

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 5 PETROLEUM STORAGE TANKS
PART 115 OUT-OF-SERVICE STORAGE TANK SYSTEMS AND CLOSURE

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

20.5.115.2 SCOPE: This part applies to owners and operators of storage tanks as provided in 20.5.101 NMAC. If the owner and operator of a storage tank are separate persons, only one person is required to comply with the requirements of this part, including any notice and reporting requirements; however, both parties are liable in the event of noncompliance. Owners and operators of airport hydrant systems, field-constructed tanks, and hybrid storage tank systems shall follow the requirements for temporary closure and return to service requirements in 20.5.114 NMAC in addition to the requirements in this part.
[20.5.115.2 NMAC - N, 07/24/2018]

20.5.115.3 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 74-1-16 NMSA 1978.
[20.5.115.3 NMAC - N, 07/24/2018]

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

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

20.5.115.6 OBJECTIVE: The purpose of 20.5.115 NMAC is to regulate storage tank systems to protect the public health, safety and welfare and the environment of the state, and to provide safe and effective closure requirements for out-of-service systems.
[20.5.115.6 NMAC - N, 07/24/2018]

20.5.115.7 DEFINITIONS: The definitions in 20.5.101 NMAC apply to this part.
[20.5.115.7 NMAC - N, 07/24/2018]

20.5.115.8 to 20.5.115.1499 [RESERVED]

20.5.115.1500 REQUIRED NOTIFICATION PRIOR TO TEMPORARY OR PERMANENT CLOSURE, RETURN TO SERVICE, REMOVAL, OR CHANGE IN SERVICE:

A. Notice required.

(1) At least 30 days before beginning either permanent closure, temporary closure, return to service, change in service, or removal of a tank pursuant to this part, or within another reasonable time period if approved in advance by the department, owners and operators shall notify the department in writing of their intent to remove, close or make the return to or change in service, unless such action is in response to corrective action.

(2) If owners and operators do not notify the department that a tank is out of service, the tank shall be considered to be in service for the purpose of these regulations.

(3) Additionally, owners and operators shall notify the department in writing at least 30 days prior to placing any regulated substance into a tank that has been in temporary or permanent closure, or before a return to service.

B. Opportunity for inspector to be present. To ensure that a department inspector has an opportunity to be present during the steps in procedures which are important to the prevention of releases, owners, operators, and certified tank installers shall give the department notice of the dates on which critical junctures in the removal, change in service, return to service and closure of the storage tank system are to take place. This notice shall be given at least 24 hours before any critical juncture begins, and shall be either oral or written. The inspector may require that critical junctures be performed from Monday through Friday during regular business hours.

C. Critical junctures. For removal, change in service, return to service, or storage tank system closure, the term “critical junctures” means:

- (1) completion of the excavation of a UST or piping;
- (2) cleaning and inerting of a tank;
- (3) the actual removal of a UST or its associated piping from the ground, or the filling of a UST in place;
- (4) actual permanent closure of an AST and its associated piping from any location where it has been in use; and
- (5) assessment of a tank site for releases.

D. At a minimum, the notice for removal, change in service, return to service or temporary or permanent closure of a storage tank system shall contain the following information:

- (1) date the form is completed;
- (2) facility name, facility ID number, address (with county), and telephone number;
- (3) owner name, owner ID number, and address, and telephone number;
- (4) description of type of change of status (change in service, return to service or closure);
- (5) expected date of change in service, return to service or closure; and
- (6) signature of owner, operator or an authorized representative.

E. In addition to the written notices described in this section, owners, operators and certified tank installers shall give oral notice at least 24 hours in advance of the commencement of the procedure. In the oral notice, owners, operators and certified tank installers shall describe any changes to the 30-day written notice required in Subsection D of this section, such as different equipment or removal methods.

F. If owners, operators and certified tank installers are separate persons, only one person is required to comply with the notice requirements of this section; however, all parties are liable in the event of noncompliance. [20.5.115.1500 NMAC - N, 07/24/2018]

[The bureau provides an optional form that may be used. 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, NM 87505.]

20.5.115.1501 TEMPORARY CLOSURE AND RETURN TO SERVICE:

A. When a storage tank system is in temporary closure and the tank contains greater than one inch or 0.3 percent by weight of the total capacity of the storage tank system of a regulated substance, owners and operators shall:

- (1) continue to operate, maintain, and monitor corrosion protection systems in accordance with 20.5.107 NMAC and 20.5.110 NMAC;
- (2) continue to maintain financial responsibility in accordance with 20.5.117 NMAC;
- (3) continue to meet the requirements for operator training in 20.5.104 NMAC;
- (4) continue to meet operation and maintenance requirements for secondary containment, spill prevention equipment, overfill prevention equipment, and release detection, in accordance with 20.5.107 NMAC and 20.5.110 NMAC;
- (5) continue to meet release detection requirements in 20.5.108 NMAC and 20.5.111 NMAC;
- (6) continue to meet piping release detection requirements in 20.5.108 NMAC or 20.5.111 NMAC until the piping is purged of regulated substances and capped; and
- (7) continue to comply with 20.5.118 NMAC, 20.5.119 NMAC, and 20.5.120 NMAC if a release is suspected or confirmed.

B. As long as a storage tank system is in temporary closure and the tank contains one inch or less or the storage tank system contains 0.3 percent by weight or less of the total capacity of the storage tank system of a regulated substance, owners and operators shall comply with Subsection A of this section except for the following:

- (1) release detection requirements in 20.5.108 NMAC and 20.5.111 NMAC;
- (2) periodic testing and inspection requirements for spill prevention, overfill prevention, release detection, and secondary containment in 20.5.107 NMAC and 20.5.110 NMAC;
- (3) periodic operation and maintenance walk-through inspections in 20.5.107.707 NMAC and 20.5.110.1008 NMAC; and
- (4) If the storage tank system does not have steel components that are in contact with soil, water, or concrete, owners and operators are exempt from operator re-training requirements in 20.5.104 NMAC.

C. When a storage tank system is temporarily closed for three months or more, owners and operators shall also comply with all of the following requirements:

- (1) leave vent lines open and functioning;
- (2) cap and secure all other lines, pumps, manways, and ancillary equipment; and
- (3) for AST systems, disconnect and cap all associated piping from the AST as soon as the tank is emptied in accordance with Subsection B of this section.

D. When a UST system is temporarily closed for more than 12 months, owners and operators shall permanently close the UST system if it does not meet either performance standards for new UST systems or the UST system upgrade requirements in 20.5.106 NMAC, except that the spill and overfill equipment requirements do not have to be met. Owners and operators shall permanently close any substandard storage tank systems at the end of this 12-month period in accordance with 20.5.115 NMAC, unless the department provides an extension of the 12-month temporary closure period. Owners and operators shall complete a site assessment in accordance with 20.5.115 NMAC and shall be current with all tank fees before applying for such an extension.

E. When an AST system is temporarily closed for more than 12 months, owners and operators shall permanently close the AST system if it does not meet the performance standards for new AST systems in 20.5.109 NMAC except that the spill and overfill equipment requirements do not have to be met. Owners and operators shall permanently close any substandard storage tank systems at the end of this 12-month period in accordance with 20.5.115 NMAC, unless the department provides an extension of the 12-month temporary closure period. Owners and operators shall complete a site assessment in accordance with 20.5.115 NMAC and shall be current with all tank fees before applying for such an extension.

F. When a storage tank system will be temporarily closed for more than 12 cumulative months, owners and operators must apply for an extension at least 30 days prior to the end of the twelfth cumulative month. In order to apply for an extension, owners and operators shall:

- (1) empty the tank and purge the piping of regulated substances so that the tank contains one inch or less or the system contains three-tenths percent by weight or less of the total capacity of the storage tank system of a regulated substance;
- (2) perform a site assessment in accordance with 20.5.115.1504 NMAC;
- (3) pay all annual tank fees and all accrued late fees for all tanks they own or operate in accordance with 20.5.103 NMAC;
- (4) meet financial responsibility requirements in 20.5.117 NMAC;
- (5) apply in writing to the department and include records demonstrating completion of

Paragraphs (1) through (4) of Subsection F of this section and include all of the information in Subsection D of 20.5.115.1500 NMAC.

G. When a field-erected AST system or field constructed UST system has been temporarily closed for three months or more and meets the performance standards for new storage tank systems in 20.5.106 NMAC, 20.5.109 NMAC, or 20.5.114 NMAC, prior to placing any regulated substance in the system, owners and operators shall:

- (1) perform an internal inspection, integrity test, or tightness test on the tank in accordance with the requirements in 20.5.108 NMAC, 20.5.111 NMAC, or 20.5.114 NMAC;
- (2) perform a tightness test on all piping in accordance with the requirements in 20.5.108 NMAC, 20.5.111 NMAC, or 20.5.114 NMAC; and
- (3) perform functionality testing or inspections on leak detection equipment in accordance with the requirements for annual or periodic testing in 20.5.108 NMAC, 20.5.111 NMAC, or 20.5.114 NMAC.

H. After temporary or permanent closure and before returning any part of a storage tank system to service, owners and operators shall demonstrate the integrity of the entire storage tank system in a manner approved in advance by the department.

I. A delivery of a regulated substance into a tank in temporary closure shall be considered a return to service and all of the requirements for a tank in service shall be met.

J. Owners and operators of temporarily or permanently closed storage tank systems shall use one or more of the following as applicable to the type of storage tank system to meet the requirements in this section:

- (1) *American Petroleum Institute Publication RP 1615, "Installation of Underground Petroleum Storage Systems";*
- (2) *American Petroleum Institute Standard 653, "Tank Inspection, Repair, Alteration, and Reconstruction";*

- (3) *American Petroleum Institute Publication RP 1110, "Recommended Practice for the Pressure Testing of Steel Pipelines for the Transportation of Gas, Petroleum Gas, Hazardous Liquids, Highly Volatile Liquid, or Carbon Dioxide";*
 - (4) *Petroleum Equipment Institute Recommended Practice RP 200, "Recommended Practices for Installation of Aboveground Storage Systems for Motor-Vehicle Fueling";*
 - (5) *Unified Facilities Criteria (UFC) 3-460-01, "Petroleum Fuel Facilities";* or
 - (6) *National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code".*
- [20.5.115.1501 NMAC - N, 07/24/2018]

20.5.115.1502 PERMANENT CLOSURE:

- A.** To permanently close a tank, owners and operators shall empty and clean it by removing all liquids, accumulated sludges, and vapors. Owners and operators shall properly dispose of any liquids and sludge removed from a storage tank.
 - (1) Owners and operators shall either remove from the ground all USTs closed permanently, fill them with an inert solid material or close in place in a manner approved by the department.
 - (2) Owners and operators shall perform the following closure operations on AST systems:
 - (a) ASTs being closed in place shall be rendered vapor free; owners and operators shall make provisions for adequate ventilation to ensure that the AST remains vapor free;
 - (b) vent lines shall remain open and shall be maintained in accordance with the current edition of a standard or code of practice developed by a nationally recognized association or independent testing laboratory, or manufacturer's recommendations;
 - (c) all access openings shall be secured, normally with spacers, to assist ventilation;
 - (d) ASTs shall be secured against tampering and flooding;
 - (e) the name of the product last stored, the date of permanent closure and "PERMANENTLY CLOSED" shall be stenciled in a readily visible location on each AST;
 - (f) piping shall be removed or closed in place; if closed in place, piping shall be disconnected from ASTs, rendered vapor free, and filled with inert material, capped or blind flanged; owners and operators seeking to close piping in place shall propose a closure plan for the piping in writing to the department at least 30 days prior to closure; the department may approve the plan on a case-by-case basis, after considering the extent and depth of piping, the proximity of the piping to buildings, the extent of pavement at the facility, and other factors raised by owners and operators; if the department does not approve a closure plan, owners and operators shall remove the piping; and
 - (g) owners and operators shall dismantle or remove AST systems and secondary containment to the extent needed to conduct the site assessment required in 20.5.115.1504 NMAC.
 - (3) For mobile AST systems, owners and operators shall perform all of the closure requirements in Paragraph (2) of this subsection, except they need not perform the requirements of Subparagraph (e) of Paragraph (2) of this subsection. Owners and operators shall remove or cap piping when permanently closing a mobile AST. Owners and operators shall perform a site assessment that complies with the requirements of 20.5.115.1504 NMAC before permanent closure of any permanently installed mobile tank is completed.
- B.** The current edition of the following cleaning and closure procedures shall be used to comply with this section as applicable:
 - (1) *American Petroleum Institute Publication RP 1604, "Closure of Underground Petroleum Storage Tanks";*
 - (2) *American Petroleum Institute Standard 2015, "Requirements for Safe Entry and Cleaning of Petroleum Storage Tanks";*
 - (3) *American Petroleum Institute Publication RP 2016, "Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks";*
 - (4) *American Petroleum Institute Publication 2202, "Guidelines for Protecting Against Lead Hazards when Dismantling and Disposing of Steel from Tanks that have Contained Leaded Gasoline";*
 - (5) *American Petroleum Institute Publication RP 1631, "Interior Lining and Periodic Inspections of Underground Storage Tanks";* or
 - (6) *The National Institute for Occupational Safety and Health "Criteria for a Recommended Standard: Working in Confined Space".*
- C.** Owners and operators shall perform an assessment meeting the requirements of 20.5.115.1504 NMAC after notifying the department but before completion of permanent closure.

D. Owners and operators that have installed any monitoring wells as release detection pursuant to 20.5.108 NMAC shall properly close the wells in a manner approved by the department as part of permanent closure activities.

[20.5.115.1502 NMAC - N, 07/24/2018]

20.5.115.1503 CHANGES IN SERVICE:

A. Continued use of a storage tank system to store a non-regulated substance is a change in service.

B. Owners and operators shall notify the department in compliance with 20.5.115.1500 NMAC of any change in service, and any change in location of AST systems that are operational and registered pursuant to 20.5.102 NMAC.

C. Before a change in service, owners and operators shall empty and clean the tank by removing all liquid and accumulated sludge, and shall properly dispose of any liquids and sludge removed from a storage tank. Owners and operators shall also conduct a site assessment meeting the requirements of 20.5.115.1504 NMAC. The current edition of the following cleaning and closure procedures shall be used as applicable to comply with the requirements of this section:

(1) *American Petroleum Institute Publication RP 1604, "Closure of Underground Petroleum Storage Tanks";*

(2) *American Petroleum Institute Standard 2015, "Requirements for Safe Entry and Cleaning of Petroleum Storage Tanks";*

(3) *American Petroleum Institute Publication RP 2016, "Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks";*

(4) *American Petroleum Institute Publication 2202, "Guidelines for Protecting Against Lead Hazards when Dismantling and Disposing of Steel from Tanks that have Contained Leaded Gasoline";*

(5) *American Petroleum Institute Publication RP 1631, "Interior Lining and Periodic Inspections of Underground Storage Tanks";* or

(6) *The National Institute for Occupational Safety and Health "Criteria for a Recommended Standard: Working in Confined Space".*

[20.5.115.1503 NMAC - N, 07/24/2018]

20.5.115.1504 ASSESSING THE SITE AT CLOSURE OR CHANGE IN SERVICE:

A. Before permanent closure or a change in service is completed, owners and operators shall measure for the presence of a release where contamination is most likely to be present at the storage tank site.

(1) In selecting sample types, sample locations, and measurement methods, the bureau shall consider the method of closure, the nature of the stored regulated substance, the type of backfill for any USTs, the depth to groundwater, and other factors appropriate for identifying the presence of a release. Examples of sample locations may include but are not limited to piping junctions, under dispensers and under storage tanks.

(2) A bureau inspector may waive the requirement for soil sampling when an AST is closed or may require alternate tests for the presence of a release, based on site specific conditions that demonstrate equivalent environmental protection. For example, at a site where an AST has been operated for less than 10 years with impervious secondary containment, the inspector may waive soil sampling as the secondary containment would have effectively prevented any release outside the containment. The bureau may require soil sampling or a site assessment at a later date if site-specific circumstances indicate that a release may have occurred.

(3) The requirements of this section are satisfied if one of the external release detection methods allowed in 20.5.108.806 NMAC and 20.5.108.807 NMAC is operating in accordance with the requirements in 20.5.108 NMAC at the time of closure, and indicates no release has occurred.

B. If contaminated soils, contaminated groundwater, non-aqueous phase liquid or vapor is discovered as a result of activities required by this section, or by any other manner, owners and operators shall notify the department in accordance with 20.5.118 NMAC and begin corrective action in accordance with 20.5.119 NMAC and 20.5.120 NMAC.

[20.5.115.1504 NMAC - N, 07/24/2018]

20.5.115.1505 APPLICABILITY TO PREVIOUSLY CLOSED STORAGE TANK SYSTEMS:

A. When directed by the department, owners and operators of UST systems permanently closed before December 22, 1988, shall assess the excavation zone and close the UST systems in accordance with this part if releases from the UST system may, in the judgment of the department, pose a current or potential threat to public health, safety and welfare and the environment.

B. When directed by the department, owners and operators of AST systems permanently closed before August 15, 2003, shall assess the entire AST system area and close the AST systems in accordance with this part if releases from the AST system may, in the judgment of the department, pose a current or potential threat to public health, safety and welfare and the environment.
[20.5.115.1505 NMAC - N, 07/24/2018]

20.5.115.1506 CLOSURE RECORDS:

A. Owners and operators shall maintain records in accordance with 20.5.107 NMAC and 20.5.110 NMAC that demonstrate compliance with all closure requirements of this part.

B. Owners and operators shall ensure that the results of the assessment required in 20.5.115.1504 NMAC are maintained in accordance with 20.5.107.714 NMAC and 20.5.110.1015 NMAC after completion of permanent closure or change in service in one of the following ways:

- (1) by the owners and operators who took the storage tank system out of service;
- (2) by the current owners and operators of the storage tank system site; or
- (3) by mailing these records to the department if they cannot be maintained at the closed

facility.

[20.5.115.1506 NMAC - N, 07/24/2018]

HISTORY OF 20.5.115 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-8, Underground Storage Tank Regulations - Part VIII - Out-Of-Service UST Systems And Closure, filed 9/12/88.

EIB/USTR-8, Underground Storage Tank Regulations - Part VIII - Out-Of-Service UST Systems And Closure, filed 8/4/89.

EIB/USTR-8, Underground Storage Tank Regulations - Part VIII - Out-Of-Service UST Systems And Closure, filed 6/12/90.

History of Repealed Material: EIB/USTR-8, Underground Storage Tank Regulations - Part VIII - Out-Of-Service UST Systems And Closure (filed 2/27/97), repealed 8/15/03.

20.5.8 NMAC, Petroleum Storage Tanks - Out-Of-Service Systems And Closure (filed 7/16/03) repealed 4/4/08.

20.5.8 NMAC, Petroleum Storage Tanks - Out-Of-Service Systems And Closure (filed 4/4/08) repealed 7/24/18.

Other History:

EIB/USTR-8, Underground Storage Tank Regulations - Part VIII - Out-Of-Service UST Systems And Closure (filed 6/12/90) renumbered, reformatted and replaced by 20 NMAC 5.8, Underground Storage Tanks - Out-Of-Service Systems And Closure, effective 11/5/95.

20 NMAC 5.8, Underground Storage Tanks - Out-Of-Service Systems And Closure (filed 10/6/95) was replaced by 20 NMAC 5.8, Underground Storage Tanks - Out-Of-Service Systems And Closure, effective 4/1/97.

20 NMAC 5.8, Underground Storage Tanks - Out-Of-Service Systems And Closure (filed 2/27/97) was renumbered, reformatted and replaced by 20.5.8 NMAC, Petroleum Storage Tanks - Out-Of-Service Systems And Closure, effective 8/15/03.

20.5.8 NMAC, Petroleum Storage Tanks - Out-Of-Service Systems And Closure (filed 7/16/03) replaced by 20.5.8 NMAC, Petroleum Storage Tanks - Out-Of-Service Systems And Closure, effective 4/4/08.

20.5.8 NMAC, Petroleum Storage Tanks - Out-Of-Service Systems And Closure (filed 7/16/03) was renumbered reformatted, and replaced by 20.5.115 NMAC, Petroleum Storage Tanks - Out-Of-Service Storage Tank Systems And Closure, effective 7/24/18.