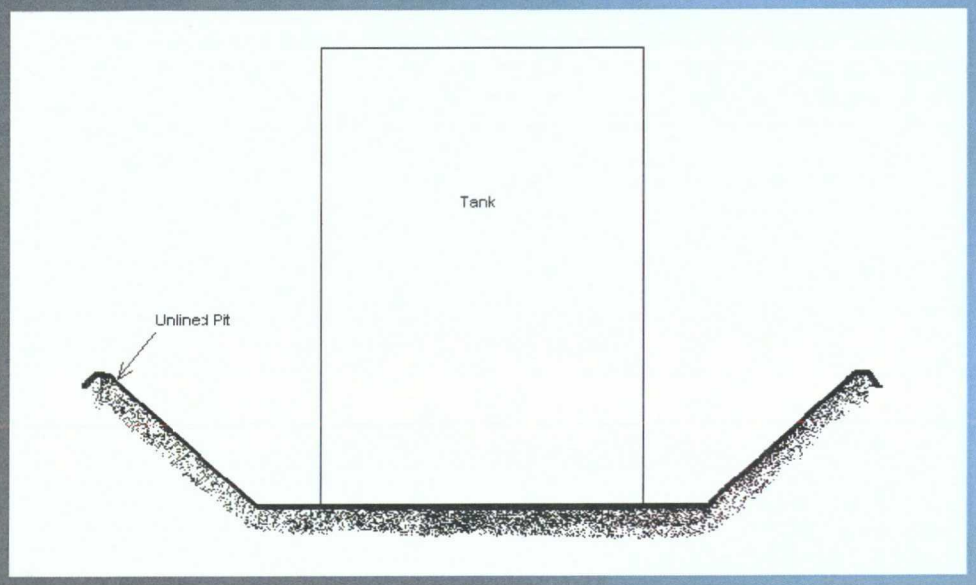


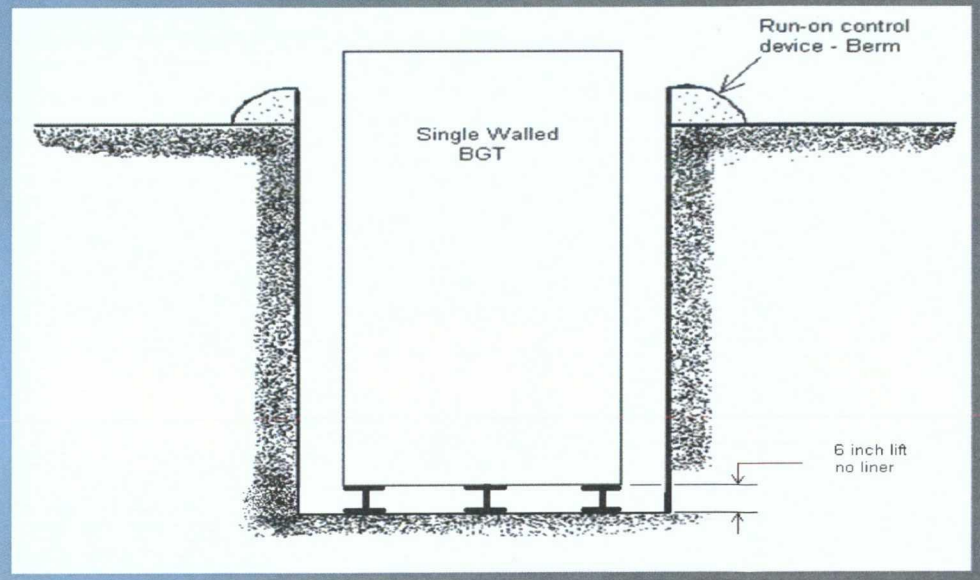
CURRENT BELOW-GRADE TANK DESIGN THAT REQUIRES RETROFIT OR CLOSURE 19.15.17.11.I (6) NMAC

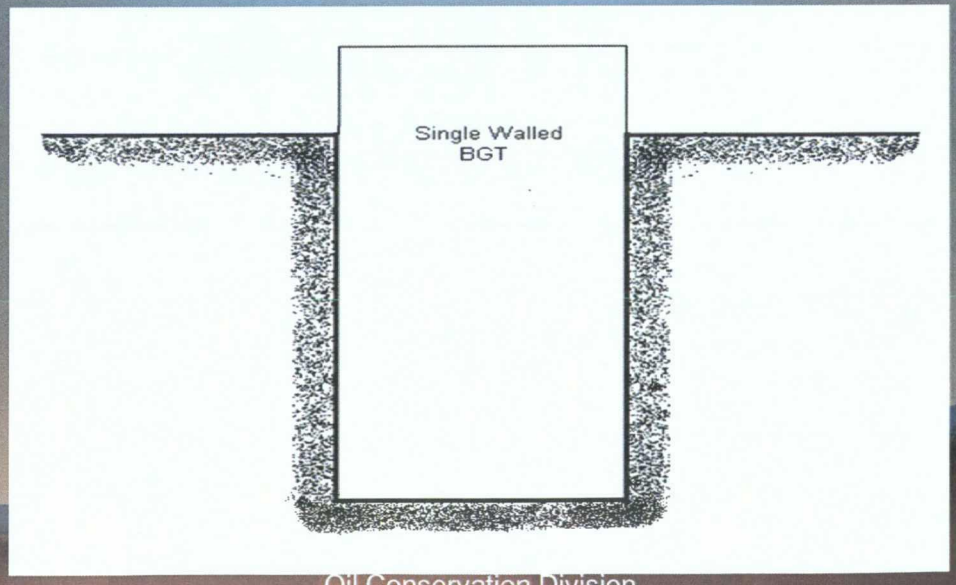
Below-grade Tanks (19.15.17.11.I (6) NMAC):

- Below-grade tanks constructed and installed prior to June 16, 2008, that do not comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC or that do not comply with Paragraph (5) of Subsection I of 19.15.17.11 NMAC.
  - Shall equip or retrofit the below-grade tank to comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC, or close the tank, within five years after June 16, 2008.
  - If the existing below-grade tank does not demonstrate integrity, the operator shall promptly remove that below-grade tank and install a below-grade tank that complies with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC or close it.
  - May require a permit, if not previously permitted prior to the effective date.

CURRENT BELOW-GRADE TANK DESIGNS (THAT REQUIRES RETROFIT OR CLOSURE) 19.15.17.11.I (6) NMAC

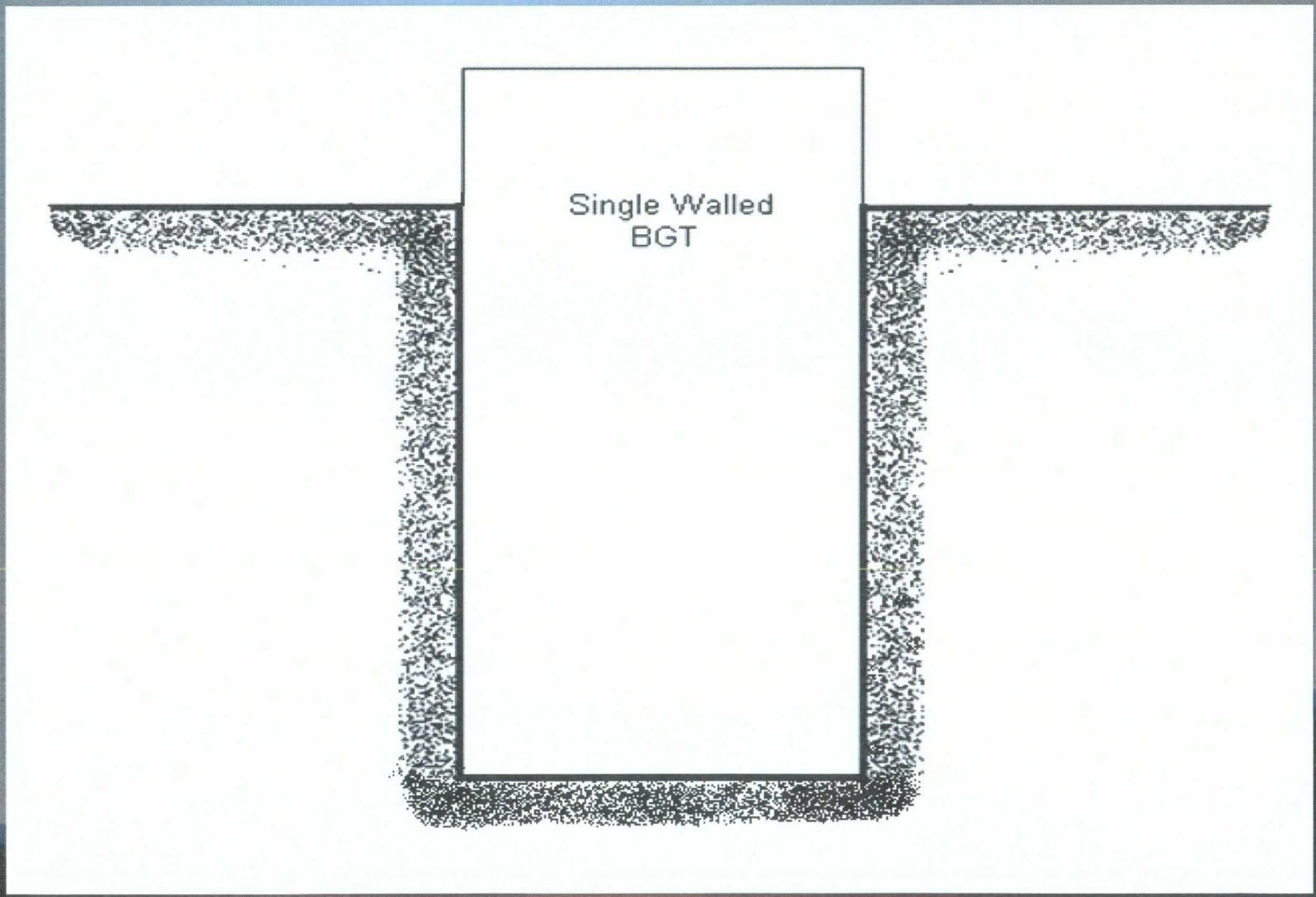






PROPOSED BELOW-GRADE TANK DESIGN (THAT REQUIRES RETROFIT OR CLOSURE)

19.15.17.11.I (6) NMAC



PROPOSED AMENDMENTS BELOW-GRADE TANK DESIGN AND CONSTRUCTION SPECIFICATION

What is the intent of the amendments?

- To allow operators that were proactive and installed a design that allowed for a larger portion of the below-grade tank to be inspected for leaks to continue to operate until the tank's integrity fails or until the tank is sold or transferred. Thus, deferring the closure and retrofit costs until action is required and not within five years of June 16, 2008, as currently required.
- To address operators of below-grade tanks constructed and installed prior to June 16, 2008, that did not obtain permits or install tanks that comply with the design and construction requirements of Rule 50 (secondary containment and leak detection). Such operators will be required to retrofit the tank to comply with a approved design or close the tank, within five years of June 16, 2008 or when the tank's integrity fails, whichever occurs first.

PROPOSED AMENDMENTS BELOW-GRADE TANK OPERATIONAL REQUIREMENTS

- OCD proposes to extend the written monthly inspection record keeping period regarding below-grade tanks.

Proposed Amendment - Paragraph (3) of 19.15.17.12.D NMAC:

- "The operator shall inspect the below-grade tank at least monthly and maintain a written record of each inspection for ~~five years~~ the life of the below-grade tank."

PROPOSED AMENDMENTS BELOW-GRADE TANK OPERATIONAL REQUIREMENTS

What does this mean?

- The record keeping period will be linked to the life of the tank, instead for a five year period.
- Operators of below-grade tanks constructed and installed prior to June 16, 2008, that do not satisfy all of the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC (an approved design) will be required to maintain the written monthly inspection record during the life of the tank until the tank is replaced, properly retrofitted or closed.
- Operators of an existing below-grade tank that complies with an approved design of Subsection I of 19.15.17.11 NMAC will be required to maintain the written monthly inspection record for the life of that tank until the tank is replaced or closed.
- If an operator retrofits or replaces a below-grade tank with a tank that complies with an approved design of Subsection I of 19.15.17.11 NMAC, then the operator will be required to begin and maintain the record for the new tank design.

PROPOSED AMENDMENTS BELOW-GRADE TANK OPERATIONAL REQUIREMENTS

What is the intent of this amendment?

- To address a category of existing below-grade tanks that the operator was originally required to retrofit or close within five years of the effective date and now have the potential to be active and remain in service until integrity fails, or the operator chooses to or is required to retrofit the below-grade tank or close it.
  - If an operator never sells or transfers the below-grade tank and continues to operate it, the below-grade tank could be in operation until the well is shut-in or plugged.
- To create a recorded history of the below-grade tank.
- If an operator's records demonstrate that multiple repairs have been performed on the same tank, for the same issue, on the same portion of the tank, the information may constitute cause for OCD to require the operator the replace the tank rather than repair it again, thus preventing additional releases or a major release.

PROPOSED AMENDMENTS BELOW-GRADE TANK OPERATIONAL REQUIREMENTS

- OCD proposes to provide operators instruction on how to respond to an integrity failure or a release associated with a below-grade tank constructed and installed prior to June 16, 2008, that does not comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC.

PROPOSED AMENDMENTS BELOW-GRADE TANK OPERATIONAL REQUIREMENTS

Proposed Amendment - Paragraph (5) of 19.15.17.12.D NMAC:

- "The operator of a below-grade tank constructed and installed prior to June 16, 2008 that does not meet the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC who discovers that the below-grade tank does not demonstrate integrity or that the below-grade tank develops any of the conditions identified in Paragraph (5) of Subsection A of 19.15.17.12 NMAC shall close the existing below-grade tank pursuant to the closure requirements of Section 13 of 19.15.17 NMAC and install a below-grade tank that complies with the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC."

PROPOSED AMENDMENTS BELOW-GRADE TANK OPERATIONAL REQUIREMENTS

What does this mean?

- Operators of a below-grade tank constructed and installed prior to June 16, 2008, that does not satisfy all of the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC (an approved design) where the tank's integrity fails, or the tank develops a leak, or any penetration of the below-grade tank occurs below the liquid's surface, will be required to assess and address the release prior to initiating a below-grade tank retrofit or replacing the existing below-grade tank.
- Operators will be required to close the existing below-grade tank pursuant to the closure requirements of 19.15.17.13 NMAC prior to initiating retrofit or replacement.
- Operators may not be allowed to repair the below-grade tank for continued use since a retrofit or tank replacement is required. Operators may be allowed to repair the existing below-grade tank if the repaired tank will be retrofitted to comply with all of the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC (an approved design).

PROPOSED AMENDMENTS BELOW-GRADE TANK OPERATIONAL REQUIREMENTS

What is the intent of this amendment?

- To inform operators of below-grade tanks constructed and installed prior to June 16, 2008, that do not satisfy all of the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC (an approved design) of their responsibilities if the tank's integrity fails.
- To inform operators of below-grade tanks constructed and installed prior to June 16, 2008 that do not satisfy all of the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC (an approved design) of their responsibilities if the tank develops a leak, or if any penetration of the below-grade tank occurs below the liquid's surface.
- To achieve an environmental balance by allowing operators to continue to operate existing below-grade tanks that do not comply with the design and construction specifications of an approved design while requiring the operator to address any releases prior to a tank retrofit or replacement.

PROPOSED AMENDMENTS BELOW-GRADE TANK OPERATIONAL REQUIREMENTS

- OCD proposes to provide operators instruction on how to respond to a discovery of a release during a retrofit of a below-grade tank constructed and installed prior to June 16, 2008 that does not comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC.

PROPOSED AMENDMENTS BELOW-GRADE TANK OPERATIONAL REQUIREMENTS

Proposed Amendment - Paragraph (6) of 19.15.17.12.D NMAC:

- "The operator of a below-grade tank constructed and installed prior to June 16, 2008 that does not comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC who equips or retrofits the existing tank to comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC shall visually inspect the area beneath the below-grade tank during the retrofit and document any areas that are wet, discolored or showing other evidence of a release on form C-141. The operator shall demonstrate to the division whether the evidence of contamination indicates that an imminent threat to fresh water, public health, safety or the environment exists. If the division determines that the contamination does not pose an imminent threat to fresh water, public health, safety or the environment, the operator shall complete the retrofit or the replacement of the below-grade tank. If the operator or division determines that the contamination poses an imminent threat to fresh water, public health, safety or the environment, then the operator shall close the existing below-grade tank pursuant to the closure requirements of Section 13 of 19.15.17 NMAC prior to initiating the retrofit or replacement."

PROPOSED AMENDMENTS
BELOW-GRADE TANK OPERATIONAL REQUIREMENTS

What does this mean?

- Operators of a below-grade tank constructed and installed prior to June 16, 2008, that does not satisfy all of the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC (an approved design) that initiates a tank retrofit or replacement prior to an integrity failure or release will be required to investigate beneath the tank, make an assessment, and address any discovered contamination prior to initiating a retrofit or replacement of the tank.
- Operators will be required to document any evidence of a release on form C-141 and demonstrate to the division whether the evidence of contamination indicates that an imminent threat to fresh water, public health, safety or the environment exists.
- If the operator or division determines that the contamination poses an imminent threat to fresh water, public health, safety or the environment, then the operator will be required to comply with the closure requirements of 19.15.17.13 NMAC (especially complying with 19.15.29 NMAC and 19.15.30 NMAC), prior to initiating the retrofit or replacement.

PROPOSED AMENDMENTS BELOW-GRADE TANK OPERATIONAL REQUIREMENTS

What is the intent of this amendment?

- To require operators of below-grade tanks constructed and installed prior to June 16, 2008, that do not satisfy all of the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC (an approved design) to investigate beneath the tanks, make an assessment and possibly address contamination prior to initiating retrofit or replacement of the tanks.
- To allow operators of below-grade tanks constructed and installed prior to June 16, 2008, that do not satisfy all of the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC (an approved design) that initiate tank retrofits or replacements prior to an integrity failure or release the opportunity to address contamination discovered beneath the existing tank in a protective, but less stringent manner, by demonstrating to the division "whether the evidence of contamination indicates that an imminent threat to fresh water, public health, safety or the environment exists."

PROPOSED AMENDMENTS BELOW-GRADE TANK CLOSURE TIMELINE REQUIREMENTS

- OCD proposes a new timeline regarding the closure of below-grade tanks constructed and installed prior to June 16, 2008, that do not comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC when the operator has not properly retrofitted or replaced the tank prior to sale or transfer of ownership.

PROPOSED AMENDMENTS BELOW-GRADE TANK CLOSURE TIMELINE REQUIREMENTS

Proposed Amendment - Paragraph (5) of 19.15.17.13.A NMAC:

- "An operator shall close an existing below-grade tank that does not meet the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC, if not retrofitted to comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC, prior to any sale or transfer of ownership."

PROPOSED AMENDMENTS BELOW-GRADE TANK CLOSURE TIMELINE REQUIREMENTS

What does this mean?

- An operator of a below-grade tank constructed and installed prior to June 16, 2008, that does not comply with the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC and where the operator has not retrofitted or replaced the existing tank to an approved design will be required to close the below-grade tank prior to any sale or transfer of ownership.

PROPOSED AMENDMENTS BELOW-GRADE TANK CLOSURE TIMELINE REQUIREMENTS

What is the intent of this amendment?

- To identify a closure timeline for operators of existing below-grade tanks that do not comply with the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC .
- To prevent an operator of a below-grade tank constructed and installed prior to June 16, 2008, that does not comply with the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC from transferring their environmental liability related to the existing below-grade tanks operations to future operators through sale or transfer of ownership.

PROPOSED AMENDMENTS BELOW-GRADE TANK PERMIT TRANSFERS

- OCD proposes to limit the division approval of an application to transfer a well or other facility with which a permitted below-grade tank is associated to constitute approval of the transfer of the permit for the below-grade tank by excluding below-grade tanks that do not comply with the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC.
- OCD proposes to require an operator of a below-grade tank constructed and installed prior to June 16, 2008, to close the existing below-grade tank pursuant to the closure requirements of Section 13 of 19.15.17 NMAC or complete the retrofit of the existing below-grade tank to comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC prior to any sale or transfer of ownership.

PROPOSED AMENDMENTS BELOW-GRADE TANK PERMIT TRANSFERS

Proposed Amendment – Subsection F of 19.15.17.16 NMAC:

- "Transfer of a permit. The operator shall not transfer a permit without the division's prior written approval. Except for existing below-grade tanks that do not meet the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC, ~~T~~the division's approval of an application to transfer a well or other facility with which a permitted pit, below-grade tank or closed-loop system is associated shall constitute approval of the transfer of the permit for the pit, below-grade tank or closed-loop system. The operator of a below-grade tank constructed and installed prior to June 16, 2008 shall close the existing below-grade tank pursuant to the closure requirements of Section 13 of 19.15.17 NMAC or complete the retrofit of the existing below-grade tank to comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC prior to any sale or transfer of ownership. In all other cases, the operator and the transferee shall apply for approval to transfer the permit to the division office to which permit applications for the type of facility involved are directed."

PROPOSED AMENDMENTS BELOW-GRADE TANK PERMIT TRANSFERS

What does this mean?

- An operator of a below-grade tank constructed and installed prior to June 16, 2008, that does not comply with all of the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC will be required to either close the existing tank or to retrofit or replace the existing below-grade tank with an approved design in order to sell or transfer ownership.
- Division approval of a sale or transfer of a well or facility will not constitute approval of a sale or transfer of a below-grade tank associated with that well or facility that does not satisfy all of the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC

PROPOSED AMENDMENTS BELOW-GRADE TANK PERMIT TRANSFERS

What is the intent of this amendment?

- To require an operator of a below-grade tank constructed and installed prior to June 16, 2008, that does not comply with the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC to bring the existing tank into compliance or close it pursuant to the closure requirements of Section 13 of 19.15.17 NMAC prior to any sale or transfer of ownership.
- To prevent an operator of a below-grade tank constructed and installed prior to June 16, 2008, that does not comply with the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC from transferring their environmental liability related to the existing below-grade tanks operations and non-compliance issues to future operators through sale or transfer of ownership.

PROPOSED AMENDMENTS BELOW-GRADE TANK TRANSITIONAL PROVISIONS REGARDING CLOSURE

- OCD proposes to require an operator of a below-grade tank constructed and installed prior to June 16, 2008, that does not comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC to submit a closure plan to the division prior to requesting a permit transfer and to close the existing below-grade tank pursuant to the closure requirements of Section 13 of 19.15.17 NMAC prior to any sale or transfer of ownership, if the operator has to not completed the tank retrofit or replacement.

PROPOSED AMENDMENTS BELOW-GRADE TANK TRANSITIONAL PROVISIONS REGARDING CLOSURE

Proposed Amendment – Subsection B of 19.15.17.17 NMAC:

- "An operator of an existing operation that is required to close pursuant to Paragraphs (2) or (3) of Subsection A of 19.15.17.13 NMAC shall submit a closure plan pursuant to Subsection C of 19.15.17.9 NMAC to the division not later than 30 days after June 16, 2008. An operator of an existing operation that is required to close pursuant to Paragraphs (1) or (4) of Subsection A of 19.15.17.13 NMAC shall submit a closure plan pursuant to Subsection C of 19.15.17.9 NMAC to the division not later than six months after June 16, 2008. An operator of an existing operation that is required to close pursuant to Paragraph (5) of Subsection A of 19.15.17.13 NMAC shall submit a closure plan pursuant to Subsection C of 19.15.17.9 NMAC to the division prior to the time of requesting a permit transfer. The division must approve the closure plan and the operator must complete closure activities pursuant to the closure requirements of 19.15.17.13 NMAC prior to any sale or transfer of ownership, unless otherwise approved by the division."

PROPOSED AMENDMENTS BELOW-GRADE TANK TRANSITIONAL PROVISIONS REGARDING CLOSURE

What does this mean?

- An operator of an existing below-grade tank that does not comply with the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC and where the operator has not completed the appropriate retrofit or replacement will be required to submit a closure plan and complete the appropriate closure activities, based upon an approved closure plan, prior to any sale or transfer of ownership.
- The operator is required to submit the closure plan to the division prior to requesting a permit transfer.

PROPOSED AMENDMENTS BELOW-GRADE TANK TRANSITIONAL PROVISIONS REGARDING CLOSURE

What is the intent of this amendment?

- To remind operators of their responsibility to submit a closure plan and complete the appropriate closure activities prior to any sale or transfer of ownership of an existing below-grade tank that does not comply with the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC and where the operator has decided to not complete the appropriate retrofit.
- To prevent an operator of a below-grade tank constructed and installed prior to June 16, 2008, that does not comply with the requirements of Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC from transferring their environmental liability related to the existing below-grade tanks operations and non-compliance issues to future operators through sale or transfer of ownership.

PROPOSED AMENDMENT REGARDING THE CHLORIDE STANDARD FOR ON-SITE TRENCH BURIAL

OCD proposes to increase the content (waste) burial standard for chlorides and to allow a comparison to background concentrations at the site with regard to the implementation of on-site trench burial closure method pursuant to Paragraph (3) of Subsection F of 19.15.17.13 NMAC.

PROPOSED AMENDMENT REGARDING THE CHLORIDE STANDARD FOR ON-SITE TRENCH BURIAL

Proposed Amendment – Subparagraph (c) of 19.15.17.13 F(3) NMAC:

- "The operator shall collect at a minimum, a five point, composite sample of the contents of the drying pad associated with a closed-loop system or of the temporary pit to demonstrate that the TPH concentration, as determined by EPA method 418.1 or other EPA method that the division approves, does not exceed 2500 mg/kg. Using EPA SW-846 method 1312 or other EPA leaching procedure that the division approves, the operator shall demonstrate that the chloride concentration, as determined by EPA method 300.1 or other EPA method that the division approves, does not exceed ~~250~~ 3000 mg/l or the background concentration, whichever is greater, and that the concentrations of the water contaminants specified in Subsection A of 20.6.2.3103 NMAC as determined by appropriate EPA methods do not exceed the standards specified in Subsection A of 20.6.2.3103 NMAC, unless otherwise specified above. The operator may collect the composite sample prior to treatment or stabilization to demonstrate that the contents do not exceed these concentrations. However, if the contents collected prior to treatment or stabilization exceed the specified concentrations the operator shall collect a second five point, composite sample of the contents after treatment or stabilization to demonstrate that the contents do not exceed these concentrations."

PROPOSED AMENDMENT REGARDING THE CHLORIDE STANDARD FOR ON-SITE TRENCH BURIAL

What does this mean?

- OCD proposes an increase in the chloride waste content burial standard for on-site trench burial. OCD proposes to increase the chloride concentration from 250 mg/L to 3000 mg/L. The chloride concentration is still based upon using EPA SW-846 method 1312, the Synthetic Precipitation Leaching Procedure (*SPLP*), and EPA method 300.1.
- Operators would also be allowed to compare the site's natural background concentration for chlorides to the chloride concentration of the waste material when assessing chlorides in order to determine if on-site trench burial is an viable option for closure.
- Operators shall determine the site's natural background chloride concentration by using EPA SW-846 method 1312, the Synthetic Precipitation Leaching Procedure (*SPLP*), and EPA method 300.1.

PROPOSED AMENDMENT REGARDING THE CHLORIDE STANDARD FOR ON-SITE TRENCH BURIAL

What is the intent of this amendment?

- To propose a practical and environmentally protective chloride burial standard that would allow operators the opportunity to satisfy the chloride standard for on-site trench burial.
  - OCD is confident that the baseline requirements established by the Commission, such as the siting requirements (100 foot separation to ground water from the bottom of the trench), design and construction specifications of the on-site trench (proper subgrade prep, liner specifications, and seam installation and placement requirements), waste content burial standards, and site reclamation, soil cover, and re-vegetation requirements, combined with the proposed chloride burial standard will provide protection of fresh water, public health and the environment.
- To allow operators the opportunity to compare the chloride concentration of the waste material to naturally occurring unimpacted site background concentrations for determination of allowing on-site trench burial, only for chlorides.

PROPOSED AMENDMENTS TO THE TRANSITIONAL PROVISIONS REGARDING THE SUBMITTAL DATES FOR PERMITS AND PERMIT MODIFICATIONS

OCD proposes to extend the permit and permit modification application submittal dates regarding existing below-grade tanks and lined permanent pits for two years from June 16, 2008, provided the operator complies with the registration requirement.

OCD proposes to require operators of existing below-grade tanks and lined permanent pits, that must submit a permit or a permit modification, to register the existing below-grade tanks and lined permanent pits within one year of June 16, 2008, prior to submitting an application.

PROPOSED AMENDMENTS REGARDING THE SUBMITTAL DATES FOR PERMITS AND PERMIT MODIFICATIONS

Proposed Amendment – Section C of 19.15.17.17 NMAC:

- "Within one year after June 16, 2008, an operator of an existing lined permitted permanent pit shall submit a list of the lined permitted permanent pit or pits of which it is the operator that require a permit or permit modification to the division for registration. The registration list shall include the operator's name, the name of the well or facility with which the lined permitted permanent pit is associated, the API number or facility name, a legal description, global positioning coordinates to the sixth decimal point, the number of lined permitted permanent pits associated with the site, and a determination if a permit or permit modification is required. Within ~~180 days~~ two years after June 16, 2008, an operator of an existing lined permitted permanent pit shall request a modification pursuant to Subsection E of 19.15.17.16 NMAC. Within ~~180 days~~ two years after June 16, 2008, an operator of an existing lined registered permanent pit shall apply to the division for a permit pursuant to 19.15.17 NMAC. An operator of an existing lined, permitted or registered, permanent pit shall comply with the construction requirements of 19.15.17.11 NMAC within 18 months after permit modification or issuance."

PROPOSED AMENDMENTS REGARDING THE SUBMITTAL DATES FOR PERMITS AND PERMIT MODIFICATIONS

Proposed Amendment – Section D of 19.15.17.17 NMAC:

- "Within one year after June 16, 2008, an operator of an existing below-grade tank shall submit a list of the below-grade tank or tanks of which it is the operator that require a permit or permit modification to the division for registration. The registration list shall include the operator's name, the name of the well or facility with which the below-grade tank is associated, the API number or facility name, a legal description, global positioning coordinates to the sixth decimal point, the number of below-grade tanks associated with the site, and a determination if a permit or permit modification is required. An operator of an existing below-grade tank shall apply for a permit or permit modification pursuant to 19.15.17 NMAC within ~~90 days~~ two years after June 16, 2008. An operator of an existing below-grade tank shall comply with the construction requirements of 19.15.17.11 NMAC ~~within one year of permit issuance~~ upon discovery that the below-grade tank does not demonstrate integrity or prior to any sale or transfer of ownership."

PROPOSED AMENDMENTS REGARDING THE SUBMITTAL DATES FOR PERMITS AND PERMIT MODIFICATIONS

What is the intent of this amendment?

- To require operators to identify which existing below-grade tanks and lined permanent pits will require a permit or permit modification application submittal.
  - The registration will provide OCD notice of the number of existing below-grade tanks and lined permanent pits that remain outstanding and require some type of action by the operator.
- To allow operators ample time to create and submit an appropriate application without having to request an exception to extend the submittal dates or establish an agreed scheduling order.
  - It will also allow the operator an opportunity to work with the division in the creation of templates regarding operation and maintenance, design and construction, and closure, that can be placed in the application packet and will facilitate an expedited review by the division.

PROPOSED AMENDMENTS REGARDING THE SUBMITTAL DATES FOR PERMITS AND PERMIT MODIFICATIONS

What does this mean?

- Operators will be required to register existing below-grade tanks and lined permanent pits that require a permit or permit modification application submittal within one year of the effective date of the rule, June 16, 2008.
  - Operators that have established an agreed scheduling order with the division have already satisfied this requirement and will not have re-register. Such operators will be required to register existing below-grade tanks and lined permanent pits that are not currently identified under the agreed scheduling order.
- Operators will be required to submit permit or permit modification applications within two years of the effective date of the rule, June 16, 2008, for existing below-grade tanks and lined permanent pits that require of such submittals to continue to operate.
  - The current rule requires operators to submit a permit or permit modification application for existing permitted or registered permanent pits within **180 days of June, 16, 2008**.
  - The current rule requires operators to submit a permit or permit modification application for existing below-grade tanks **within 90 days of June, 16, 2008**.