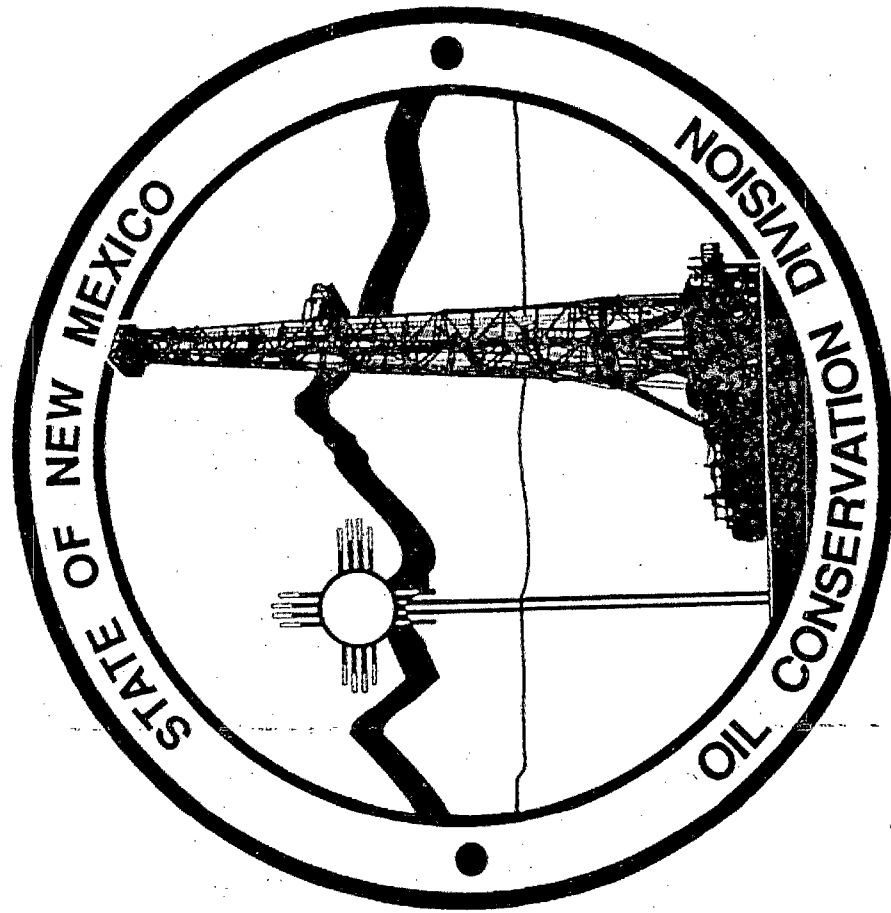


CASE NO. 14292
OCD EXHIBIT 1



APPLICATION FOR RULE AMENDMENT

Proposed changes to the design and construction specifications regarding below-grade tanks (19.15.17.11.I NMAC):

19.15.17.11.I (5)

"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."

19.15.17.11.I (6)

"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 changes to the operational requirements regarding below-grade tanks (19.15.17.12.D NMAC):

19.15.17.12.D (3)

"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."

19.15.17.12.D (5)

"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.”

19.15.17.12.D (6)

“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 changes to the closure requirements regarding below-grade tanks (19.15.17.13.A NMAC):

19.15.17.13.A(5)

“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.”

(56) An operator shall close any other permitted permanent pit within 60 days of cessation of operation of the permanent pit in accordance with a closure plan that the environmental bureau in the division’s Santa Fe office approves.

(67) An operator shall close any other permitted temporary pit within six months from the date that the operator releases the drilling or workover rig. The appropriate division district office may grant an extension not to exceed three months.

(78) An operator shall close a drying pad used for a closed-loop system permitted under 19.15.17 NMAC or in operation on June 16, 2008, within six months from the date that the operator releases the drilling or workover rig. The operator shall note the date of the drilling or workover rig’s release on form C-105 or C-103, filed with the division, upon the well’s or workover’s completion. The appropriate division district office may grant an extension not to exceed six months.

(89) An operator shall close a permitted below-grade tank within 60 days of cessation of the below-grade tank’s operation or as required by the transitional provisions of Subsection B of 19.15.17.17 NMAC in accordance with a closure plan that the appropriate division district office approves.

Proposed change to the on-site trench burial waste content chloride standard (19.15.17.13.F(3) NMAC):

19.15.17.13.F(3)(c)

“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 changes to the permit transfer provisions (19.15.17.16.F NMAC):

19.15.17.16.F

“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 changes to the transitional provisions (19.15.17.17 NMAC):

19.15.17.17.B

“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."

19.15.17.17.C

"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."

19.15.17.17.D

"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.~~"