

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 5 PETROLEUM STORAGE TANKS
PART 8 OUT-OF-SERVICE SYSTEMS AND CLOSURE

20.5.8.1 ISSUING AGENCY: New Mexico Environmental Improvement Board.
[20.5.8.1 NMAC - Rp, 20 NMAC 5.8.100, 8/15/03]

20.5.8.2 SCOPE: This part applies to owners and operators of storage tanks as provided in 20.5.1 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.
[20.5.8.2 NMAC - Rp, 20 NMAC 5.8.101, 8/15/03]

20.5.8.3 STATUTORY AUTHORITY: This part is promulgated pursuant to the provisions of the Hazardous Waste Act, NMSA 1978, sections 74-4-1 through 74-4-14, and the general provisions of the Environmental Improvement Act, NMSA 1978, sections 74-1-1 through 74-1-15.
[20.5.8.3 NMAC - Rp, 20.NMAC 5.8.102, 8/15/03]

20.5.8.4 DURATION: Permanent:
[20.5.8.4 NMAC - Rp, 20 NMAC 5.8.103, 8/15/03]

20.5.8.5 EFFECTIVE DATE: August 15, 2003, unless a later date is indicated in the bracketed history note at the end of a section.
[20.5.8.5 NMAC - Rp, 20 NMAC 5.8.104, 8/15/03]

20.5.8.6 OBJECTIVE: The purpose of 20.5.8 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.
[20.5.8.6 NMAC - Rp, 20 NMAC 5.8.105, 8/15/03]

20.5.8.7 DEFINITIONS: The definitions in 20.5.1 NMAC apply to this part.
[20.5.8.7 NMAC - Rp, 20 NMAC 5.8.106, 8/15/03]

20.5.8.8 to 20.5.8.798 [RESERVED]

20.5.8.799 NOTIFICATION OF TEMPORARY OR PERMANENT CLOSURE OR RETURN TO SERVICE:

A. At least 30 days before beginning either permanent closure, temporary closure, a change-in-service, or removal of a tank pursuant to Subsections B, C, or D of 20.5.8. NMAC, or within another reasonable time period if approved in advance in writing by the department, owners and operators shall notify the department orally or in writing of their intent to close or make the change-in-service, unless such action is in response to corrective action.

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

C. 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.

[20.5.8.799 NMAC - N, 8/15/03]

20.5.8.800 TEMPORARY CLOSURE:

A. A storage tank system is empty when all regulated substances have been removed using commonly employed practices so that no more than two and a half centimeters (one inch) of residue, or three-tenths percent by weight of the total capacity of the storage tank system, remain in the system. When a storage tank system is temporarily closed, owners and operators shall continue operation and maintenance of corrosion protection in accordance with 20.5.5 NMAC, and any release detection in accordance with 20.5.6 NMAC. Owners and operators

shall comply with 20.5.7, 20.5.12 and 20.5.13 NMAC if a release is suspected or confirmed. However, release detection is not required as long as the storage tank system is empty.

B. 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 ASTs, disconnect and cap all associated piping from the AST as soon as the tank is emptied and cleaned.

C. 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 upgrade requirements in 20.5.4.400 and 402 NMAC, except that the spill and overfill equipment requirements do not have to be met. 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 20.5.4.401 and 402 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 20.5.8.801 through 804 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 20.5.8.802 NMAC before applying for such an extension.

D. When a field-erected AST system has been temporarily closed for three to 12 months, and meets the performance standards for new AST systems in 20.5.4.401 and 402 NMAC, prior to placing any regulated substance in the AST system, owners and operators shall:

- (1) perform an internal inspection on the AST in accordance with the current edition of an industry code or standard approved in advance in writing by the department;
- (2) perform a tightness test on all piping in accordance with the current edition of an industry code or standard approved in advance in writing by the department; and
- (3) perform a functionality test on any automatic line leak detectors in accordance with the manufacturer's recommendations.

[20.5.8.800 NMAC - Rp, 20 NMAC 5.8.800, 8/15/03]

20.5.8.801 PERMANENT CLOSURE AND CHANGES-IN-SERVICE:

A. Owners and operators shall perform the required assessment of the excavation zone under 20.5.8.802 NMAC after notifying the department but before completion of permanent closure or a change-in-service.

B. 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 or fill them with an inert solid material.
- (2) Owners and operators shall perform the following closure operations on ASTs:
 - (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.

(g) Owners and operators shall dismantle or remove ASTs and secondary containment to the extent needed to conduct the site assessment required in 20.5.8.802 NMAC.

(3) For mobile ASTs, 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 (a), (e) or (f) 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 20.5.8.802 NMAC after permanent closure of any permanently installed mobile tank.

C. Continued use of a storage tank system to store a non-regulated substance is considered a change-in-service. Before a change-in-service, owners and operators shall empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with 20.5.8.802 NMAC. Owners and operators shall properly dispose of any liquids and sludge removed from a storage tank. The current edition of the following cleaning and closure procedures may be used to comply with 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, "Dismantling and Disposing of Steel from Aboveground Leaded Gasoline Storage Tanks;"

(5) American Petroleum Institute Publication RP 1631, "Interior Lining and Periodic Inspections of Underground Storage Tanks," may be used as guidance for compliance with this section; or

(6) The National Institute for Occupational Safety and Health "Criteria for a Recommended Standard...Working in Confined Space," may be used as guidance for conducting safe closure procedures at some hazardous substance tanks.

D. For ASTs, a change in location shall be considered a change in service. Owners and operators shall notify the department of a change in location of ASTs that are operational and registered pursuant to 20.5.2 NMAC.

E. If the owner and operator of a storage tank system are separate persons, only one person is required to give the notice and take the actions required in this section; however, both parties are liable in the event of noncompliance.

[20.5.8.801 NMAC - Rp, 20 NMAC 5.8.801, 8/15/03]

20.5.8.802 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. In selecting sample types, sample locations, and measurement methods, owners and operators 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. The requirements of this section are satisfied if one of the external release detection methods allowed in Subsections E and F of 20.5.6.603 NMAC is operating in accordance with the requirements in 20.5.6.603 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 under Subsection A of this section, or by any other manner, owners and operators shall notify the department in accordance with 20.5.7 NMAC and begin corrective action in accordance with 20.5.12 and 20.5.13 NMAC.

[20.5.8.802 NMAC - Rp, 20 NMAC 5.8.802, 8/15/03]

20.5.8.803 APPLICABILITY TO PREVIOUSLY CLOSED STORAGE TANK SYSTEMS: 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 may, in the judgment of the department, pose a current or potential threat to public health, safety and welfare and the environment. When directed by the department, owners and operators of AST systems permanently closed before August 15, 2003 shall assess the excavation zone and close the AST systems in accordance with this part if releases from the AST may, in the judgment of the department, pose a current or potential threat to public health, safety and welfare and the environment.

[20.5.8.803 NMAC - Rp, 20 NMAC 5.8.803, 8/15/03]

20.5.8.804 CLOSURE RECORDS:

A. Owners and operators shall maintain records in accordance with 20.5.5.504 NMAC that are capable of demonstrating compliance with closure requirements under this part. The results of the excavation zone assessment required in 20.5.5.802 NMAC shall be maintained for at least three years 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.

B. If the owner and operator of a storage tank system are separate persons, only one person is required to maintain the records required in this part; however, both parties are liable in the event of noncompliance.
[20.5.8.804 NMAC - Rp, 20 NMAC 5.8.804, 8/15/03]

HISTORY OF 20.5.8 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.

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 20.5.7 NMAC, Petroleum Storage Tanks - Out-Of-Service Systems And Closure, effective 8/15/03.