

Questionnaire for determining if ASTs are regulated

In order to determine whether your ASTs are regulated tanks, answer the following questions. If you answer “no” to any of the following questions, your tank is not regulated and you need not register it. If you answer “yes” to all the questions, your AST is a regulated tank and must be registered.

1. *Does your tank fit the volume limits in the definition of AST?*

The definition of above ground storage tank (AST) contains a lower volume limit of 1,320, and an upper limit of 55,000 gallons. If your tank is 1,319 gallons or smaller, or 55,001 gallons or more, then your tank is not regulated. Additionally, to be regulated, 90% or more of the volume of your tanks (defined as tanks and piping) must be above the surface of the ground.

2. *Is your tank permanently installed?*

Permanently installed AST means an AST that is on site for more than 365 consecutive days and dispensing or storing a regulated substance for distribution at any time during that period.

3. *Can you eliminate the exemptions to the definition of AST and in the Scope Section of the regulations?*

Exemptions to the definition of AST in 20.5.1.7.B NMAC include: AST systems used as farm, ranch or residential tanks that store motor fuel or heating oil for noncommercial use; pipeline facilities; surface impoundment, pit, pond or lagoon; storm water or wastewater collection system; flow-through process tank; liquid trap, tank or associated gathering lines related to oil, gas or mining exploration, production, transportation, refining, processing or storage, or the oil field service industry operations; tanks associated with an emergency generator system; tanks or related pipelines at refineries or gas processing plants. If your AST fits any of these exemptions, it is not regulated.

Additionally, the following types of ASTs and USTs that are listed in 20.5.1.B and C NMAC are exempt from the PSTB regulations: storage tanks holding hazardous waste or a mixture of such hazardous waste with another regulated substance; wastewater treatment tank systems; equipment or machinery that contains regulates substances for operational purposes such as hydraulic lifts and electrical equipment tanks; storage tank systems containing radioactive material; airport hydrant fuel distribution systems; tanks storing fuel solely for use by emergency power generators. However, the exempted tanks in this paragraph must follow the limited requirements of 20.5.1.2.D NMAC (prevention of releases, cathodic protection, and compatibility of substance stored).

4. *Does the AST contain a regulated substance?*

Another analysis in determining if an AST is regulated is a determination if the product or chemical stored meets the definition of a regulated substance in 20.5.1.7.DN NMAC. For ASTs, a regulated substance means petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure of 60 degrees Fahrenheit and fourteen and seven tenths pounds per square inch absolute.

Common regulated petroleum products contained in ASTs include crude oil, crude oil fractions and refined petroleum fractions, such as gasoline, kerosene, heating oils, and diesel fuels. Also, the definition of regulated substance for AST excludes asphalt.

Regulated substances for USTs (20.5.1.7.BI NMAC) also include hazardous substances as defined in Section 101 (14) of the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) but not including any substance regulated as a hazardous waste under Subtitle C of the federal Resource Conservation and Recovery ACT (RCRA) or mixture of such substances and petroleum.

5. *Does the AST containing a mixture of petroleum products and hazardous substances be regulated by the PSTB?*

If the AST contains any amount of a petroleum product, and is not a hazardous waste, the PSTB regulates the tank. However, if the mixture is a hazardous waste, as defined by the Hazardous Waste Act and regulations, then the Hazardous Waste Bureau will regulate the tank.

Listed hazardous wastes are found in the Federal Regulations 40 CFR § 261.30 Subpart D. There are four lists of approximately 900 chemicals. If you need assistance in defining whether your waste is hazardous, call the Hazardous Waste Bureau at 505-428-2500 and ask to speak to a Technical Assistance Provider.

Note that there are exemptions to the definition of hazardous waste for wastes generated from oil and gas primary field operations that keep their exempt status even when sent for reclamation, treatment or disposal. This exemption includes wastes derived from the reclamation process of exempt wastes including those from exploration and production of oil or gas (58 FR 15286, March 22, 1993). The Oil Conservation Division of the New Mexico Energy, Minerals and Natural Resources Department regulates all oilfield exempt and non-exempt (non-hazardous) waste. Oil and gas service industries' waste is not exempted by the Hazardous Waste Bureau once it has left the well site.

Registering Your Tank

If you have determined your ASTs are regulated tanks, you must register each tank with the PSTB and pay an annual fee of \$100 per tank. Storage tank registration forms are available at the above address or through the department web site www.nmenv.state.nm.us. All new tank systems must be registered before the system is placed in service.

Upon submittal and payment of the annual tank fee, the Petroleum Storage Tank Bureau will issue a registration certificate. The operator of the system must display a certificate, which is current, and valid on the premises of the system at all times. Past due fees and any penalties must be paid in order to receive the certificate for the current year. If this presents a financial burden, the tank owner or operator may enter into a settlement agreement or payment plan with the state and may receive a current year certificate so long as the terms of the settlement agreement are met.