

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 5 PETROLEUM STORAGE TANKS
PART 105 CERTIFICATION OF TANK INSTALLERS AND JUNIOR INSTALLERS;
REQUIREMENTS FOR TESTERS

20.5.105.1 ISSUING AGENCY: New Mexico Environmental Improvement Board.
[20.5.105.1 NMAC - N, 07/24/2018]

20.5.105.2 SCOPE: This part applies to persons installing, replacing, repairing, modifying, testing, or removing storage tank systems. The requirements for persons installing, replacing, repairing, or modifying airport hydrant systems, USTs with field-constructed tanks, and hybrid storage tank systems can be found in 20.5.114 NMAC.
[20.5.105.2 NMAC - N, 07/24/2018]

20.5.105.3 STATUTORY AUTHORITY: This part is promulgated pursuant to the provisions of the Hazardous Waste Act, Sections 74-4-1 through 74-4-14 NMSA 1978, and the general provisions of the Environmental Improvement Act, Sections 74-1-1 through 74-1-17 NMSA 1978.
[20.5.105.3 NMAC - N, 07/24/2018]

20.5.105.4 DURATION: Permanent.
[20.5.105.4 NMAC - N, 07/24/2018]

20.5.105.5 EFFECTIVE DATE: July 24, 2018, unless a later date is indicated in the bracketed history note at the end of a section.
[20.5.105.5 NMAC - N, 07/24/2018]

20.5.105.6 OBJECTIVE: The purpose of this part is to provide for the regulation of persons installing, replacing, repairing, modifying, testing, and removing storage tank systems that contain regulated substances in order to assure that storage tank systems are being installed, replaced, repaired, modified, tested, and removed in a manner which shall not encourage or facilitate leaking, and which shall protect the public health, safety and welfare and the environment of the state.
[20.5.105.6 NMAC - N, 07/24/2018]

20.5.105.7 DEFINITIONS: The definitions in 20.5.101 NMAC apply to this part. Additionally, “entirely above ground piping” means all portions of the piping are completely above ground, are completely visible, and are not in contact with the ground or soil. This definition does not include piping for a system where any portion of the piping is within a transition sump or is below ground.
[20.5.105.7 NMAC - N, 07/24/2018]

20.5.105.8 to 20.5.105.499 [RESERVED]

20.5.105.500 GENERAL REQUIREMENTS FOR INSTALLER OF UST SYSTEMS:

A. Beginning September 16, 1989, no person may install, replace, repair or modify UST systems in this state unless the person is, or employs, an individual who has been certified by the department to perform that work on UST systems. This provision requires certification of the individual who exercises supervisory control over the installation, replacement, repair or modification work, whether as an officer or employee of the UST system owner or operator performing its own installation, replacement, repair or modification, or as an officer or employee of the person agreeing to perform the installation, replacement, repair or modification for the owner or operator. Exceptions to this requirement for a certified installer include:

- (1) internal lining of a tank through the application of such materials as epoxy resins;
- (2) installation, replacement, repair or modification of cathodic protection systems;
- (3) any other installation, replacement, repair or modification specifically approved in writing by the department as an exception to the requirement for a certified installer;
- (4) an applicant for UST installer certification pursuant to Subsection C of 20.105.5.510 NMAC;
- (5) normal maintenance;

(6) work on line or tank leak detection systems performed by technicians trained to work on line or tank leak detection systems by the manufacturer of the systems, or other equivalent training approved by the department; and

(7) persons closing storage tank systems pursuant to 20.5.115 NMAC.

B. Beginning September 16, 1989, no person may install, replace, repair or modify an UST system in this state unless the person is or employs a certified installer who shall control and supervise a given installation, replacement, repair or modification and who shall be physically present on-site at the critical junctures in the installation, replacement, repair or modification.

C. An individual who has met the requirements for certified UST installer may perform the work of a UST certified junior installer.

D. The requirements of this part are not intended to prohibit the employment of apprentices or helpers so long as a certified installer exercises responsible supervisory control and is physically present on-site at the critical junctures in the installation, replacement, repair or modification.

E. The requirements of this part are in addition to and not in lieu of any other licensing and registration requirements imposed by law, including any applicable requirements of the Construction Industries Licensing Act, Sections 60-13-1 through 60-13-59 NMSA 1978.

F. The provisions of this part are not intended to relieve owners and operators of UST systems of their obligations and liabilities under applicable state and federal laws and regulations.

G. The department may deny an application or renewal and may suspend or revoke certification pursuant to the Parental Responsibility Act, Sections 40-5A-1 through 40-5A-13 NMSA 1978.

[20.5.105.500 NMAC - N, 07/24/2018]

20.5.105.501 GENERAL REQUIREMENTS FOR INSTALLER OF AST SYSTEMS:

A. Beginning August 15, 2004, no person may install, replace, repair or modify AST systems in this state unless the person is, or employs, an individual who has been certified by the department to perform that work on AST systems. This provision requires certification of the individual who exercises supervisory control over the installation, replacement, repair or modification work, whether as an officer or employee of the AST system owner or operator performing its own installation, replacement, repairs or modification, or as an officer or employee of the person agreeing to perform the installation, replacement, repair or modification for the owner or operator.

Exceptions to this requirement for a certified installer include:

(1) internal lining of a tank through the application of such materials as epoxy resins;

(2) coating or lining of secondary containment for AST systems;

(3) installation, replacement, repair or modification of cathodic protection systems;

(4) any other installation, replacement, repair or modification specifically approved in

writing by the department as an exception to the requirement for a certified installer;

(5) an applicant for AST installer certification pursuant to Subsection C of 20.5.105.510

NMAC;

(6) normal maintenance;

(7) work on line or tank leak detection systems performed by technicians trained to work on line or tank leak detection systems by the manufacturer of the systems, or other equivalent training approved by the department; and

(8) persons closing storage tank systems pursuant to 20.5.115 NMAC.

B. Beginning August 15, 2004, no person may install, replace, repair or modify an AST system in this state unless the person is or employs a certified installer who shall control and supervise a given installation, replacement, repair or modification and who shall be physically present on-site at the critical junctures in the installation, replacement, repair or modification.

C. An individual who has met the requirements for certified AST installer may perform the work of an AST certified junior installer.

D. The requirements of this part are not intended to prohibit the employment of apprentices or helpers so long as a certified installer exercises responsible supervisory control and is physically present on-site at the critical junctures in the installation, replacement, repair or modification.

E. The requirements of this part are in addition to and not in lieu of any other licensing and registration requirements imposed by law, including any applicable requirements of the Construction Industries Licensing Act, Sections 60-13-1 through 60-13-59 NMSA 1978.

F. The provisions of this part are not intended to relieve owners and operators of AST systems of their obligations and liabilities under applicable state and federal laws and regulations.

G. The department may deny an application or renewal and may suspend or revoke certification pursuant to the Parental Responsibility Act, Sections 40-5A-1 through 40-5A-13 NMSA 1978. [20.5.105.501 NMAC - N, 07/24/2018]

20.5.105.502 GENERAL REQUIREMENTS FOR JUNIOR INSTALLER OF AST SYSTEMS:

A. Beginning July 24, 2019, no person may install, replace, repair or modify spill and overfill prevention equipment on AST systems in this state unless the person is an individual who has been certified by the department to perform that work on AST systems. Exceptions to the requirement for an AST certified junior installer are listed in Paragraphs (1) through (8) of Subsection A of 20.5.105.501 NMAC.

B. An individual who is an AST junior installer shall be certified to perform installations, repairs, replacements, and modifications of spill and overfill prevention equipment.

C. Individuals who are AST junior installers shall be certified to repair and replace entirely above ground piping on ASTs if they are licensed by the New Mexico construction industries division in accordance with 14.6.6 NMAC as a journeyman pipe fitter (JPF), MM-4, or MM-98.

D. The requirements of this part are not intended to prohibit the employment of apprentices or helpers so long as an AST certified junior installer exercises responsible supervisory control and is physically present on-site during the replacement, repair or modification.

E. The requirements of this part are in addition to and not in lieu of any other licensing and registration requirements imposed by law, including any applicable requirements of the Construction Industries Licensing Act, Sections 60-13-1 through 60-13-59 NMSA 1978.

F. The provisions of this part are not intended to relieve owners and operators of AST systems of their obligations and liabilities under applicable state and federal laws and regulations.

G. The department may deny an application or renewal and may suspend or revoke certification pursuant to the Parental Responsibility Act, Sections 40-5A-1 through 40-5A-13 NMSA 1978. [20.5.105.502 NMAC - N, 07/24/2018]

20.5.105.503 GENERAL REQUIREMENTS FOR JUNIOR INSTALLER OF UST SYSTEMS:

A. Beginning July 24, 2019, no person may install, replace, repair or modify spill and overfill prevention equipment on UST systems in this state unless the person is an individual who has been certified by the department to perform that work on UST systems. Exceptions to the requirement for a UST certified junior installer are listed in Paragraphs (1) through (7) of Subsection A of 20.5.105.500 NMAC.

B. An individual who is an UST junior installer shall be certified to perform installations, repairs, replacements, and modifications of spill and overfill prevention equipment. An UST junior installer shall not repair or replace piping that routinely contains a regulated substance.

C. A UST certified junior installer shall not install UST systems or piping.

D. The requirements of this part are not intended to prohibit the employment of apprentices or helpers so long as a UST certified junior installer exercises responsible supervisory control and is physically present on-site at the critical junctures in the installation, replacement, repair or modification of spill and overfill prevention equipment.

E. The requirements of this part are in addition to and not in lieu of any other licensing and registration requirements imposed by law, including any applicable requirements of the Construction Industries Licensing Act, Sections 60-13-1 through 60-13-59 NMSA 1978.

F. The provisions of this part are not intended to relieve owners and operators of UST systems of their obligations and liabilities under applicable state and federal laws and regulations.

G. The department may deny an application or renewal and may suspend or revoke certification pursuant to the Parental Responsibility Act, Sections 40-5A-1 through 40-5A-13 NMSA 1978. [20.5.105.503 NMAC - N, 07/24/2018]

20.5.105.504 GENERAL REQUIREMENTS FOR PERSONS PERFORMING TESTS ON STORAGE TANK SYSTEMS AND EQUIPMENT:

A. Beginning on July 24, 2019, owners and operators shall demonstrate that persons who perform tests on storage tank systems regulated under 20.5 NMAC have the experience, training, and education to perform the following:

(1) periodic testing of spill prevention equipment and containment sumps as required in 20.5.107.704 NMAC, 20.5.107.706 NMAC, 20.5.110.1005 NMAC, and 20.5.110.1007 NMAC;

(2) periodic functionality testing and inspections of overfill prevention equipment as required in 20.5.107.704 NMAC and 20.5.110.1005 NMAC;

(3) functionality testing and inspections of automatic tank gauging systems as required in 20.5.108.805 NMAC and 20.5.111.1104 NMAC;

(4) precision tank tightness tests and line tightness tests;

(5) functionality testing of automatic line leak detectors, interstitial sensors, and sump sensors; and

(6) periodic testing of cathodic protection systems as required in 20.5.107.705 NMAC and 20.5.110.1006 NMAC.

B. Owners and operators shall ensure information on the tester's education, experience, and training is submitted to the department for each required test conducted on storage tank systems regulated under 20.5 NMAC. Testers may submit this information on the owner's and operator's behalf prior to conducting any testing on regulated storage tank systems and subsequently after changes to the information required in Paragraphs (1) through (5) of this subsection. The information to be submitted is as follows:

(1) any business name used by the tester, with the business address, telephone number, electronic mail address, and facsimile transmission number;

(2) name of the tester;

(3) tester's certification number from each testing equipment manufacturer and the expiration date for the certification;

(4) name of the manufacturer, association, or institute where they gained their certification or education.

(5) testers who use the testing procedures from petroleum equipment institute's *Recommended Practice, PEI RP 1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection, and Secondary Containment Equipment at UST Facilities"* shall include the date they took and passed the test from the petroleum equipment institute.

(6) Number of years of experience in each of the testing protocols or procedures the tester will use.

C. Owners and operators shall ensure testers meet the following:

(1) perform only those tests and inspections for which they have training, experience, and certification from either the manufacturer of the testing equipment or the manufacturer of the equipment being tested or inspected.

(2) maintain certification with the equipment manufacturer for the tester and any testing apparatus they use, if they have a certification process or requirements. If the testing equipment manufacturer has periodic calibration and maintenance requirements the tester shall meet them.

D. A person shall not perform any test on storage tank systems for which they are also the owner and operator as defined in 20.5.101 NMAC or they are an employee of the owner or operator.

E. A tester who is trained and certified to functionality test automatic line leak detectors may replace line leak detectors that no longer meet the requirements in Subsection A of 20.5.108.810 NMAC or Subsection A of 20.5.111.1105 NMAC.

F. A person who has met the requirements for either AST or UST certified installer may perform non-precision integrity tests of the storage tank systems during the installation, modification, repair, or replacement without having to meet the requirements of a tester.

G. The requirements of this part are in addition to and not in lieu of any other licensing and registration requirements imposed by law, including any applicable requirements of the Construction Industries Licensing Act, Sections 60-13-1 through 60-13-59 NMSA 1978.

H. The provisions of this part are not intended to relieve owners and operators of storage tank systems of their obligations and liabilities under applicable state and federal laws and regulations.
[20.5.105.504 NMAC - N, 07/24/2018]

20.5.105.505 INDIVIDUAL CERTIFICATION FOR INSTALLER OF UST SYSTEMS:

A. An applicant for an individual's UST installer certification shall meet all of the following requirements in order to receive certification from the department.

(1) The applicant shall file an application with the department accompanied by a nonrefundable fee of \$50. At a minimum the application shall contain the following information:

(a) applicant's name, permanent residence address and telephone number;

- (b) applicant's business address and any business name used by the applicant, with the business address, telephone number and facsimile transmission number;
 - (c) applicant's date of birth;
 - (d) applicant's social security number;
 - (e) construction industries division license number, type of license, name of license holder under which applicant is working and expiration of license;
 - (f) whether the construction industries division license in subparagraph (e) of Paragraph (1) of this subsection has ever been suspended or revoked; if so, an explanation of the circumstances of the suspension or revocation;
 - (g) the supervisor's name, business name, address and telephone number with whom the applicant apprenticed as a tank installer;
 - (h) a description of the number of years of experience the applicant has as a tank installer (specify USTs and ASTs);
 - (i) a description of the types and number of tanks the applicant has installed (specify USTs and ASTs) in the past four years;
 - (j) a description of the types and number of piping systems the applicant has installed, replaced, repaired or modified (specify USTs and ASTs) in the past four years; and
 - (k) whether applicant owes child support in New Mexico.
- (2) The applicant shall be an individual and at least 18 years of age.
- (3) The applicant need not, for purposes of this part, be a resident of the state.
- (4) The applicant shall demonstrate that the applicant is in good standing with all licensing authorities by whom licensing is required given the nature and scope of the applicant's work, and that the applicant has not had a business or occupational license or certificate suspended or revoked in this or any other state, except as provided in Subsection B of this section.
- (5) Applicants shall demonstrate in the application that they have met the experience requirements of 20.5.105.509 NMAC.
- (6) The applicant shall pass the on-site examination for which 20.5.105.510 NMAC provides. The installation for an on-site examination shall include the on-site installation of a tank, dispenser system or meter, venting, ancillary equipment and initial testing.
- (7) The applicant shall provide the department with evidence in the application that, within the prior three months, the applicant has passed:
- (a) a New Mexico laws and rules UST test administered by the department pursuant to 20.5.105.514 NMAC; and
 - (b) a national technical UST installer's test administered by an approved certification educator and has been certified by that educator. For purposes of this section, the international code council is an approved certification educator.
- (8) As an alternative to the tests required in Paragraph (7) of this subsection, applicants may propose alternate tests and approved certification to the department for consideration, including a tank installer certification program sponsored by another state or organization, but these courses shall not be approved for the requirements in Paragraph (7) of this subsection unless approved by the department in writing. Applicants seeking approval of alternate courses and alternate certification shall provide the department with all information about the course and the proposed educator to allow the department to determine whether to approve them, in the department's sole discretion. In determining whether to approve an alternate course and alternate certification, the department shall determine whether the alternate course and alternate certification provide an equivalent demonstration of knowledge of New Mexico petroleum storage tank regulations, 20.5 NMAC, and technical installation requirements.
- (9) The applicant shall provide to the department a notarized affidavit from the applicant stating that all information submitted in the application is true and correct.

B. Notwithstanding the provisions of Paragraph (4) of Subsection A of this section, the department may grant certification to an applicant who has had a business or occupational license or certificate suspended or revoked where the suspension or revocation, by reason of its date, nature or other considerations, is not directly relevant to the applicant's competence to install, replace, repair, or modify UST systems.

[20.5.105.505 NMAC - N, 07/24/2018]

[The department provides an optional form that may be used to apply for certification. The form is available on the petroleum storage tank bureau's pages on the department website or by contacting the Petroleum Storage Tank Bureau at 505-476-4397 or 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505. Applicants

should submit application forms to the Petroleum Storage Tank Bureau, attention: Application for Certified Installer, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505.]

20.5.105.506 INDIVIDUAL CERTIFICATION FOR INSTALLER OF AST SYSTEMS:

A. An applicant for an individual's AST installer certification shall meet all of the following requirements in order to receive certification from the department.

(1) The applicant shall file an application with the department with the information required in Paragraph (1) of Subsection A of 20.5.105.505 NMAC, accompanied by a nonrefundable fee of \$50.00.

(2) The applicant shall be an individual and at least 18 years of age.

(3) The applicant need not, for purposes of this part, be a resident of the state.

(4) The applicant shall demonstrate that the applicant is in good standing with all licensing authorities by whom licensing is required, given the nature and scope of the applicant's work, and that the applicant has not had a business or occupational license or certificate suspended or revoked in this or any other state, except as provided in Subsection B of this section.

(5) Applicants shall demonstrate in the application that they have met the experience requirements of 20.5.105.509 NMAC.

(6) The applicant shall pass the on-site examination for which 20.5.105.510 NMAC provides. The installation for an on-site examination shall include the on-site installation of a tank and tank foundation, dispenser system or meter, venting, ancillary equipment and initial testing. Installation of a self-contained, concrete-encased or self-contained, skid-mounted AST system is not an AST system installation for purposes of this requirement.

(7) The applicant shall provide the department with evidence in the application that, within the prior three months, the applicant has passed:

(a) a New Mexico laws and rules AST test administered by the department pursuant to 20.5.105.514 NMAC; and

(b) a national technical AST installer's test administered by an approved certification educator and has been certified by that educator. For purposes of this section, the international code council is an approved certification educator.

(8) As an alternative to the tests required in Paragraph (7) of this subsection, applicants may propose alternate tests and approved certification to the department for consideration, including a tank installer certification program sponsored by another state or organization, but these courses shall not be approved for the requirements in Paragraph (7) of this subsection unless approved by the department in writing. Applicants seeking approval of alternate courses and alternate certification shall provide the department with all information about the course and the proposed educator to allow the department to determine whether to approve them, in the department's sole discretion. In determining whether to approve an alternate course and alternate certification, the department shall determine whether the alternate course and alternate certification provide an equivalent demonstration of knowledge of New Mexico petroleum storage tank regulations, 20.5 NMAC, and technical installation requirements.

(9) The applicant shall provide to the department a notarized affidavit from the applicant stating that all information submitted in the application is true and correct.

B. Notwithstanding the provisions of Paragraph (4) of Subsection A of this section, the department may grant certification to an applicant who has had a business or occupational license or certificate suspended or revoked where the suspension or revocation, by reason of its date, nature or other considerations, is not directly relevant to the applicant's competence to install, replace, repair or modify AST systems.

[20.5.105.506 NMAC - N, 07/24/2018]

[The department provides an optional form that may be used to apply for certification. The form is available on the petroleum storage tank bureau's pages on the department website or by contacting the petroleum storage tank bureau at 505-476-4397 or 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505. Applicants should submit application forms to the Petroleum Storage Tank Bureau, attention: Application for Certified Installer, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505.]

20.5.105.507 INDIVIDUAL CERTIFICATION FOR JUNIOR INSTALLER OF AST SYSTEMS:

A. An applicant for an individual's AST junior installer certification shall meet all of the following requirements in order to receive certification from the department.

(1) The applicant shall file an application with the department with the information required in Paragraph (1) of Subsection A of 20.5.105.508 NMAC, accompanied by a nonrefundable fee of \$50.00.

(2) The applicant shall be an individual at least 18 years of age.
(3) The applicant need not, for purposes of this part, be a resident of the state.
(4) The applicant shall demonstrate that the applicant is in good standing with all licensing authorities by whom licensing is required, given the nature and scope of the applicant's work, and that the applicant has not had a business or occupational license or certificate suspended or revoked in this or any other state, except as provided in Subsection B of this section.

(5) Applicants shall demonstrate in the application that they have met the experience requirements of Subsection B of 20.5.105.509 NMAC.

(6) Applicants shall demonstrate certification by the manufacturer of the spill and overfill equipment they install, repair, replace, or modify.

(7) Applicants shall submit a copy of their journeyman pipe fitter (JPF), MM-4, or MM-98 license if they are applying to repair and replace entirely above ground piping in addition to activities listed in Subsection B of 20.5.105.502 NMAC.

(8) The applicant shall provide the department with evidence in the application that, within the prior three months, the applicant has passed:

(a) a New Mexico laws and rules AST test for junior installer certification administered by the department pursuant to 20.5.105.514 NMAC; and

(b) a national technical AST test administered by a certification educator approved by the department and has been certified by that educator.

(9) As an alternative to the tests required in Paragraph (8) of this subsection, applicants may propose alternate tests and approved certification to the department for consideration, including a tank installer certification program sponsored by another state or organization, but these courses shall not be approved for the requirements in Paragraph (8) of this subsection unless approved by the department in writing. Applicants seeking approval of alternate courses and alternate certification shall provide the department with all information about the course and the proposed educator to allow the department to determine whether to approve them, in the department's sole discretion. In determining whether to approve an alternate course and alternate certification, the department shall determine whether the alternate course and alternate certification provide an equivalent demonstration of knowledge of New Mexico petroleum storage tank regulations, 20.5 NMAC, and technical AST requirements.

(10) The applicant shall provide to the department a notarized affidavit from the applicant stating that all information submitted in the application is true and correct.

B. Notwithstanding the provisions of Paragraph (4) of Subsection A of this section, the department may grant certification to an applicant who has had a business or occupational license or certificate suspended or revoked where the suspension or revocation, by reason of its date, nature or other considerations, is not directly relevant to the applicant's competence to install, replace, repair or modify AST spill and overfill prevention equipment.

[20.5.105.507 NMAC - N, 07/24/2018]

20.5.105.508 INDIVIDUAL CERTIFICATION FOR JUNIOR INSTALLER OF UST SYSTEMS:

A. An applicant for an individual's UST junior installer certification shall meet all of the following requirements in order to receive certification from the department.

(1) The applicant shall file an application with the department accompanied by a nonrefundable fee of \$50.00. At a minimum the application shall contain the following information:

(a) applicant's name, permanent residence address and telephone number;

(b) applicant's business address and any business name used by the applicant, with telephone number and facsimile transmission number;

(c) applicant's date of birth;

(d) applicant's social security number;

(e) construction industries division license number, type of license, name of license holder under which applicant is working and expiration of license;

(f) whether the construction industries division license in Subparagraph (e) of Paragraph (1) of this subsection has ever been suspended or revoked; if so, an explanation of the circumstances of the suspension or revocation;

(g) the supervisor's name, business name, address and telephone number with whom the applicant worked as a junior installer;

- (h) a description of the number of years of experience the applicant has installing, replacing, modifying, and repairing spill and overfill prevention equipment (specify USTs and ASTs);
 - (i) a description of the number of spill and overfill prevention equipment installations, repairs, replacements, or modifications the applicant has performed (specify USTs and ASTs) in the past four years; and
 - (j) whether applicant owes child support in New Mexico.
- (2) The applicant shall be an individual and at least 18 years of age.
- (3) The applicant need not, for purposes of this part, be a resident of the state.
- (4) The applicant shall demonstrate that the applicant is in good standing with all licensing authorities by whom licensing is required, given the nature and scope of the applicant's work, and that the applicant has not had a business or occupational license or certificate suspended or revoked in this or any other state, except as provided in Subsection B of this section.
- (5) Applicants shall demonstrate in the application that they have met the experience requirements of Subsection B of 20.5.105.509 NMAC.
- (6) Applicants shall demonstrate certification by the manufacturer of the spill and overfill equipment they install, repair, replace, or modify.
- (7) The applicant shall provide the department with evidence in the application that, within the prior three months, the applicant has passed:
- (a) a New Mexico laws and rules UST test for junior installer certification administered by the department pursuant to 20.5.105.514 NMAC; and
 - (b) a national technical UST test administered by a certification educator approved by the department and has been certified by that educator.
- (8) As an alternative to the tests required in Paragraph (7) of this subsection, applicants may propose alternate tests and approved certification to the department for consideration, including a tank installer certification program sponsored by another state or organization, but these courses shall not be approved for the requirements in Paragraph (7) of this subsection unless approved by the department in writing. Applicants seeking approval of alternate courses and alternate certification shall provide the department with all information about the course and the proposed educator to allow the department to determine whether to approve them, in the department's sole discretion. In determining whether to approve an alternate course and alternate certification, the department shall determine whether the alternate course and alternate certification provide an equivalent demonstration of knowledge of New Mexico petroleum storage tank regulations, 20.5 NMAC, and technical UST requirements.
- (9) The applicant shall provide to the department a notarized affidavit from the applicant stating that all information submitted in the application is true and correct.

B. Notwithstanding the provisions of Paragraph (4) of Subsection A of this section, the department may grant certification to an applicant who has had a business or occupational license or certificate suspended or revoked where the suspension or revocation, by reason of its date, nature or other considerations, is not directly relevant to the applicant's competence to install, replace, repair, or modify UST spill and overfill prevention equipment.

[20.5.105.508 NMAC - N, 07/24/2018]

20.5.105.509 EXPERIENCE REQUIREMENTS:

A. Installer:

(1) To qualify for individual certification under 20.5.105.505 NMAC or 20.5.105.506 NMAC, an applicant shall demonstrate that the applicant has had two years of experience, within the three years immediately prior to making the application, of field experience in the installation, replacement, repair or modification of the type of storage tank systems for which the applicant is applying for certification or, with the approval of the department, closely related work. Additionally, the applicant shall demonstrate they have hands-on supervised experience in the installation of two petroleum storage tank systems of the tank type (AST or UST) they are applying for within the two years of experience. The applicant's demonstration shall include copies of inspection reports (or other similar documents) for the work performed, which shall include the name, phone number and email contact of the supervising inspector. For purposes of this part, the applicant's field experience may be demonstrated in New Mexico or other states.

(2) An engineering degree or a license to practice engineering may substitute for six months of the experience required by Subsection A of this section.

B. Junior installer:

(1) To qualify for individual certification under 20.5.105.507 NMAC or 20.5.105.508 NMAC, an applicant shall demonstrate that the applicant has had one year, within the three years immediately prior to making the application, of field experience with storage tank spill and overflow equipment installations, replacements, modifications, or repairs.

(2) To qualify for individual certification under 20.5.105.507 NMAC as an AST junior installer who can repair or replace entirely above ground piping, applicants shall demonstrate that they meet the requirements in Subsection C of 20.5.105.502 NMAC in addition to the requirements in Paragraph (1) of this subsection.

(3) The applicant's demonstration shall include copies of inspection reports (or other similar documents) for the work performed which shall include the name, phone number and email contact of the supervising inspector. For purposes of this part, the applicant's field experience may be demonstrated in New Mexico or other states.

[20.5.105.509 NMAC - N, 07/24/2018]

20.5.105.510 ON-SITE EXAMINATION FOR INSTALLER:

A. To qualify for individual certification under 20.5.105.505 NMAC or 20.5.105.506 NMAC, an applicant shall pass an on-site examination consisting of a successful installation of the regulated and applicable (AST or UST) type of storage tank system in the presence of a designated employee of the department. The applicant shall complete each aspect of the installation successfully in order to pass the examination, including use of proper materials, proper assembly of materials and proper testing of the tank and piping at the appropriate times during the installation.

B. An applicant may request an on-site examination for UST or AST certification any time within 180 days of the date of submission of the application provided for in Paragraph (1) of Subsection A of 20.5.105.505 NMAC or Paragraph (1) of Subsection A of 20.5.105.506 NMAC and shall accompany the request with a nonrefundable \$300 fee. The applicant shall notify the department of the date and the site of the on-site examination 30 days prior to the examination. For good cause shown, the department may, in its sole discretion, grant an applicant one 180-day extension of the time period during which the applicant must take the on-site examination. The department shall not grant more than one extension. If the applicant does not schedule an on-site examination within these time periods, the applicant shall file a new application for certification and comply with all the application requirements in 20.5.105.505 NMAC or 20.5.105.506 NMAC as applicable.

C. The applicant shall be responsible, subject to approval by department staff, for identifying a satisfactory site and date(s) for the on-site examination. The applicant is also responsible for ensuring that all necessary equipment and appropriate materials necessary for the installation are on site. Department staff shall fail any applicant who has three significant errors during the on-site examination. For purposes of this section, significant errors include, but are not limited to, use of materials or installation practices that violate these regulations, manufacturer's installation instructions, or other industry standards. As long as a department staff member responsible for assessing the on-site exam is present, the applicant may perform the activities involved in the exam even though the applicant is not a certified installer.

D. The installation shall be assessed by the department employee present at the examination who shall present findings to the department, with a recommendation as to whether or not the applicant passed the on-site examination. The department shall make the determination as to the success of the installation and notify the applicant by mail within 30 days of completion of the installation. If the applicant did not pass the examination, the department shall inform the applicant that the applicant may retake the examination upon payment of a nonrefundable \$300.00 fee and upon such conditions as the department may impose to ensure that the applicant is prepared to perform a more successful installation. If the applicant does not retake the examination within 180 days of being notified that the applicant did not pass the examination or if the applicant fails the on-site examination a second time, the applicant shall file a new application for certification with the department if the applicant desires to become a certified installer.

E. The department employee may stop an on-site examination if the employee determines that the installation being conducted constitutes a threat to public health, safety or welfare or the environment. If the examiner stops the installation, the examiner's findings shall be presented to the department with a "do not pass" recommendation. The department shall notify the applicant of its decision as provided in Subsection D of this section.

[20.5.105.510 NMAC - N, 07/24/2018]

20.5.105.511 DENIAL OF CERTIFICATION: An applicant whose application for certification is denied shall be afforded an opportunity for a hearing before the secretary under 20.5.5.519 NMAC, in accordance with the Uniform Licensing Act, Sections 61-1-1 through 61-1-33 NMSA 1978, and the department's adjudicatory procedures in 20.1.5 NMAC.

[20.5.105.511 NMAC - N, 07/24/2018]

20.5.105.512 RENEWAL OF CERTIFICATION FOR INSTALLER:

A. A certification shall expire March 16 of the fourth calendar year after it was issued. Applications for renewal of certification issued under 20.5.105.505 NMAC and 20.5.105.506 NMAC shall be submitted no later than February 16 of the fourth year after the certification was granted to ensure renewal by March 16. Certification for installers who do not submit a timely renewal application shall be considered lapsed and invalid on March 16; the department shall not accept applications for renewal after February 16. Any installer whose certification has lapsed as provided in this subsection shall submit an application for new certification under 20.5.105.505 NMAC or 20.5.105.506 NMAC and comply with the requirements thereof.

B. At least 90 days before the expiration date of certification, the department shall mail a renewal application reminder to the installer, at the installer's address of record with the department. It is the duty and responsibility of the installer to timely submit the renewal application for certification pursuant to Subsection A whether or not an application reminder has been received from the department.

C. To qualify for renewal, a UST certified individual or installer shall:

(1) file an application with the department with the information required in Paragraphs (1), (4) and (9) of Subsection A of 20.5.105.505 NMAC, accompanied by a nonrefundable \$50.00 fee;

(2) demonstrate as required by 20.5.105.509 NMAC that the installer has completed at least two UST system installations, replacements, repairs or modifications during the four-year period preceding the renewal application; and

(3) demonstrate that the installer has passed a New Mexico laws and rules UST test administered by the department pursuant to 20.5.105.514 NMAC, within the prior three months.

D. To qualify for renewal, an AST certified installer shall:

(1) file an application with the department with the information required in Paragraphs (1), (4) and (9) of Subsection A of 20.5.105.506 NMAC, accompanied by a nonrefundable \$50.00 fee;

(2) demonstrate as required by 20.5.105.509 NMAC that the installer has completed at least two AST system installations, replacements, repairs or modifications during the four-year period preceding the renewal application; and

(3) demonstrate that the installer has passed a New Mexico laws and rules AST test administered by the department pursuant to 20.5.105.514 NMAC, within the prior three months.

E. An applicant for renewal shall be afforded opportunity for hearing before the secretary, as provided in 20.5.105.519 NMAC, in the event the department contemplates withholding renewal for any cause other than failure to pay the required renewal fee.

F. For purposes of this section, "demonstrate" means provide copies of registration forms, inspection reports, installation checklists, written statements or other documents verifying the certified installer's on-site, physical, hands-on participation in critical junctures of a particular installation, replacement, repair or modification. [20.5.105.512 NMAC - N, 07/24/2018]

[The department provides an optional form that may be used to apply for renewal of certification. The form is available on the petroleum storage tank bureau's pages on the department website or by contacting the Petroleum Storage Tank Bureau at 505-476-4397 or 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505. Applicants should submit renewal forms to the Petroleum Storage Tank Bureau, attention: Application for Certified Installer, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505.]

20.5.105.513 RENEWAL OF CERTIFICATION FOR JUNIOR INSTALLER:

A. A certification for junior installer shall expire March 16 of the fourth calendar year after it was issued. Applications for renewal of certification issued under 20.5.105.507 NMAC and 20.5.105.508 NMAC shall be submitted no later than February 16 of the fourth year after the certification was granted to ensure renewal by March 16. Certification for junior installers who do not submit a timely renewal application shall be considered lapsed and invalid on March 16; the department shall not accept applications for renewal after February 16. Any junior installer whose certification has lapsed as provided in this subsection shall submit an application for new certification under 20.5.105.507 NMAC or 20.5.105.508 NMAC and comply with the requirements thereof.

B. At least 90 days before the expiration date of certification, the department shall mail a renewal application reminder to the junior installer, at the junior installer's address of record with the department. It is the duty and responsibility of the junior installer to timely submit the renewal application for certification pursuant to Subsection A whether or not an application reminder has been received from the department.

C. To qualify for renewal, a UST certified junior installer shall:

(1) file an application with the department with the information required in Paragraphs (1), (4) and (9) of Subsection A of 20.5.105.508 NMAC, accompanied by a nonrefundable \$50 fee;

(2) demonstrate as required by 20.5.105.509 NMAC that the junior installer has completed at least two spill and overflow prevention equipment installations, replacements, repairs or modifications on UST systems during the four-year period preceding the renewal application; and

(3) demonstrate that the junior installer has passed a New Mexico laws and rules UST test for junior installer certification administered by the department pursuant to 20.5.105.514 NMAC, within the prior three months.

D. To qualify for renewal, AST certified junior installers shall:

(1) file an application with the department with the information required in Paragraphs (1), (4) and (10) of Subsection A of 20.5.105.507 NMAC, accompanied by a nonrefundable \$50.00 fee;

(2) demonstrate as required by 20.5.105.509 NMAC that the junior installer has completed at least two replacements, repairs or modifications of spill and overflow prevention equipment on AST systems during the four-year period preceding the renewal application;

(3) demonstrate that the junior installer has passed a New Mexico laws and rules AST test for junior installer certification administered by the department pursuant to 20.5.105.514 NMAC, within the prior three months; and

(4) if seeking to renew their certification to repair and replace entirely above ground piping, demonstrate that they have completed at least two repairs or replacements of above ground piping on AST systems during the four-year period preceding the renewal application or submit a current journeyman pipe fitter (JPF), MM-4, or MM-98 license from the New Mexico construction industries division in accordance with 14.6.6 NMAC.

E. An applicant for renewal shall be afforded opportunity for hearing before the secretary, as provided in 20.5.105.519 NMAC, in the event the department contemplates withholding renewal for any cause other than failure to pay the required renewal fee.

F. For purposes of this section, "demonstrate" means provide copies of registration forms, inspection reports, installation checklists, written statements or other documents verifying the certified junior installer's on-site, physical, hands-on participation in critical junctures of a particular installation, replacement, repair or modification of spill and overflow prevention equipment.

[20.5.105.513 NMAC - N, 07/24/2018]

20.5.105.514 NEW MEXICO LAWS AND RULES TEST:

A. The department shall create and administer written tests on the rules contained in 20.5 NMAC, petroleum storage tanks. Tests for AST and UST installer applicants and AST and UST junior installer applicants may be different tests. The department shall offer tests at least monthly at a charge of \$45 per installer or junior installer applicant per test, paid to the storage tank fund.

B. Applicants may apply to take the New Mexico laws and rules test at any office of the bureau, at least 15 days before a test is given. The department shall post on its webpage dates, times and locations that tests will be offered. The department shall not administer any test until payment is received.

C. An applicant must pass a test by a grade of seventy percent or higher. The department will notify applicants in writing of a passing or failing grade no later than 15 working days after they took a test.

D. An applicant may re-take the New Mexico laws and rules test for each type of test once within 30 days of receipt of notice of a failing grade. If the applicant does not pass a test the second time, the applicant must reapply for certification complying with the requirements for initial certification in the applicable sections of this part.

[20.5.105.514 NMAC - N, 07/24/2018]

20.5.105.515 INSTALLER DUTIES AND OBLIGATIONS:

A. No person shall agree to perform installation, replacement, repair or modification services unless the person is or employs a certified installer competent to perform the particular installation, replacement, repair or modification involved.

B. A certified installer shall have adequate knowledge of appropriate materials, technical requirements and installation, replacement, repair or modification procedures for any storage tank system that the installer undertakes to install, replace, repair or modify. A certified installer shall not perform any installation, replacement, repair or modification, or affix an installer signature or certification number to any installation, replacement, repair or modification for which the installer lacks competence.

C. A certified installer shall:

- (1) exercise responsible supervisory control over any installation, replacement, repair or modification undertaken;
- (2) at a minimum, be physically present on-site at all critical junctures in the installation, replacement, repair or modification; and
- (3) give notice as required by these regulations, 20.5 NMAC.

D. A certified installer shall not certify to an owner or operator of a storage tank system that an installation, replacement, repair or modification is complete unless the installation, replacement, repair, or modification complies with the New Mexico Hazardous Waste Act, Sections 74-4-1 through 74-4-14 NMSA 1978, and the petroleum storage tank regulations promulgated pursuant to the act, 20.5 NMAC. The certified installer is responsible for the accuracy of any representations made to the owner or operator.

E. Certified installers have a duty to report to the department any and all suspected or confirmed releases, as those terms are used in 20.5.118 NMAC, detected at a site or the surrounding area by the installer or persons working under the installer's supervisory control, as required by 20.5.118 NMAC.

F. Certified installers shall not perform any installation, replacement, repair, modification or removal without providing notice as required by the provisions of 20.5 NMAC, except for emergency repairs as described in 20.5.107 NMAC and 20.5.110 NMAC, and defined in 20.5.101 NMAC. Certified installers shall not perform any activity described as a critical juncture in 20.5.105 NMAC, without providing the 24-hour notice required by that part, except for emergency repairs.

G. Certified installers shall comply with all of the provisions of the petroleum storage tank regulations, 20.5 NMAC.

[20.5.105.515 NMAC - N, 07/24/2018]

20.5.105.516 CERTIFIED JUNIOR INSTALLER DUTIES AND OBLIGATIONS:

A. No individual shall agree to perform an installation, replacement, repair or modification of spill and overfill prevention equipment unless the individual is a certified junior installer and is competent to perform the installation, replacement, repair or modification.

B. Junior installers shall acquire and maintain certification from the manufacturers of the spill and overfill prevention equipment they modify, install, replace, or repair, as applicable.

C. A junior installer of AST systems who is certified to repair or replace entirely above ground piping shall maintain all certifications and licenses as required by 20.5.105 NMAC.

D. A junior installer shall exercise responsible supervisory control when helpers are used.

E. A junior installer has a duty to report to the department any and all suspected or confirmed releases, as those terms are used in 20.5.118 NMAC, detected at a site or the surrounding area by the junior installer or persons working under the junior installer's supervisory control, as required by 20.5.118 NMAC.

F. A junior installer shall not perform any installation, replacement, repair, modification or removal of spill and overfill prevention equipment without providing notice as required by the provisions of 20.5 NMAC.

G. A junior installer shall comply with all of the provisions of the petroleum storage tank regulations, 20.5 NMAC.

[20.5.105.516 NMAC - N, 07/24/2018]

20.5.105.517 COMPLAINTS:

A. When the department receives a signed written complaint from any person which indicates an apparent violation of applicable law by an individual certified under this part, the department shall provide a copy of the complaint to the certified individual along with a letter from the department specifying the statute, regulation, order or license alleged to be violated. The letter shall include a reasonable description of the acts or practices alleged to be in violation of applicable law. The department shall provide a copy of the letter to the complainant.

B. The certified individual may, but need not, file a response to the complaint with the department. After reviewing the complaint together with any other matter in the certified individual's record, the department shall determine whether further action is to be taken.

[20.5.105.517 NMAC - N, 07/24/2018]

20.5.105.518 INVESTIGATIONS, ENFORCEMENT, PENALTIES:

A. The department may undertake such investigations and take such actions as it deems necessary to ensure compliance with the provisions of this part, including the issuance of compliance orders and the commencement of civil actions under the provisions of the Hazardous Waste Act, Sections 74-4-1 through 74-4-14 NMSA 1978. The department may also initiate proceedings to revoke certification of an individual certified under Subsection C of Section 74-4-4.4 NMSA 1978 and 20.5.114 NMAC. The department may revoke certification upon grounds that the certified individual:

- (1) exercised fraud, misrepresentation or deception in obtaining the certification;
- (2) exhibited gross incompetence in the installation, replacement, repair, modification or removal of a storage tank system; or
- (3) was derelict in the performance of a duty as a certified installer or junior installer, as required in the applicable sections of this part (including repeated failure to provide notice of releases or of the installation, replacement, repair, modification or removal of storage tank systems as required in the applicable sections of this part).

B. Persons violating the provisions of this part may be subject to the imposition of penalties under the Hazardous Waste Act.

[20.5.105.518 NMAC - N, 07/24/2018]

20.5.105.519 DEPARTMENT ACTIONS AGAINST CERTIFIED INSTALLERS AND CERTIFIED JUNIOR INSTALLERS:

A. When the department contemplates denying an application for or revoking certification, it shall serve upon the applicant or certified individual a written notice of contemplated action as required by the Uniform Licensing Act, Sections 61-1-1 through 61-1-33 NMSA 1978.

B. Proceedings under this section shall be conducted in accordance with the provisions of the Uniform Licensing Act, Sections 61-1-1 through 61-1-33 NMSA 1978 and in accordance with the department's adjudicatory procedures in 20.1.5 NMAC.

C. If the department revokes certification pursuant to this section, the certified individual may not apply for certification for a minimum of two years for the type of certification revoked. However, if the certified individual is certified for another type of certification in this part, the certified individual shall not be affected by the revocation of the certification for the other type of certification.

[20.5.105.519 NMAC - N, 07/24/2018]

20.5.105.520 AIRPORT HYDRANT FUEL DISTRIBUTION SYSTEMS, UST SYSTEMS WITH FIELD-CONSTRUCTED TANKS AND HYBRID STORAGE TANK SYSTEMS:

A. Certified installers shall only install, modify, repair, or replace airport hydrant fuel distribution systems, UST systems with field-constructed tanks, and hybrid storage tank systems if they also meet the requirements in 20.5.114.1400 NMAC.

B. Certified installers and junior installers shall only install, replace, modify, or repair spill and overfill prevention equipment associated with airport hydrant fuel distribution systems, UST systems with field-constructed tanks, and hybrid storage tank systems if they also meet the requirements in 20.5.114.1400 NMAC.

[20.5.105.520 NMAC - N, 07/24/2018]

HISTORY OF 20.5.105 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives.

EIB/USTR-14, Underground Storage Tank Regulations - Part XIV - Certification of Tank Installers, filed 2/14/89.

EIB/USTR-14, Underground Storage Tank Regulations - Part XIV - Certification of Tank Installers, filed 8/4/89.

History of Repealed Material:

20 NMAC 5.14, Environmental Protection, Underground Storage Tanks, Certification of Tank Installers (filed 2/27/97), repealed 8/15/03.

20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers (filed 7/16/03) repealed 4/4/08.

20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers (filed 3/5/08) repealed 6/15/09.

20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers (filed 6/15/09) repealed 7/24/18.

Other History:

EIB/USTR-14, Underground Storage Tank Regulations - Part XIV - Certification of Tank Installers, (filed 8/14/89) renumbered, reformatted and replaced by 20 NMAC 5.14, Underground Storage Tanks, Certification of Tank Installers, effective 11/5/95.

20 NMAC 5.14, Underground Storage Tanks, Certification of Tank Installers, (filed 10/6/95) replaced by 20 NMAC 5.14, Underground Storage Tanks, Certification of Tank Installers, effective 4/1/97.

20 NMAC 5.14, Underground Storage Tanks, Certification of Tank Installers, (filed 2/27/97) renumbered, reformatted and replaced by 20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers, effective 8/15/03.

20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers (filed 7/16/03) replaced by 20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers, effective 4/4/08.

20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers (filed 3/5/08) replaced by 20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers, effective 6/15/09.

20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers (filed 6/15/09) replaced by 20.5.105 NMAC, Petroleum Storage Tanks, Certification of Tank Installers and Junior Installers; Requirements for Testers, effective 7/24/18.