

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 5 PETROLEUM STORAGE TANKS
PART 104 OPERATOR TRAINING

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

20.5.104.2 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 requirement of this part, including any notice, reporting, designation of certified operators, and payment requirements; however, both parties are liable in the event of noncompliance.
[20.5.104.2 NMAC - N, 07/24/2018]

20.5.104.3 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; the Ground Water Protection Act, Sections 74-6B-1 through 74-6B-14 NMSA 1978; and the general provisions of the Environmental Improvement Act, Sections 74-1-1 through 74-1-17 NMSA 1978.
[20.5.104.3 NMAC - N, 07/24/2018]

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

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

20.5.104.6 OBJECTIVE: The purpose of this part is to ensure that operators of regulated storage tanks are effectively trained to manage and prevent environmental and public health emergencies and other situations requiring on-site response, in order to protect public health, safety and welfare and the environment of the state.
[20.5.104.6 NMAC - N, 07/24/2018]

20.5.104.7 DEFINITIONS: The definitions in 20.5.101 NMAC apply to this part. The terms operator and certified operator as used in this part are different terms, as defined in 20.5.101.7 NMAC.
[20.5.104.7 NMAC - N, 07/24/2018]

20.5.104.8 TO 20.5.104.399 [RESERVED]

20.5.104.400 CLASSES OF OPERATORS: There shall be three classes of operators identified as class A, class B, and class C.

A. Designation. Owners and operators shall identify and designate, for each storage tank system or group of storage tank systems at a facility, at least one named individual for each class of operator and provide the department the name(s) and certificate number(s) of the designated class A and B operator in writing within 30 days of a change in the designated operator.

(1) Owners and operators may designate different individuals for each class of operator, or one individual for more than one of the operator classes.

(2) Any individual designated for more than one operator class shall be trained and certified for each class of operator.

B. Training. All individuals designated as a class A, B or C operator shall, at a minimum, be trained and certified according to these regulations by the applicable deadlines in this part. Class A and B operators shall receive department approved training that applies to both AST systems and UST systems.

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

20.5.104.401 CLASS A OPERATOR: A class A operator has primary responsibility to operate and maintain the storage tank system. The class A operator's responsibilities include managing resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements.

A. General requirements. The class A operator focuses on the broader aspects of the statutory and regulatory requirements and standards necessary to operate and maintain the storage tank system (20.5 NMAC). For example, the class A operator ensures that appropriate individuals:

- (1) properly operate and maintain the storage tank system;
- (2) maintain appropriate records;
- (3) are trained to operate and maintain the storage tank system and keep records;
- (4) properly respond to emergencies caused by releases or spills from storage tank systems at the facility; and
- (5) make financial responsibility documents available to the department as required.

B. Minimum training requirements. At a minimum, the class A operator shall be trained in:

- (1) a general knowledge of storage tank system requirements so he can make informed decisions regarding compliance and ensure appropriate individuals are fulfilling operation, maintenance, and recordkeeping requirements and standards of 20.5 NMAC regarding:

- (a) spill prevention;
- (b) overfill protection;
- (c) release detection;
- (d) corrosion protection;
- (e) emergency response; and
- (f) product compatibility;
- (2) financial responsibility documentation requirements;
- (3) notification requirements;
- (4) release and suspected release reporting requirements;
- (5) temporary and permanent closure requirements; and
- (6) operator training requirements.

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

20.5.104.402 CLASS B OPERATOR: A class B operator implements applicable storage tank regulatory requirements and standards (20.5 NMAC) in the field. This individual implements the day-to-day aspects of operating, maintaining, and recordkeeping for storage tanks at one or more facilities.

A. General requirements. The class B operator monitors, maintains and ensures:

- (1) release detection method, recordkeeping and reporting requirements are met;
- (2) release prevention equipment, recordkeeping and reporting requirements are met;
- (3) all relevant equipment complies with performance standards; and
- (4) appropriate individuals are trained to properly respond to emergencies caused by releases or spills from storage tank systems at the facility.

B. Minimum training requirements. Compared with training for the class A operator, training for the class B operator shall provide a more in-depth understanding of operation and maintenance aspects, but may cover a more narrow breadth of applicable regulatory requirements. At a minimum, class B operator training shall include:

- (1) components of storage tank systems;
- (2) materials of storage tank system components;
- (3) methods of release detection and release prevention applied to storage tank system components;
- (4) operation and maintenance requirements of 20.5 NMAC that apply to storage tank systems and include:

- (a) spill prevention;
- (b) overfill protection;
- (c) release detection;
- (d) corrosion protection;
- (e) emergency response; and
- (f) product compatibility;
- (5) reporting and recordkeeping requirements; and
- (6) class C operator training requirements.

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

20.5.104.403 CLASS C OPERATOR: A class C operator is an employee and is, generally, the first line of response to events indicating emergency conditions. This individual is responsible for responding to alarms or other indications of emergencies caused by spills or releases from storage tank systems. This individual notifies the class B or class A operator and appropriate emergency responders when necessary. Not all employees of a facility are necessarily class C operators.

- A.** General requirements. The class C operator:
 - (1) controls or monitors the dispensing or sale of regulated substances; and
 - (2) is responsible for initial response to alarms or releases.
- B.** Minimum training requirements. At a minimum, the class C operator shall be trained to take action in response to emergencies (such as situations posing an immediate danger or threat to the public or to the environment and that require immediate action) and alarms potentially caused by spills or releases from a storage tank system.
- C.** Training elements for class C.
 - (1) Trained class A or class B operators shall:
 - (a) provide training to class C operators on emergency response procedures and on contacts for alarms potentially caused by spills or releases;
 - (b) provide simple written instructions on these procedures and contacts; and
 - (c) post signage with these procedures and contacts in prominent areas of the storage tank facility that are easily visible to any person dispensing a regulated substance.
 - (2) For purposes of this subsection, emergency response procedures shall include but are not limited to:
 - (a) procedures for overfill protection during delivery of regulated substances;
 - (b) operation of the emergency shut off system and alarm response;
 - (c) release reporting; and
 - (d) any site-specific emergency procedures.

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

20.5.104.404 TRAINING AND CERTIFICATION DEADLINES AND SCHEDULES:

- A.** Owners and operators of storage tank systems shall post at each facility owned a list of designated and certified class A and B operators and provide the department the name(s) and certificate number(s) of the designated class A and B operator(s) in writing within 30 days of a change in the designated operator.
- B.** When requested and at any inspection conducted by the department, owners and operators shall provide to the department a list of designated certified class A and B operators for each facility owned.
- C.** Owners shall maintain documentation identifying designated and certified class C operators, with proof of training, at each facility.
- D.** All designated certified class A, B and C operators shall be trained and possess a current certificate issued by a trainer approved pursuant to this part.
- E.** New operators shall be trained and certified within the following timeframes:
 - (1) Class A and class B operators shall be trained and certified within 60 days of assuming full operation and maintenance responsibilities of a storage tank system. Owners and operators in rural and remote areas of the state may apply in writing for a 60-day deferral of this requirement. To apply for this deferral, owners and operators must demonstrate to the department that they are located in a rural and remote area, as defined in 20.5.101.7 NMAC.

- (2) Class C operators shall be trained before assuming responsibility for responding to emergencies and before dispensing a regulated substance.

- F.** Owners and operators shall provide the department the name(s) and certificate number(s) of the designated class A and B operator(s) within 30 days of when they assume full operation and maintenance responsibilities of a storage tank system.

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

20.5.104.405 OPERATOR PRESENT: Owners and operators shall ensure that every facility has either a class A, class B, or class C operator on-site whenever it is open for business and dispensing any regulated substance, except:

- A.** pursuant to Paragraph 1 of Subsection E of 20.5.104.404 NMAC;

B. at un-manned facilities, which shall conspicuously post signage required in Paragraph 1 of Subsection C of 20.5.104.403 NMAC, and shall either:

- (1) be visited by a class A or B operator every week; or
- (2) have a remote monitoring system that:
 - (a) meets the requirements for UST systems in 20.5.108 NMAC and for AST systems in 20.5.111 NMAC;
 - (b) will automatically shut off the delivery or transfer of regulated substances if a suspected release is detected; and
 - (c) is visited monthly by a class A or B operator;

C. at emergency generator systems, which shall comply with the requirements of Subsection B above, unless an owner or operator requests an alternate method and such request is approved by the department. [20.5.104.405 NMAC - N, 07/24/2018]

20.5.104.406 RE-TRAINING AND RE-CERTIFICATION:

A. Class A and B operators shall be re-certified every five years, in the same manner as original training and certification required in this part. It is the responsibility of owners, operators and certified operators to track certification dates and expiration, and to ensure that a certified operator as required by this part is designated and on-site for every storage tank system by the deadlines in this part and as required in this part. Owners and operators shall provide the department with the certificate number and expiration date of their designated class A and B operators upon their certification.

B. In addition to the requirements of Subsection A, if the department finds that a storage tank system is out of compliance, the class A and class B operator shall be re-trained within 60 days unless they meet the requirements in Subsection C of this section. The class A and B operator may select training specific only to the area of non-compliance (if available) or attend a training program that includes all training elements required by this part. Owners and operators shall provide the department with verification of department approved re-training. At a minimum, a storage tank system is out of compliance for purposes of this section if the system is in violation of:

- (1) release detection requirements in 20.5 NMAC; or
- (2) release prevention requirements (spill, overfill, or corrosion prevention) requirements in 20.5 NMAC.

C. An owner may elect to certify class A and B operators annually for a storage tank system. Class A and B operators that are certified annually need not re-train as required in Subsection B of this section if the department finds the storage tank system is out of compliance. Owners and operators shall provide the department with the certificate number and expiration date of their designated class A and B operators upon their certification.

D. No re-training or re-certification is required for class C operators. Class C operators must be trained and certified each time they are designated for a particular storage tank system.

E. Owners and operators of storage tank systems that have been placed in temporary closure in compliance with 20.5.115.1501 NMAC and have a designated trained class A or class B operator are exempt from re-training requirements unless one or both of the following conditions is present:

- (1) the storage tank contains greater than one inch of regulated substance; or
- (2) the storage tank system has steel components that are in contact with soil, water or concrete.

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

20.5.104.407 DEFERRAL OF RE-TRAINING:

A. An owner or operator that is a certified operator may apply in writing to the department for a one-time five-year deferral of re-training required in 20.5.104.406 NMAC if he can demonstrate the following:

- (1) he owns no more than two facilities;
- (2) no significant changes, modifications or upgrades to either of the facilities have been made during the five-year period immediately preceding the deferral application, including changes to spill prevention equipment, overfill protection equipment, leak detection equipment or corrosion protection equipment;
- (3) the average monthly throughput at each facility is less than 20,000 gallons over the last 12 months; and
- (4) the facility has not been out of compliance as defined in 20.5.104.406 NMAC during the five-year period immediately preceding the deferral application.

B. The department shall promptly evaluate applications for deferral of re-training, and shall respond in writing within 60 days of receipt whether the application is granted, denied, or whether more information is

needed. The department shall not unreasonably withhold approval if the applicant meets all requirements of Subsection A of this section. It is the responsibility of owners and operators to timely apply for deferrals of re-training so that they may be processed and evaluated well before the expiration of operator certification.

C. The department shall place facilities where the owner or operator has received a deferral of re-training on a priority list for technical assistance and inspection.

D. Owners and operators that receive a deferral of re-training shall complete re-training as required in 20.5.104.406 NMAC within five years after the deferral is granted. In other words, if approved, these owners and operators shall re-certify class A and B operators after 10 years.

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

[The department provides an optional form for application for deferral of re-training, available on the Petroleum Storage Tank Bureau's pages on the department website or by calling the department at 505-476-4397 or by writing to the Petroleum Storage Tank Bureau at 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505. Owners should submit applications for deferral to the bureau.]

20.5.104.408 APPROVAL OF TRAINERS AND TRAINING:

A. Training elements. Training materials must be updated within 90 days of the effective date of the regulations. The following topics shall be covered in approved training courses for class A and class B operators:

(1) general overview of department UST and AST program, to include emergency generator systems, airport hydrant systems, USTs with field-constructed tanks, hybrid storage tank systems, any other storage tank system regulated under 20.5 NMAC, and administrative requirements, including:

- (a) registration forms and certificates, and process for filing and modifying them;
- (b) notification process and general technical requirements for new installations, repairs, replacements and modifications;
- (c) confirmed and suspected releases (including confirmation steps for suspected releases), monthly monitoring or release detection test failures, and other system failures that may indicate a release of regulated substance has or is occurring;
- (d) annual tank fees and invoicing process;
- (e) general requirements for maintaining and demonstrating financial responsibility;
- (f) department process for inspections and technical assistance resources available, including written checklists required in 20.5.104.409 NMAC; and
- (g) enforcement process for violations;

(2) general overview of other regulations pertaining to ASTs, USTs, and any other storage tank systems regulated under 20.5 NMAC, including but not limited to, fire codes, occupational health and safety, and any related industry practices pertaining to safety;

(3) spill prevention and overfill protection:

- (a) rule requirements, including record keeping;
- (b) equipment requirements;
- (c) periodic inspection and testing requirements; and
- (d) operation and maintenance records and reporting requirements;

(4) containment sumps:

- (a) rule requirements, including record keeping;
- (b) equipment requirements;
- (c) periodic inspection and testing requirements; and
- (d) operation and maintenance records and reporting requirements;

(5) release detection: for each type of release detection method listed and approved in 20.5.108 NMAC for UST systems, and 20.5.111 NMAC for AST systems:

- (a) rule requirements, including record keeping;
- (b) monitoring and equipment requirements, including third party approval requirements;

- (c) periodic inspection and testing requirements; and
- (d) operation and maintenance records and reporting requirements;

(6) corrosion protection:

- (a) rule requirements, including record keeping and reporting requirements;
- (b) equipment requirements; and

(c) operation and maintenance needs, including periodic inspections and testing;

(7) walk-through inspection requirements to include rule requirements and recordkeeping;

- certification;
- (8) classes of operators and operator training requirements, including designation and
 - (9) temporary and permanent closure requirements:
 - (a) rule requirements, including record keeping;
 - (b) return to service;
 - (c) site assessment; and
 - (d) change in service;
 - (10) general requirements for tank installer and junior installer certification and tester requirements:
 - (a) rule requirements, including record keeping;
 - (b) when certified installers are required;
 - (c) qualification for testers; and
 - (d) how to find certified installers and verify certified status.

B. Training standards. In determining whether to approve any trainer or training, the department shall consider the following:

- (1) whether the trainer is a third-party, in-house, educational institution or other;
- (2) whether the trainer will offer training in multiple locations throughout the state, regionally or locally;
- (3) how often the trainer will offer training;
- (4) what fee (if any) the trainer will charge;
- (5) whether the trainer will offer classes only to employee or in-house operators, to the general public, or to independent contract operators.

C. Training options may cover all or a portion of the required elements, and may include:

- (1) live training sessions in a classroom setting or at a storage tank system;
- (2) internet or computer training program; or
- (3) any other equivalent training method approved by the department.

D. Application for approval of training class. Trainers shall apply to the department for approval of training classes. An application for approval of training class shall include at a minimum:

- (1) name, address and contact information of the proposed trainer;
- (2) detailed description of the proposed trainer's experience, education and qualifications to conduct training;
- (3) agenda and materials to be used for the proposed class that shall include the elements required in this section;
- (4) final tests or other proposed methods of evaluating attendee success;
- (5) copies of proposed documentation to certify successful attendees as certified operators as required in 20.5.104.412 NMAC and to be used for the monthly and annual inspections required in 20.5.104.409 NMAC;
- (6) the proposed fee schedule for the training class; and
- (7) the proposed calendar for the proposed training classes that includes location and frequency.

E. Applications for approval of training classes shall only be accepted during the months of January and October.

F. The department shall evaluate applications for approval of training classes and provide a written approval, denial or request for additional information within the following timeframes:

- (1) within 90 days of receipt of the original application;
- (2) if the original application is denied and a second application is submitted, within 60 days of receipt of the second application; and
- (3) if the second application is denied and a third application is submitted, within 60 days of receipt of the third application.

G. If the department has denied an application three times pursuant to Subsection F above, the applicant shall not re-submit an application for a period of one year from the date of receipt of the third denial.

H. The department may periodically audit or review any training class, and the trainer shall allow a maximum of two department employees to attend any training class on request without charge and without certification (except a reasonable charge for copying and materials). Upon an audit, the department may require the trainer to update or amend the training material.

I. The department may revoke approval of a training class if it determines that the trainer is not performing adequately or has misrepresented information about the content of the course material.
[20.5.104.408 NMAC - N, 07/24/2018]

[The department provides a form for application for approval of a training class, available on the petroleum storage tank bureau's pages on the department website or by calling the department at 505-476-4397 or by writing to the Petroleum Storage Tank Bureau at 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505, Santa Fe, New Mexico. Owners shall submit applications for approval of the training to the bureau.]

20.5.104.409 RESPONSIBILITIES OF CERTIFIED OPERATORS:

A. A certified operator shall not represent himself or herself as certified unless the person has a current valid certificate from an approved trainer.

B. Monthly inspections. Each class A or class B operator shall perform a monthly inspection of each storage tank system for which he is designated, and shall record the results of each inspection on a checklist.

(1) At a minimum, monthly inspections shall be conducted and shall include an inspection of the following:

(a) release detection methods, including monitoring systems and all associated sensors, and whether they appropriately responded to all alarms and any conditions that might have indicated a release of regulated substance had occurred;

(b) integrity of spill prevention equipment (for cracks, holes, or bulges), and for the presence of regulated substance, water, or debris in the spill prevention equipment;

(c) dispenser and dispenser sumps for the presence of regulated substances, water, and debris;

(d) containment sumps, such as those which contain the submersible pump on the top of underground tanks, for the presence of regulated substances or any indication a release may have occurred; and

(e) overfill prevention equipment for proper operation and if maintenance is required.

(2) The certified operator(s) shall ensure that all inspections as outlined in the operations and maintenance plan, required in 20.5.107.701 NMAC for UST systems and 20.5.110.1001 NMAC for AST systems, are properly performed and conducted by qualified personnel.

(3) Certified operators may use checklists contained in the operations and maintenance plan, required in 20.5.107.701 NMAC for UST systems and 20.5.110.1001 NMAC for AST systems, to document monthly inspections only if the checklists meet the requirements of this section.

(4) The certified operator(s) shall provide the owner and operator with a copy of each inspection checklist, and alert the owner or operator of any condition discovered during the monthly inspection that may require follow-up actions.

(5) Owners and operators shall maintain a copy of inspection checklists and all attachments for the previous 12 months at all attended facilities or, if approved in writing by the department, off-site at a readily available location.

(6) Owners and operators shall provide monthly inspection reports and all attachments for the previous 12 months to the department on request.

C. The certified operator(s) shall be present or available during compliance inspections at the request of the department.

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

[The department provides an optional checklist for compliance with this section. The checklist 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 at 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505.]

20.5.104.410 RECIPROCITY: No reciprocity, training, or certification from any other state or territory shall qualify an operator to be certified pursuant to this part.

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

20.5.104.411 ALTERNATE METHODS:

A. If owners and operators want to propose an alternate method of operator presence at facilities with either AST emergency generator systems or UST emergency generator systems, other than that specified by this part, owners and operators shall apply in writing to the department, shall provide supporting documentation, and

shall not begin the proposed method unless and until the department approves the request in writing. At a minimum, the request for an alternate method shall contain the following:

- (1) date the form is completed;
- (2) facility name, facility ID number, address (with county), and telephone number;
- (3) owner name, owner ID number, address, and telephone number;
- (4) citation to regulation for which alternate method is requested;
- (5) brief description of the proposed alternate method;
- (6) justification of proposed alternate method, including citation to a standard or code supporting its use, if available; and
- (7) demonstration of its equivalent protection of public health, safety, and welfare and the environment.

The department shall not grant the request unless owners and operators demonstrate that the request will provide equivalent protection of public health, safety, and welfare and the environment.
[20.5.104.411 NMAC - N, 07/24/2018]

20.5.104.412 DOCUMENTATION AND RECORDKEEPING:

A. Approved trainers shall provide written verification of training completion for class A, B and C operators that shall include:

- (1) the operator's name;
- (2) the date and location where training was completed;
- (3) the facility name, address and department facility ID number for each facility for which the operator is trained; and
- (4) the name, address and phone number of the approved trainer that conducted the training.

B. Written verification of training shall include a certificate of training and wallet card.

C. Owners and operators shall maintain written verification of training for class A, B, and C operators at every storage tank system for all designated certified operators, and make the written verification available for review when requested by the department.

D. Approved trainers shall maintain records of successful completion of training, including examination results, for at least 10 years, and shall make the records available to the department on request.
[20.5.104.412 NMAC - N, 07/24/2018]

HISTORY OF 20.5.104 NMAC:

Pre-NMAC History: none

History of Repealed Material:

20.5.18 NMAC, Petroleum Storage Tanks, Operator Training (filed 6/15/09), repealed 07/24/2018.

Other History:

20.5.18 NMAC, Petroleum Storage Tanks, Operator Training (filed 6/15/09), was renumbered, reformatted, and replaced by 20.5.104 NMAC, Petroleum Storage Tanks, Operator Training, effective 07/24/2018.