

# Exhibit C

This is an amendment to 19.15.17 NMAC, Sections 7, 11, 13, and 15, effective 1/1/08.

**19.15.17.7 DEFINITIONS:**

A. "Alluvium" means detrital material that water or other erosional forces have transported and deposited at points along a watercourse's flood plain. It typically is composed of sands, silts and gravels; exhibits high porosity and permeability; and generally carries fresh water.

B. "Closed-loop system" means a system that uses above ground steel tanks for the management of drilling or workover fluids without using below-grade tanks or pits.

C. "Division-approved facility" means a division-permitted surface waste management or injection facility, a facility permitted pursuant to 20.6.2 NMAC, a facility approved pursuant to ~~[19.15.9.712 NMAC]~~ 19.15.35.8 NMAC or other facility that the division specifically approves for the particular purpose. The division shall not approve any facility not otherwise permitted unless it finds that the facility's use for the specified purpose will protect fresh water, public health and the environment and comply with other applicable federal or state statutes, federal regulations, state rules and local ordinances.

D. "Emergency pit" means a pit that is constructed as a precautionary matter to contain a spill in the event of a release.

E. "Permanent pit" means a pit, including a pit used for collection, retention or storage of produced water or brine that is constructed with the conditions and for the duration provided in its permit, and is not a temporary pit.

F. "Restore" means to return a site to its former condition, in the manner and to the extent required by applicable provisions of 19.15.17 NMAC.

G. "Significant watercourse" means a watercourse with a defined bed and bank either named on a USGS 7.5 minute quadrangle map or a first order tributary of such watercourse.

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.

I. "Temporary pit" means a pit, including a drilling or workover pit, which is constructed with the intent that the pit will hold liquids for less than six months and will be closed in less than one year. [19.15.17.7 NMAC - N, 6/16/08; A, 1/1/08]

**19.15.17.11 DESIGN AND CONSTRUCTION SPECIFICATIONS:**

A. General specifications. An operator shall design and construct a pit, closed-loop system, below-grade tank or sump to contain liquids and solids and prevent contamination of fresh water and protect public health and the environment.

B. Stockpiling of topsoil. Prior to constructing a pit or closed-looped system, except a pit constructed in an emergency, the operator shall strip and stockpile the topsoil for use as the final cover or fill at the time of closure.

C. Signs. The operator shall post an upright sign not less than 12 inches by 24 inches with lettering not less than two inches in height in a conspicuous place on the fence surrounding the pit, closed-loop system or below-grade tank, unless the pit, closed-loop system or below-grade tank is located on a site where there is an existing well, signed in compliance with ~~[19.15.3.103 NMAC]~~ 19.15.16.8 NMAC, that is operated by the same operator. The operator shall post the sign in a manner and location such that a person can easily read the legend. The sign shall provide the following information: the operator's name; the location of the site by quarter-quarter or unit letter, section, township and range; and emergency telephone numbers.

D. Fencing.

(1) The operator shall fence or enclose a pit or below-grade tank in a manner that prevents unauthorized access and shall maintain the fences in good repair. Fences are not required if there is an adequate surrounding perimeter fence that prevents unauthorized access to the well site or facility, including the pit or below-grade tank. During drilling or workover operations, the operator is not required to fence the edge of the pit adjacent to the drilling or workover rig.

(2) The operator shall fence or enclose a pit or below-grade tank located within 1000 feet of a permanent residence, school, hospital, institution or church with a chain link security fence, at least six feet in height with at least two strands of barbed wire at the top. The operator shall ensure that all gates associated with the fence are closed and locked when responsible personnel are not on-site. During drilling or workover operations, the operator is not required to fence the edge of the temporary pit adjacent to the drilling or workover rig.

(3) The operator shall fence any other pit or below-grade tank to exclude livestock with a four foot fence that has at least four strands of barbed wire evenly spaced in the interval between one foot and four feet above ground level. The appropriate division district office may approve an alternative to this requirement if the operator demonstrates that an alternative provides equivalent or better protection. The appropriate division district office may impose additional fencing requirements for protection of wildlife in particular areas.

E. Netting. The operator shall ensure that a permanent pit or a permanent open top tank is screened, netted or otherwise rendered non-hazardous to wildlife, including migratory birds. Where netting or screening is not feasible, the operator shall on a monthly basis inspect for, and within 30-days of discovery, report discovery of dead migratory birds or other wildlife to the appropriate wildlife agency and to the appropriate division district office in order to facilitate assessment and implementation of measures to prevent incidents from reoccurring.

F. Temporary pits. The operator shall design and construct a temporary pit in accordance with the following requirements.

(1) The operator shall design and construct a temporary pit to ensure the confinement of liquids to prevent unauthorized releases.

(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 a 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-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.

(4) The operator shall minimize liner seams and orient them up and down, not across a slope. The operator shall use factory welded seams where possible. Prior to field seaming, the operator shall overlap liners four to six inches and orient seams parallel to the line of maximum slope, *i.e.*, oriented along, not across, the slope. The operator shall minimize the number of field seams in corners and irregularly shaped areas. Qualified personnel shall perform field seaming. The operator shall weld field liner seams.

(5) Construction shall avoid excessive stress-strain on the liner.

(6) Geotextile is required under the liner where needed to reduce localized stress-strain or protuberances that may otherwise compromise the liner's integrity.

(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.

(8) The operator shall ensure that the liner is protected from any fluid force or mechanical damage at any point of discharge into or suction from the lined temporary pit.

(9) The operator shall design and construct a temporary pit to prevent run-on of surface water. A berm, ditch, proper sloping or other diversion shall surround a temporary pit to prevent run-on of surface water. During drilling operations, the edge of the temporary pit adjacent to the drilling or workover rig is not required to have run-on protection if the operator is using the temporary pit to collect liquids escaping from the drilling or workover rig and run-on will not result in a breach of the temporary pit.

(10) The volume of a temporary pit shall not exceed 10 acre-feet, including freeboard.

(11) The part of a temporary pit used to vent or flare gas during a drilling or workover operation that is designed to allow liquids to drain to a separate temporary pit does not require a liner, unless the appropriate division district office requires an alternative design in order to protect surface water, ground water and the environment. The operator shall not allow freestanding liquids to remain on the unlined portion of a temporary pit used to vent or flare gas.

G. Permanent pits. The operator shall design and construct a permanent pit in accordance with the following requirements.

(1) Each permanent pit shall have a properly constructed foundation 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 permanent pit so that the inside grade of the levee is no steeper than two horizontal feet to one vertical foot (2H:1V). The levee shall have an outside grade no steeper than three horizontal feet to one vertical foot (3H:1V). The levee's top shall be wide enough to install an anchor trench and provide adequate room for inspection and maintenance.

(2) Each permanent pit shall contain, at a minimum, a primary (upper) liner and a secondary (lower) liner with a leak detection system appropriate to the site's conditions. The edges of all liners shall be anchored in the bottom of a compacted earth-filled trench. The anchor trench shall be at least 18 inches deep.

(3) The primary (upper) liner and secondary (lower) liner shall be geomembrane liners. The geomembrane liner shall consist of 30-mil flexible PVC or 60-mil HDPE liner, or an equivalent liner material the environmental bureau in the division's Santa Fe office approves. The geomembrane liner shall have a hydraulic conductivity no greater than  $1 \times 10^{-9}$  cm/sec. 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.

(4) The environmental bureau in the division's Santa Fe office may approve other liner media if the operator demonstrates to the satisfaction of the environmental bureau in the division's Santa Fe office that the alternative liner protects fresh water, public health, safety and the environment as effectively as the specified media.

(5) The operator shall minimize liner seams and orient them up and down, not across a slope. The operator shall use factory welded seams where possible. The operator shall ensure field seams in geosynthetic material are thermally seamed (hot wedge) with a double track weld to create an air pocket for non-destructive air channel testing. The operator shall test a seam by establishing an air pressure between 33 and 37 psi in the pocket and monitoring that the pressure does not change by more than one percent during five minutes after the pressure source is shut off from the pocket. Prior to field seaming, the operator shall overlap liners four to six inches and orient seams parallel to the line of maximum slope, *i.e.*, oriented along, not across, the slope. The operator shall minimize the number of field seams in corners and irregularly shaped areas. There shall be no horizontal seams within five feet of the slope's toe. Qualified personnel shall perform field seaming.

(6) At a point of discharge into or suction from the lined permanent pit, the operator shall ensure that the liner is protected from excessive hydrostatic force or mechanical damage. External discharge or suction lines shall not penetrate the liner.

(7) The operator shall place a leak detection system between the upper and lower geomembrane liners that consists of two feet of compacted soil with a saturated hydraulic conductivity of  $1 \times 10^{-5}$  cm/sec or greater to facilitate drainage. The leak detection system shall consist of a properly designed drainage and collection and removal system placed above the lower geomembrane liner in depressions and sloped to facilitate the earliest possible leak detection. Piping used shall be designed to withstand chemical attack from oil field waste or leachate; structural loading from stresses and disturbances from overlying oil field waste, cover materials, equipment operation or expansion or contraction; and to facilitate clean-out maintenance. The material the operator places between the pipes and laterals shall be sufficiently permeable to allow the transport of fluids to the drainage pipe. The slope of the interior sub-grade and of drainage lines and laterals shall be at least a two percent grade, *i.e.*, two feet vertical drop per 100 horizontal feet. The piping collection system shall be comprised of solid and perforated pipe having a minimum diameter of four inches and a minimum wall thickness of schedule 80. The operator shall seal a solid sidewall riser pipe to convey collected fluids to a collection, observation and disposal system located outside the permanent pit's perimeter. The operator may install alternative methods that the environmental bureau in the division's Santa Fe office approves.

(8) The operator shall notify the environmental bureau in the division's Santa Fe office at least 72 hours prior to the primary liner's installation so that a representative of the environmental bureau in the division's Santa Fe office may inspect the leak detection system before it is covered.

(9) The operator shall construct a permanent pit in a manner that prevents overtopping due to wave action or rainfall and maintain a three foot freeboard at all times.

(10) The volume of a permanent pit shall not exceed 10 acre-feet, including freeboard.

(11) The operator shall maintain a permanent pit to prevent run-on of surface water. A permanent pit shall be surrounded by a berm, ditch or other diversion to prevent run-on of surface water.

#### H. Closed-loop systems.

(1) The operator shall design and construct a closed-loop system to ensure the confinement of oil, gas or water to prevent uncontrolled releases.

(2) An operator of a closed-loop system that uses temporary pits for solids management shall comply with the requirements for temporary pits specified in 19.15.17 NMAC.

(3) An operator of a closed-loop system with drying pads shall design and construct the drying pads to include the following:

(a) appropriate liners that prevent the contamination of fresh water and protect public health and the environment;

(b) sumps to facilitate the collection of liquids derived from drill cuttings; and

(c) berms that prevent run-on of surface water or fluids.

**I.** Below-grade tanks. The operator shall design and construct a below-grade tank in accordance with the following requirements, as applicable.

(1) The operator shall ensure that a below-grade tank is constructed of materials resistant to the below-grade tank's particular contents and resistant to damage from sunlight.

(2) A below-grade tank system shall have a properly constructed foundation consisting of a level base free of rocks, debris, sharp edges or irregularities to prevent punctures, cracks or indentations of the liner or tank bottom.

(3) The operator shall construct a below-grade tank to prevent overflow and the collection of surface water run-on.

(4) An operator shall construct a below-grade tank in accordance with one of the following designs.

(a) An operator may construct and use a below-grade tank that does not have double walls provided that the below-grade tank's side walls are open for visual inspection for leaks, the below-grade tank's bottom is elevated a minimum of six inches above the underlying ground surface and the below-grade tank is underlain with a geomembrane liner, which may be covered with gravel, to divert leaked liquid to a location that can be visually inspected. The operator shall equip below-grade tanks designed in this manner with a properly operating automatic high-level shut-off control device and manual controls to prevent overflows. The geomembrane liner shall consist of 30-mil flexible PVC or 60-mil HDPE liner, or an equivalent liner material that the appropriate division district office approves. The geomembrane liner shall have a hydraulic conductivity no greater than  $1 \times 10^{-9}$  cm/sec. 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.

(b) All other below-grade tanks, in which the side walls are not open for visible inspection for leaks shall be double walled with leak detection capability.

(c) An operator may construct a below-grade tank according to an alternative system that the appropriate district office approves based upon the operator's demonstration that the alternative provides equivalent or better protection.

(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 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.

(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 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.

**J.** On-site trenches for closure. The operator shall design and construct an on-site trench for closure, specified in Paragraph (2) of Subsection B of 19.15.17.13 NMAC or Paragraph (2) of Subsection D of 19.15.17.13 NMAC, in accordance with the following requirements.

(1) The operator shall locate the trench to satisfy the siting criteria specified in Subsection C of 19.15.17.10 NMAC and Subparagraph (d) of Paragraph (3) of Subsection F of 19.15.17.13 NMAC and excavate to an appropriate depth that allows for the installation of the geomembrane bottom liner, geomembrane liner cover and the division-prescribed soil cover required pursuant to Subsection H of 19.15.17.13 NMAC.

(2) An on-site trench shall have a properly constructed foundation and side walls consisting of a firm, unyielding base, smooth and free of rocks, debris, sharp edges or irregularities to prevent the liner's rupture or tear.

(3) Geotextile is required under the liner where needed to reduce localized stress-strain or protuberances that may otherwise compromise the liner's integrity.

(4) An on-site trench shall be constructed with a geomembrane liner. The geomembrane shall consist of a 20-mil string reinforced LLDPE liner or equivalent liner 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.

(5) The operator shall minimize liner seams and orient them up and down, not across a slope. The operator shall use factory welded seams where possible. Prior to field seaming, the operator shall overlap liners four to six inches and orient liner seams parallel to the line of maximum slope, *i.e.*, oriented along, not across, the slope. The operator shall minimize the number of field seams in corners and irregularly shaped areas. Qualified personnel shall perform field seaming. The operator shall weld field liner seams.

(6) The operator shall install sufficient liner material to reduce stress-strain on the liner.

(7) The operator shall ensure that the outer edges of all liners are secured for the placement of the excavated waste material into the trench.

(8) The operator shall fold the outer edges of the trench liner to overlap the waste material in the trench prior to the installation of the geomembrane cover.

(9) The operator shall install a geomembrane cover over the waste material in the lined trench. The operator shall install the geomembrane cover in a manner that prevents the collection of infiltration water in the lined trench and on the geomembrane cover after the soil cover is in place.

(10) The geomembrane cover shall consist of a 20-mil string reinforced LLDPE liner or equivalent cover that the appropriate division district office approves. The geomembrane cover shall be composed of an impervious, synthetic material that is resistant to petroleum hydrocarbons, salts and acidic and alkaline solutions. Cover compatibility shall comply with EPA SW-846 method 9090A.

[19.15.17.11 NMAC - Rn, 19.15.2.50 NMAC & A, 6/16/08; A, / /08]

#### **19.15.17.13 CLOSURE REQUIREMENTS:**

A. Time requirements for closure. An operator shall close a pit, closed-loop system or below-grade tank within the time periods provided in 19.15.17.13 NMAC, or by an earlier date that the division requires because of imminent danger to fresh water, public health or the environment.

(1) An operator shall cease discharging into an existing unlined permanent pit that is permitted by or registered with the division within two years after June 16, 2008. An operator shall close an existing unlined permanent pit that is permitted by or registered with the division within three years after June 16, 2008.

(2) An operator shall cease discharging into an existing, lined or unlined, permanent pit that is not permitted by or registered with the division on or by June 16, 2008. An operator shall close an existing, lined or unlined, permanent pit that is not permitted by or registered with the division within six months after June 16, 2008.

(3) An operator shall close an existing unlined temporary pit within three months after June 16, 2008.

(4) 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 or is not included in Paragraph (5) of Subsection I of 19.15.17.11 NMAC within five years after June 16, 2008, if not retrofitted to comply with Paragraphs (1) through (4) of Subsection I of 19.15.17.11 NMAC.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

B. Closure methods for temporary pits. The operator of a temporary pit shall remove all liquids from the temporary pit prior to closure and dispose of the liquids in a division-approved facility or recycle, reuse or reclaim 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.

(1) Waste excavation and removal.

(a) The operator shall close the temporary pit by excavating all contents and, if applicable, synthetic pit liners and transferring those materials to a division-approved facility.

(b) The operator shall test the soils beneath the temporary pit to determine whether a release has occurred.

(i) For temporary pits where ground water is between 50 and 100 feet below the bottom of the temporary pit or for cavitation pits allowed pursuant to Subparagraph (a) of Paragraph (1) of Subsection A of 19.15.17.10 NMAC, the operator shall collect, at a minimum, a five point, composite sample; collect individual grab samples from any area that is wet, discolored or showing other evidence of a release; and analyze for benzene, total BTEX, TPH, the GRO and DRO combined fraction and chlorides to demonstrate that benzene, as determined by EPA SW-846 method 8021B or 8260B or other EPA method that the division approves, does not exceed 0.2 mg/kg; total BTEX, as determined by EPA SW-846 method 8021B or 8260B or other EPA method that the division approves, does not exceed 50 mg/kg; TPH, as determined by EPA SW-846 method 418.1 or other EPA method that the division approves, does not exceed 2500 mg/kg; the GRO and DRO combined fraction, as determined by EPA SW-846 method 8015M, does not exceed 500 mg/kg; and chlorides, as determined by EPA method 300.1, do not exceed 500 mg/kg or the background concentration, whichever is greater. The operator shall notify the division of its results on form C-141. The division may require additional delineation upon review of the results.

(ii) For temporary pits where ground water is more than 100 feet below the bottom of the temporary pit, the operator shall collect, at a minimum, a five point, composite sample; collect individual grab samples from any area that is wet, discolored or showing other evidence of a release; and analyze for benzene, total BTEX, TPH, the GRO and DRO combined fraction and chlorides to demonstrate that benzene, as determined by EPA SW-846 method 8021B or 8260B or other EPA method that the division approves, does not exceed 0.2 mg/kg; total BTEX, as determined by EPA SW-846 method 8021B or 8260B or other method that the division approves, does not exceed 50 mg/kg; the GRO and DRO combined fraction, as determined by EPA SW-846 method 8015M, does not exceed 500 mg/kg; the TPH, as determined by EPA method 418.1 or other EPA method that the division approves, does not exceed 2500 mg/kg; and chlorides, as determined by EPA method 300.1, do not exceed 1000 mg/kg or the background concentration, whichever is greater. The operator shall notify the division of its results on form C-141. The division may require additional delineation upon review of the results.

(c) If the operator or the division determines that a release has occurred, then the operator shall comply with ~~[19.15.3.116 NMAC and 19.15.1.19 NMAC]~~ 19.15.29 NMAC and 19.15.30 NMAC, as appropriate.

(d) If the sampling program demonstrates that a release has not occurred or that any release does not exceed the concentrations specified in Subparagraph (b) of Paragraph (1) of Subsection B of 19.15.17.13 NMAC, then the operator shall backfill the temporary pit excavation with compacted, non-waste containing, earthen material; construct a division-prescribed soil cover; recontour and re-vegetate the site. The division-prescribed soil cover, recontouring and re-vegetation requirements shall comply with Subsections G, H and I of 19.15.17.13 NMAC.

(2) On-site burial. The operator shall demonstrate and comply with the siting requirements in Subsection C of 19.15.17.10 NMAC and the closure requirements and standards of Subsection F of 19.15.17.13 NMAC if the proposed closure method of a temporary pit involves on-site burial.

(3) Alternative closure methods. If the environmental bureau in the division's Santa Fe office grants an exception approving a closure method for a specific temporary pit other than as specified in Paragraphs (1) or (2) of Subsection B of 19.15.17.13 NMAC, then the operator shall close that temporary pit by the method that the environmental bureau in the division's Santa Fe office approves.

#### C. Closure method for permanent pits:

(1) The operator shall remove all liquids and BS&W from the permanent pit prior to implementing a closure method and shall dispose of the liquids and BS&W in a division-approved facility.

(2) The operator shall remove the pit liner system, if applicable, and dispose of it in a division-approved facility. If there is on-site equipment associated with permanent pit, the operator shall remove the equipment, unless the equipment is required for some other purpose.

(3) The operator shall test the soils beneath the permanent pit to determine whether a release has occurred. The operator shall collect, at a minimum, a five point, composite sample; collect individual grab samples from any area that is wet, discolored or showing other evidence of a release; and analyze for BTEX, TPH and chlorides to demonstrate that the benzene concentration, as determined by EPA SW-846 methods 8021B or 8260B or other EPA method that the division approves, does not exceed 0.2 mg/kg; total BTEX concentration, as determined by EPA SW-846 methods 8021B or 8260B or other EPA method that the division approves, does not exceed 50 mg/kg; the TPH concentration, as determined by EPA method 418.1 or other EPA method that the division approves, does not exceed 100 mg/kg; and the chloride concentration, as determined by EPA method 300.1

or other EPA method that the division approves; does not exceed 250 mg/kg, or the background concentration, whichever is greater. The operator shall notify the division of its results on form C-141. The division may require additional delineation upon review of the results.

(4) If the operator or the division determines that a release has occurred, then the operator shall comply with ~~[19.15.3.116 NMAC and 19.15.1.19 NMAC]~~ 19.15.29 NMAC and 19.15.30 NMAC, as appropriate.

(5) If the sampling program demonstrates that a release has not occurred or that any release does not exceed the concentrations specified in Paragraph (3) of Subsection C of 19.15.17.13 NMAC, then the operator shall backfill the excavation with compacted, non-waste containing, earthen material; construct a division-prescribed soil cover; recontour and re-vegetate the site. The division-prescribed soil cover, recontouring and re-vegetation requirements shall comply with Subsections G, H and I of 19.15.17.13 NMAC.

D. Closure methods for closed-loop systems. An operator of a closed-loop system that uses a temporary pit, in lieu of a drying pad, shall comply with the closure requirements for temporary pits specified in Subsection B of 19.15.17.13 NMAC. The operator of a closed-loop system that uses a drying pad shall close the system by one of the following methods.

(1) Waste removal.

(a) The operator shall transfer the waste and the drying pad liner to a division-approved facility.

(b) The operator shall substantially restore and re-vegetate the impacted area's surface in accordance with Subsections G, H and I of 19.15.17.13 NMAC.

(2) On-site burial. The operator shall demonstrate and comply with the siting requirements of Subsection C of 19.15.17.10 NMAC and the closure requirements and standards of Subsection F of 19.15.17.13 NMAC if the proposed closure method of a drying pad associated with a closed-loop system involves on-site burial.

(3) Alternative closure methods. If the environmental bureau in the division's Santa Fe office grants an exception approving a closure method for a specific closed-loop system other than as specified in Paragraphs (1) or (2) of Subsection D of 19.15.17.13 NMAC, then the operator shall close that drying pad associated with a closed-loop system by the method the environmental bureau in the division's Santa Fe office approves.

E. Closure method for below-grade tanks.

(1) The operator shall remove liquids and sludge from a below-grade tank prior to implementing a closure method and shall dispose of the liquids and sludge in a division-approved facility.

(2) The operator shall remove the below-grade tank and dispose of it in a division-approved facility or recycle, reuse, or reclaim it in a manner that the appropriate division district office approves.

(3) If there is any on-site equipment associated with a below-grade tank, then the operator shall remove the equipment, unless the equipment is required for some other purpose.

(4) The operator shall test the soils beneath the below-grade tank to determine whether a release has occurred. The operator shall collect, at a minimum, a five point, composite sample; collect individual grab samples from any area that is wet, discolored or showing other evidence of a release; and analyze for BTEX, TPH and chlorides to demonstrate that the benzene concentration, as determined by EPA SW-846 methods 8021B or 8260B or other EPA method that the division approves, does not exceed 0.2 mg/kg; total BTEX concentration, as determined by EPA SW-846 methods 8021B or 8260B or other EPA method that the division approves, does not exceed 50 mg/kg; the TPH concentration, as determined by EPA method 418.1 or other EPA method that the division approves, does not exceed 100 mg/kg; and the chloride concentration, as determined by EPA method 300.1 or other EPA method that the division approves, does not exceed 250 mg/kg, or the background concentration, whichever is greater. The operator shall notify the division of its results on form C-141. The division may require additional delineation upon review of the results.

(5) If the operator or the division determines that a release has occurred, then the operator shall comply with ~~[19.15.3.116 NMAC and 19.15.1.19 NMAC]~~ 19.15.29 NMAC and 19.15.30 NMAC, as appropriate.

(6) If the sampling program demonstrates that a release has not occurred or that any release does not exceed the concentrations specified in Paragraph (4) of Subsection E of 19.15.17.13 NMAC, then the operator shall backfill the excavation with compacted, non-waste containing, earthen material; construct a division-prescribed soil cover; recontour and re-vegetate the site. The division-prescribed soil cover, recontouring and re-vegetation requirements shall comply with Subsections G, H and I of 19.15.17.13 NMAC.

F. On-site closure methods. The following closure requirements and standards apply if the operator proposes a closure method for a drying pad associated with a closed-loop system or a temporary pit pursuant to Paragraph (2) of Subsection D of 19.15.17.13 NMAC or Paragraph (2) of Subsection B of 19.15.17.13 NMAC that involves on-site burial, or an alternative closure method pursuant to Paragraph (3) of Subsection D of 19.15.17.13 NMAC or Paragraph (3) of Subsection B of 19.15.17.13 NMAC and Subsection B of 19.15.17.15 NMAC.



(1) General requirements.

(a) Any proposed on-site closure method shall comply with the siting criteria specified in Subsection C of 19.15.17.10 NMAC.

(b) The operator shall provide the surface owner notice of the operator's proposal of an on-site closure method. The operator shall attach the proof of notice to the permit application.

(c) The operator shall comply with the closure requirements and standards of Paragraphs (2) and (3), as applicable, of Subsection F of 19.15.17.13 NMAC if the proposed closure method for a drying pad associated with a closed-loop system or for a temporary pit involves on-site burial pursuant to Paragraph (2) of Subsection D of 19.15.17.13 NMAC or Paragraph (2) of Subsection B of 19.15.17.13 NMAC, or involves an alternative closure method pursuant to Paragraph (3) of Subsection D of 19.15.17.13 NMAC or Paragraph (3) of Subsection B of 19.15.17.13 NMAC and Subsection B of 19.15.17.15 NMAC.

(d) The operator shall place a steel marker at the center of an on-site burial. The steel marker shall be not less than four inches in diameter and shall be cemented in a three-foot deep hole at a minimum. The steel marker shall extend at least four feet above mean ground level and at least three feet below ground level. The operator name, lease name and well number and location, including unit letter, section, township and range, and that the marker designates an on-site burial location shall be welded, stamped or otherwise permanently engraved into the metal of the steel marker. A person shall not build permanent structures over an on-site burial without the appropriate division district office's written approval. A person shall not remove an on-site burial marker without the division's written permission.

(e) The operator shall report the exact location of the on-site burial on form C-105 filed with the division.

(f) The operator shall file a deed notice identifying the exact location of the on-site burial with the county clerk in the county where the on-site burial occurs.

(2) In-place burial.

(a) Where the operator meets the siting criteria specified in Paragraphs (2) or (3) of Subsection C of 19.15.17.10 NMAC and the applicable waste criteria specified in Subparagraphs (c) or (d) of Paragraph (2) of Subsection F of 19.15.17.13 NMAC, an operator may use in-place burial (burial in the existing temporary pit) for closure of a temporary pit or bury the contents of a drying pad associated with a closed-loop system in a temporary pit that the operator constructs in accordance with Paragraphs (1) through (6) and (10) of Subsection F of 19.15.17.11 NMAC for closure of a drying pad associated with a closed loop system.

(b) Prior to closing an existing temporary pit or to placing the contents from a drying pad associated with a closed-loop system into a temporary pit that the operator constructs for disposal, the operator shall stabilize or solidify the contents to a bearing capacity sufficient to support the temporary pit's final cover. The operator shall not mix the contents with soil or other material at a mixing ratio of greater than 3:1, soil or other material to contents.

(c) Where ground water will be between 50 and 100 feet below the bottom of the buried waste, 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 the contents of a temporary pit after treatment or stabilization, if treatment or stabilization is required, to demonstrate that benzene, as determined by EPA SW-846 method 8021 B or 8260B, does not exceed 0.2 mg/kg; total BTEX, as determined by EPA SW-846 method 8021 B or 8260B, does not exceed 50 mg/kg; TPH, as determined by EPA SW-846 method 418.1 or other EPA method approved that the division approves, does not exceed 2500 mg/kg; the GRO and DRO combined fraction, as determined by EPA SW-846 method 8015M, does not exceed 500 mg/kg; and chlorides, as determined by EPA method 300.1, do not exceed 500 mg/kg or the background concentration, whichever is greater. 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.

(d) Where the ground water will be more than 100 feet below the bottom of the buried waste, 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 the contents of a temporary pit after treatment or stabilization, if treatment or stabilization is required, to demonstrate that benzene, as determined by EPA SW-846 method 8021B or 8260B, does not exceed 0.2 mg/kg; total BTEX, as determined by EPA SW-846 method 8021B or 8260B, does not exceed 50 mg/kg; the GRO and DRO combined fraction, as determined by EPA SW-846 method 8015M, does not exceed 500 mg/kg; TPH, as determined by EPA method 418.1 or other EPA method that the division approves, does not exceed 2500 mg/kg; and chlorides, as determined by EPA method 300.1, do not exceed 1000 mg/kg or the background

concentration, whichever is greater. 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.

(e) Upon closure of a temporary pit, or closure of a temporary pit that the operator constructs for burial of the contents of a drying pad associated with a closed-loop system, the operator shall cover the geomembrane lined, filled, temporary pit with compacted, non-waste containing, earthen material; construct a division-prescribed soil cover; recontour and re-vegetate the site. The division-prescribed soil cover, recontouring and re-vegetation shall comply with Subsections G, H and I of 19.15.17.13 NMAC.

(f) For burial of the contents from a drying pad associated with a closed-loop system, the operator shall construct a temporary pit, in accordance with Paragraphs (1) through (6) and (10) of Subsection F of ~~[19.15.17.10]~~ 19.15.17.11 NMAC, within 100 feet of the drying pad associated with a closed-loop system, unless the appropriate division district office approves an alternative distance and location. The operator shall use a separate temporary pit for closure of each drying pad associated with a closed-loop system.

(3) On-site trench burial.

(a) Where the operator meets the siting criteria in Paragraph (4) of Subsection C of 19.15.17.10 NMAC, an operator may use on-site trench burial for closure of a drying pad associated with a closed loop system or for closure of a temporary pit when the waste meets the criteria in Subparagraph (c) of Paragraph (3) of Subsection F of 19.15.17.13 NMAC. The operator shall use a separate on-site trench for closure of each drying pad associated with a closed-loop system or each temporary pit.

(b) Prior to placing the contents from a drying pad associated with a closed-loop system or from a temporary pit into the trench, the operator shall stabilize or solidify the contents to a bearing capacity sufficient to support the final cover of the trench burial. The operator shall not mix the contents with soil or other material at a mixing ratio of greater than 3:1, soil or other material to contents.

(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 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 mg/l 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.

(d) If the contents from a drying pad associated with a closed-loop system or from a temporary pit do not exceed the criteria in Subparagraph (c) of Paragraph (3) of Subsection F of 19.15.17.13 NMAC, the operator shall construct a trench lined with a geomembrane liner located within 100 feet of the drying pad associated with a closed-loop system or temporary pit, unless the appropriate division district office approves an alternative distance and location. The operator shall design and construct the lined trench in accordance with the design and construction requirements specified in Paragraphs (1) through (8) of Subsection J of 19.15.17.11 NMAC.

(e) The operator shall close each drying pad associated with a closed-loop system or temporary pit by excavating and transferring all contents and synthetic pit liners or liner material associated with a closed-loop system or temporary pit to a lined trench. The excavated materials shall pass the paint filter liquids test (EPA SW-846, method 9095) and the closure standards specified in Subparagraph (c) of Paragraph (3) of Subsection F of 19.15.17.13 NMAC.

(f) The operator shall test the soils beneath the temporary pit after excavation to determine whether a release has occurred.

(i) Where ground water is between 50 and 100 feet below the bottom of the temporary pit, the operator shall collect, at a minimum, a five point, composite sample; collect individual grab samples from any area that is wet, discolored or showing other evidence of a release; and analyze for BTEX, TPH, benzene, GRO and DRO combined fraction and chlorides to demonstrate that benzene, as determined by EPA SW-846 method 8021B or 8260B, does not exceed 0.2 mg/kg; total BTEX, as determined by EPA SW-846 method 8021B or 8260B, does not exceed 50 mg/kg; TPH, as determined by EPA SW-846 method 418.1 or other EPA method approved that

the division approves, does not exceed 2500 mg/kg; the GRO and DRO combined fraction, as determined by EPA SW-846 method 8015M, does not exceed 500 mg/kg; and chlorides, as determined by EPA method 300.1, do not exceed 500 mg/kg or the background concentration, whichever is greater. The operator shall notify the division of its results on form C-141. The division may require additional delineation upon review of the results. The operator shall notify the division of its results on form C-141.

(ii) Where ground water is more than 100 feet below the bottom of the temporary pit, the operator shall collect at a minimum, a five point, composite sample; collect individual grab samples from any area that is wet, discolored or showing other evidence of a release; and analyze for BTEX, TPH, benzene, GRO and DRO combined fraction and chlorides to demonstrate that benzene, as determined by EPA SW-846 method 8021B or 8260B, does not exceed 0.2 mg/kg; total BTEX, as determined by EPA SW-846 method 8021B or 8260B, does not exceed 50 mg/kg; the GRO and DRO combined fraction, as determined by EPA SW-846 method 8015M, does not exceed 500 mg/kg; TPH, as determined by EPA method 418.1 or other EPA method that the division approves, does not exceed 2500 mg/kg; and chlorides, as determined by EPA method 300.1, do not exceed 1000 mg/kg or the background concentration, whichever is greater. The operator shall notify the division of its results on form C-141. The division may require additional delineation upon review of the results.

(g) If the sampling program demonstrates that a release has not occurred or that any release does not exceed the concentrations specified in Subparagraph (c) of Paragraph (3) of Subsection F of 19.15.17.13 NMAC, then the operator shall backfill the excavation with compacted, non-waste containing earthen material; construct a division-prescribed soil cover; recontour and re-vegetate the site. The division-prescribed soil cover, recontouring and re-vegetation shall comply with Subsections G, H and I of 19.15.17.13 NMAC.

(h) If the operator or the division determines that a release has occurred, then the operator shall comply with ~~[19.15.3.116 NMAC and 19.15.1.19 NMAC]~~ 19.15.29 NMAC and 19.15.30 NMAC, as appropriate. The operator may propose to transfer the excavated, contaminated soil into the lined trench.

(i) The operator shall install a geomembrane cover over the excavated material in the lined trench. The operator shall design and construct the geomembrane cover in accordance with the requirements specified in Paragraphs (9) and (10) of Subsection J of 19.15.17.11 NMAC.

(j) The operator shall cover the geomembrane lined and covered, filled, trench with compacted, non-waste containing, earthen material; construct a division-prescribed soil cover; recontour and re-vegetate the site. The division-prescribed soil cover, recontouring and re-vegetation shall comply with Subsections G, H and I of 19.15.17.13 NMAC.

#### G. Reclamation of pit locations, on-site burial locations and drying pad locations.

(1) Once the operator has closed a pit or trench or is no longer using a drying pad, below-grade tank or an area associated with a closed-loop system, pit, trench or below-grade tank, the operator shall reclaim the pit location, drying pad location, below-grade tank location or trench location and all areas associated with the closed-loop system, pit, trench or below-grade tank including associated access roads to a safe and stable condition that blends with the surrounding undisturbed area. The operator shall substantially restore the impacted surface area to the condition that existed prior to oil and gas operations by placement of the soil cover as provided in Subsection H of 19.15.17.13 NMAC, recontour the location and associated areas to a contour that approximates the original contour and blends with the surrounding topography and re-vegetate according to Subsection I of 19.15.17.13 NMAC.

(2) The operator may propose an alternative to the re-vegetation requirement if the operator demonstrates that the proposed alternative effectively prevents erosion, and protects fresh water, human health and the environment. The proposed alternative shall be agreed upon by the surface owner. The operator shall submit the proposed alternative, with written documentation that the surface owner agrees to the alternative, to the division for approval.

#### H. Soil cover designs.

(1) The soil cover for closures where the operator has removed the pit contents or remediated the contaminated soil to the division's satisfaction shall consist of the background thickness of topsoil or one foot of suitable material to establish vegetation at the site, whichever is greater.

(2) The soil cover for burial-in-place or trench burial shall consist of a minimum of four feet of compacted, non-waste containing, earthen material. The soil cover shall include either the background thickness of topsoil or one foot of suitable material to establish vegetation at the site, whichever is greater.

(3) The operator shall construct the soil cover to the site's existing grade and prevent ponding of water and erosion of the cover material.

#### I. Re-vegetation.

(1) The first growing season after the operator closes a pit or trench or is no longer using a drying pad, below-grade tank or an area associated with a closed-loop system, pit or below-grade tank including access roads, the operator shall seed or plant the disturbed areas.

(2) The operator shall accomplish seeding by drilling on the contour whenever practical or by other division-approved methods. The operator shall obtain vegetative cover that equals 70% of the native perennial vegetative cover (un-impacted by overgrazing, fire or other intrusion damaging to native vegetation) consisting of at least three native plant species, including at least one grass, but not including noxious weeds, and maintain that cover through two successive growing seasons. During the two growing seasons that prove viability, there shall be no artificial irrigation of the vegetation.

(3) The operator shall repeat seeding or planting until it successfully achieves the required vegetative cover.

(4) When conditions are not favorable for the establishment of vegetation, such as periods of drought, the division may allow the operator to delay seeding or planting until soil moisture conditions become favorable or may require the operator to use additional cultural techniques such as mulching, fertilizing, irrigating, fencing or other practices.

(5) The operator shall notify the division when it has seeded or planted and when it successfully achieves re-vegetation.

**J. Closure notice.**

(1) The operator shall notify the surface owner by certified mail, return receipt requested, that the operator plans to close a temporary pit, a permanent pit, a below-grade tank or where the operator has approval for on-site closure. Evidence of mailing of the notice to the address of the surface owner shown in the county tax records is sufficient to demonstrate compliance with this requirement.

(2) The operator of a temporary pit or below-grade tank or an operator who is approved for on-site closure shall notify the appropriate division district office verbally or by other means at least 72 hours, but not more than one week, prior to any closure operation. The notice shall include the operator's name and the location to be closed by unit letter, section, township and range. If the closure is associated with a particular well, then the notice shall also include the well's name, number and API number.

(3) An operator of a permanent pit shall notify the environmental bureau in the division's Santa Fe office at least 60 days prior to cessation of operations and provide a proposed schedule for closure. If there is no closure plan on file with the environmental bureau in the division's Santa Fe office applicable to the permanent pit, the operator shall provide a closure plan with this notice. Upon receipt of the notice and proposed schedule, the environmental bureau in the division's Santa Fe office shall review the current closure plan for adequacy and inspect the site.

**K. Closure report.** Within 60 days of closure completion, the operator shall submit a closure report on form C-144, with necessary attachments to document all closure activities including sampling results; information required by 19.15.17 NMAC; a plot plan; and details on back-filling, capping and covering, where applicable. In the closure report, the operator shall certify that all information in the report and attachments is correct and that the operator has complied with all applicable closure requirements and conditions specified in the approved closure plan. If the operator used a temporary pit, the operator shall provide a plat of the pit location on form C-105 within 60 days of closing the temporary pit.

[19.15.17.13 NMAC - Rn, 19.15.2.50 NMAC & A, 6/16/08; A, / /08]

**19.15.17.15 EXCEPTIONS:**

**A. General exceptions.**

(1) The operator may apply to the environmental bureau in the division's Santa Fe office for an exception to a requirement or provision of 19.15.17 NMAC other than the permit requirements of 19.15.17.8 NMAC; the exception requirements of 19.15.17.15 NMAC; or the permit approval, condition, denial, revocation, suspension, modification or transfer requirements of 19.15.17.16 NMAC. The environmental bureau in the division's Santa Fe office may grant an exception from a requirement or provision of 19.15.17 NMAC, if the operator demonstrates to the satisfaction of the environmental bureau in the division's Santa Fe office that the granting of the exception provides equivalent or better protection of fresh water, public health and the environment. The environmental bureau in the division's Santa Fe office may revoke an exception after notice to the operator of the pit, closed-loop system, below-grade tank or proposed alternative and to the surface owner, and opportunity for a hearing, or without notice and hearing in event of an emergency involving imminent danger to fresh water, public health or the environment, subject to the provisions of NMSA 1978, Section 70-2-23, if the environmental bureau in

the division's Santa Fe office determines that such action is necessary to prevent the contamination of fresh water, or to protect public health or the environment.

(2) The operator shall give written notice by certified mail, return receipt requested, to the surface owner of record where the pit, closed-loop system, below-grade tank or proposed alternative is, or will be, located; to surface owners of record within one-half mile of such location; to the county commission of the county where the pit, closed-loop system, below-grade tank or proposed alternative is, or will be, located; to the appropriate city officials if the pit, closed-loop system, below-grade tank or proposed alternative is, or will be, located within city limits, within one-half mile of the city limits or within the city's zoning and planning jurisdiction; to affected federal or tribal or pueblo governmental agencies; and to such other persons as the environmental bureau in the division's Santa Fe office may direct. Additionally, the operator shall issue public notice by publication one time in a newspaper of general circulation in the county where the pit, closed-loop system, below-grade tank or proposed alternative, is, or will be located. Required written and public notices require the environmental bureau in the division's Santa Fe office's approval. The division shall distribute notice of the application to persons who have requested notification and shall post notice of the application on the division's website.

(3) Any person wishing to comment on an application for an exception may file comments or request a hearing within 30 days after the later of the date when the applicant mails the notice required by Paragraph (2) of Subsection A of 19.15.17.15 NMAC or when the division distributes or posts the notice provided in Paragraph (2) of Subsection A of 19.15.17.15 NMAC. In a request for hearing, the person shall set forth the reasons why the division should hold a hearing.

(4) The environmental bureau in the division's Santa Fe office may grant the exception administratively if the environmental bureau in the division's Santa Fe office receives no comments or requests for hearing within the time for commenting established in Paragraph (3) of Subsection A of 19.15.17.15 NMAC. If the environmental bureau in the division's Santa Fe office receives a request for hearing and the director determines that the request presents issues that have technical merit or that there is significant public interest then the director may set the application for hearing. The director, however, may set any application for hearing. If the environmental bureau in the division's Santa Fe office schedules a hearing on an application, the hearing shall be conducted according to the procedures in ~~[19.15.14.1206 through 19.15.14.1215 NMAC]~~ 19.15.4 NMAC.

(5) If the director does not determine that a hearing is necessary due to technical merit, significant public interest or otherwise then the environmental bureau in the division's Santa Fe office may grant the exception without a hearing notwithstanding the filing of a request for hearing. If, however, the environmental bureau in the division's Santa Fe office determines to deny the exception, then it shall notify the operator of its determination by certified mail, return receipt requested, and if the operator requests a hearing within 10 days after receipt of such notice shall set the matter for hearing, with notice to the operator and to any party who has filed a comment or requested a hearing.

**B. Alternative closure methods.** The operator of a temporary pit or a closed-loop system may apply to the environmental bureau in the division's Santa Fe office for an exception to the closure methods specified in Paragraphs (1) and (2) of Subsection B of 19.15.17.13 NMAC or Paragraphs (1) and (2) of Subsection D of 19.15.17.13 NMAC. The environmental bureau in the division's Santa Fe office may grant the proposed exception if all of the following requirements are met.

(1) The operator demonstrates that the proposed alternative method protects fresh water, public health and the environment.

(2) The operator shall remove liquids prior to implementing a closure method and dispose of the liquids in a division-approved facility or recycle or reuse the liquids in a manner that the environmental bureau in the division's Santa Fe office approves.

(3) The operator demonstrates to the satisfaction of the environmental bureau in the division's Santa Fe office that any proposed alternative closure method will implement one or more of the following practices: waste minimization; treatment using best demonstrated available technology; reclamation; reuse; recycling; or reduction in available contaminant concentration; and subject to such conditions as the environmental bureau in the division's Santa Fe office deems necessary in order to protect fresh water, public health and the environment.

(4) The provisions of Subsection A of 19.15.17.15 NMAC shall apply to applications for exceptions pursuant to Subsection B of 19.15.17.15 NMAC.

[19.15.17.15 NMAC - Rn, 19.15.2.50 NMAC & A, 6/16/08; A, / /08]