

1 **TITLE 20 ENVIRONMENTAL PROTECTION**
 2 **CHAPTER 5 PETROLEUM STORAGE TANKS**
 3 **PART 14 CERTIFICATION OF TANK INSTALLERS**
 4

5 **20.5.14.1 ISSUING AGENCY:** New Mexico Environmental Improvement Board.
 6 [20.5.14.1 NMAC - Rp, 20.5.14.1 NMAC, 6/15/2009]
 7

8 **20.5.14.2 SCOPE:** This part applies to persons installing, replacing, repairing, modifying or removing
 9 storage tank systems. [20.5.14.2 NMAC - Rp, 20.5.14.2 NMAC, 6/15/2009]
 10

11 **20.5.14.3 STATUTORY AUTHORITY:** This part is promulgated pursuant to the provisions of the
 12 Hazardous Waste Act, NMSA 1978, Sections 74-4-1 through 74-4-14, and the general provisions of the
 13 Environmental Improvement Act, NMSA 1978, Sections 74-1-1 through ~~74-1-16~~74-1-17.
 14 [20.5.14.3 NMAC - Rp, 20.5.14.3 NMAC, 6/15/2009]
 15

16 **20.5.14.4 DURATION:** Permanent.
 17 [20.5.14.4 NMAC - Rp, 20.5.14.4 NMAC, 6/15/2009]
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19 **20.5.14.5 EFFECTIVE DATE:** June 15, 2009, unless a later date is indicated in the bracketed history note
 20 at the end of a section.
 21 [20.5.14.5 NMAC - Rp, 20.5.14.5 NMAC, 6/15/2009]
 22

23 **20.5.14.6 OBJECTIVE:** The purpose of this part is to provide for the regulation of persons installing,
 24 replacing, repairing, modifying and removing storage tank systems that contain regulated substances in order to
 25 assure that storage tank systems are being installed, replaced, repaired, modified and removed in a manner which
 26 shall not encourage or facilitate leaking, and which shall protect the public health, safety and welfare and the
 27 environment of the state.
 28 [20.5.14.6 NMAC - Rp, 20.5.14.6 NMAC, 6/15/2009]
 29

30 **20.5.14.7 DEFINITIONS:** The definitions in 20.5.1 NMAC apply to this part.
 31 [20.5.14.7 NMAC - Rp, 20.5.14.7 NMAC, 6/15/2009]
 32

33 **20.5.14.8 GENERAL REQUIREMENTS FOR UST SYSTEMS:**

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

- 41 (1) internal lining of a tank through the application of such materials as epoxy resins;
- 42 (2) installation, replacement, repair or modification of cathodic protection systems;
- 43 (3) any other installation, replacement, repair or modification specifically approved in writing by the
 44 department as an exception to the requirement for a certified ~~tank~~ installer;
- 45 (4) an applicant for UST installer certification pursuant to Subsection C of 20.5.14.13 NMAC;
- 46 (5) normal maintenance; ~~and~~
- 47 (6) work on line or tank leak detection systems performed by technicians trained to work on line or
 48 tank leak detection systems by the manufacturer of the systems, or other equivalent training approved by the
 49 department; ~~and~~
 50 (7) persons closing storage tank systems pursuant to 20.5.8 NMAC.

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

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

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

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

9 F. The department may deny an application or renewal and may suspend or revoke certification
10 pursuant to the Parental Responsibility Act, NMSA 1978, Sections 40-5A-1 through 40-5A-13.
11 [20.5.14.8 NMAC - Rp, 20.5.14.8 NMAC, 6/15/2009]
12

13 **20.5.14.9 GENERAL REQUIREMENTS FOR AST SYSTEMS:**

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

- 21 (1) internal lining of a tank through the application of such materials as epoxy resins;
- 22 (2) coating or lining of secondary containment for AST systems;
- 23 (3) installation, replacement, repair or modification of cathodic protection systems;
- 24 (4) any other installation, replacement, repair or modification specifically approved in writing by the
25 department as an exception to the requirement for a certified ~~tank~~ installer;
- 26 (5) an applicant for AST installer certification pursuant to Subsection C of 20.5.14.13 NMAC;
- 27 (6) normal maintenance; ~~and~~
- 28 (7) work on line or tank leak detection systems performed by technicians trained to work on line or
29 tank leak detection systems by the manufacturer of the systems, or other equivalent training approved by the
30 department; ~~and~~
- 31 (8) persons closing storage tank systems pursuant to 20.5.8 NMAC .

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

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

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

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

44 F. The department may deny an application or renewal and may suspend or revoke certification
45 pursuant to the Parental Responsibility Act, NMSA 1978, Sections 40-5A-1 through 40-5A-13.
46 [20.5.14.9 NMAC - Rp, 20.5.14.9 NMAC, 6/15/2009]
47

48 **20.5.14.10 INDIVIDUAL CERTIFICATION FOR UST SYSTEMS:**

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

51 (1) The applicant shall file an application with the department accompanied by a nonrefundable fee of
52 \$50.00. At a minimum the application shall contain the following information:

- 53 (a) applicant's name, permanent residence address and telephone number;
- 54 (b) applicant's business address and any business name used by the applicant, with the business
55 address, telephone number and facsimile transmission number;
- 56 (c) applicant's date of birth;

1 (d) applicant's social security number;
 2 (e) construction industries division license number, type of license, name of license holder
 3 under which applicant is working and expiration of license;
 4 (f) whether the construction industries division license in Subparagraph (e) of Paragraph (1) of
 5 this subsection has ever been suspended or revoked; if so, an explanation of the circumstances of the suspension or
 6 revocation;
 7 (g) the supervisor's name, business name, address and telephone number with whom the
 8 applicant apprenticed as a tank installer;
 9 (h) a description of the number of years of experience the applicant has as a tank installer
 10 (specify USTs and ASTs);
 11 (i) a description of the types and number of tanks the applicant has installed (specify USTs and
 12 ASTs) in the past 4 years;
 13 (j) a description of the types and number of piping systems the applicant has installed, replaced,
 14 repaired or modified (specify USTs and ASTs) in the past 4 years; and
 15 (k) whether applicant owes child support in New Mexico.

16 (2) The applicant shall be an individual and at least 18 years of age.
 17 (3) The applicant need not, for purposes of this part, be a resident of the state.
 18 (4) The applicant shall demonstrate that the applicant is in good standing with all licensing authorities
 19 by whom licensing is required, given the nature and scope of the applicant's work, and that the applicant has not had
 20 a business or occupational license or certificate suspended or revoked in this or any other state, except as provided in
 21 Subsection B of this section.
 22 (5) The applicant shall demonstrate in the application that he has met the experience requirements of
 23 20.5.14.12 NMAC.
 24 (6) The applicant shall pass the on-site examination for which 20.5.14.13 NMAC provides. The
 25 installation for an on-site examination shall include the on-site installation of a tank, dispenser system or meter,
 26 venting, ancillary equipment and initial testing.
 27 (7) The applicant shall provide the department with evidence in the application that, within the prior
 28 three months, the applicant has passed:
 29 (a) a New Mexico laws and rules UST test administered by the department pursuant to
 30 20.5.14.16 NMAC; and
 31 (b) a national technical UST installer's test administered by an approved certification educator
 32 and has been certified by that educator. For purposes of this section, the international code council is an approved
 33 certification educator.
 34 (8) As an alternative to the tests required in Paragraph (7) of this subsection, applicants may propose
 35 alternate tests and approved certification to the department for consideration, including a tank installer certification
 36 program sponsored by another state or organization, but these courses shall not be approved for the requirements in
 37 Paragraph (7) of this subsection unless approved by the department in writing. Applicants seeking approval of
 38 alternate courses and alternate certification shall provide the department with all information about the course and
 39 the proposed educator to allow the department to determine whether to approve them, in the department's sole
 40 discretion. In determining whether to approve an alternate course and alternate certification, the department shall
 41 determine whether the alternate course and alternate certification provide an equivalent demonstration of knowledge
 42 of New Mexico petroleum storage tank regulations, 20.5 NMAC, and technical installation requirements.
 43 (9) The applicant shall provide to the department a notarized affidavit from the applicant stating that
 44 all information submitted in the application is true and correct.

45 B. Notwithstanding the provisions of Paragraph (4) of Subsection A of this section, the department
 46 may grant certification to an applicant who has had a business or occupational license or certificate suspended or
 47 revoked where the suspension or revocation, by reason of its date, nature or other considerations, is not directly
 48 relevant to the applicant's competence to install, replace, repair, or modify UST systems.
 49 [20.5.14.10 NMAC - Rp, 20.5.14.10 NMAC, 6/15/2009]
 50 [The department provides an optional form that may be used to apply for certification. The form is available on the
 51 department's website, www.nmenv.state.nm.us or by contacting the Petroleum Storage Tank Bureau at 505-476-
 52 4397 or 1301 Siler Road, Building B, Santa Fe, New Mexico 87507. Applicants should submit application forms to
 53 the Petroleum Storage Tank Bureau, attention: Application for Certified Installer, 1301 Siler Road, Building B,
 54 Santa Fe, New Mexico 87507.]

55 **20.5.14.11 INDIVIDUAL CERTIFICATION FOR AST SYSTEMS:**

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

3 (1) The applicant shall file an application with the department with the information required in
4 Paragraph (1) of Subsection A of 20.5.14.10 NMAC, accompanied by a nonrefundable fee of \$50.00.

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

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

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

11 (5) The applicant shall demonstrate in the application that he has met the experience requirements of
12 20.5.14.12 NMAC.

13 (6) The applicant shall pass the on-site examination for which 20.5.14.13 NMAC provides. The
14 installation for an on-site examination shall include the on-site installation of a tank and tank foundation, dispenser
15 system or meter, venting, ancillary equipment and initial testing. Installation of a self-contained, concrete-encased
16 or self-contained, skid-mounted AST system is not an AST system installation for purposes of this requirement.

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

19 (a) a New Mexico laws and rules AST test administered by the department pursuant to
20 20.5.14.16 NMAC; and

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

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

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

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

39 [20.5.14.11 NMAC - Rp, 20.5.14.11 NMAC, 6/15/2009]

40 [The department provides an optional form that may be used to apply for certification. The form is available on the
41 department's website, www.nmenv.state.nm.us or by contacting the Petroleum Storage Tank Bureau at 505-476-
42 4397 or 1301 Siler Road, Building B, Santa Fe, New Mexico 87507. Applicants should submit application forms to
43 the Petroleum Storage Tank Bureau, attention: Application for Certified Installer, 1301 Siler Road, Building B,
44 Santa Fe, New Mexico 87507.]

45
46 **20.5.14.12 EXPERIENCE REQUIREMENTS:**

47 A. To qualify for individual certification under 20.5.14.10 or 20.5.14.11 NMAC, an applicant shall
48 demonstrate that the applicant has had one year, within the three years immediately prior to making the application,
49 of field experience in the installation, replacement, repair or modification of the type of storage tank systems for
50 which the applicant is applying for certification or, with the approval of the department, closely related work. The
51 applicant's demonstration shall include copies of inspection reports (or other similar documents) for the work
52 performed, which shall include the name, phone number and email contact of the supervising inspector. For
53 purposes of this part, the applicant's field experience may be demonstrated in New Mexico or other states.

54 B. An engineering degree or a license to practice engineering may substitute for six months of the
55 experience required by Subsection A of this section.

56 [20.5.14.12 NMAC - Rp, 20.5.14.12 NMAC, 6/15/2009]

1
2 **20.5.14.13 ON-SITE EXAMINATION:**

3 A. To qualify for individual certification under 20.5.14.10 or 20.5.14.11 NMAC, an applicant shall
4 pass an on-site examination consisting of a successful installation of the regulated and applicable (AST or UST) type
5 of storage tank system in the presence of a designated employee of the department. The applicant shall complete
6 each aspect of the installation successfully in order to pass the examination, including use of proper materials,
7 proper assembly of materials and proper testing of the tank and piping at the appropriate times during the
8 installation.

9 B. An applicant may request an on-site examination for UST or AST certification any time within
10 180 days of the date of submission of the application provided for in Paragraph (1) of Subsection A of 20.5.14.10
11 NMAC or Paragraph (1) of Subsection A of 20.5.14.11 NMAC and shall accompany the request with a
12 nonrefundable \$300 fee. The applicant shall notify the department of the date and the site of the on-site examination
13 30 days prior to the examination. For good cause shown, the department may, in its sole discretion, grant an
14 applicant one 180-day extension of the time period during which the applicant must take the on-site examination.
15 The department shall not grant more than one extension. If the applicant does not schedule an on-site examination
16 within these time periods, the applicant shall file a new application for certification and comply with all the
17 application requirements in 20.5.14.10 or 11 NMAC (as applicable).

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

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

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

41 [20.5.14.13 NMAC - Rp, 20.5.14.13 NMAC, 6/15/2009]

42
43 **20.5.14.14 DENIAL OF CERTIFICATION:** An applicant shall be afforded an opportunity for a hearing
44 before the secretary under 20.5.14. 20 NMAC, in any instance afforded pursuant to these regulations and to the
45 Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through 61-1-33.

46 [20.5.14.14 NMAC - Rp, 20.5.14.14 NMAC, 6/15/2009]

47
48 **20.5.14.15 RENEWAL OF CERTIFICATION:**

49 A. Applications for renewal of ~~C~~-certification issued under 20.5.14.10 and 11 NMAC shall be
50 renewed submitted no later than ~~March~~ February 16 of the fourth year after the certification was granted to ensure
51 renewal by March 16, and which renewal shall expire March 16 of the fourth calendar year after it was issued.
52 ~~Certification should be renewed prior to expiration but may be renewed up to three months after the date of~~
53 ~~expiration upon payment of a late fee in addition to the renewal fee and the meeting of the requirements for renewal~~
54 ~~set forth below.~~ Certification which has not been renewed within this time period for installers who do not submit a
55 timely renewal application shall be considered lapsed and invalid on March 16; the department shall not accept
56 applications for renewal after ~~the close of the period~~ February 16. Any installer whose certification has lapsed as

1 provided in this subsection shall submit ~~each an~~ application for new certification under 20.5.14.10 or 20.5.14.11
2 NMAC and comply with the requirements thereof.

3 B. At least ~~30~~ 90 days before the expiration date of certification, the department shall mail a renewal
4 application reminder to the installer, at the installer's address of record with the department. It is the duty and
5 responsibility of the installer to timely ~~renew~~ submit the renewal application ~~the~~ for certification pursuant to
6 Subsection A whether or not an application reminder has been received from the department.

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

8 (1) file an application with the department with the information required in Paragraphs (1), (4) and
9 (9) of Subsection A of 20.5.14.10 NMAC, accompanied by a nonrefundable \$50.00 fee, ~~together with a \$25.00 late~~
10 ~~fee if the renewal application is filed after, but within three months of, the date of expiration;~~

11 (2) demonstrate as required by 20.5.14.12 NMAC that the installer has completed at least two UST
12 system installations, replacements, repairs or modifications during the four-year period preceding the renewal
13 application; and

14 (3) demonstrate that the installer has passed a New Mexico laws and rules UST test administered by
15 the department pursuant to 20.5.14.16 NMAC, within the prior three months.

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

17 (1) file an application with the department with the information required in Paragraphs (1), (4) and
18 (9) of Subsection A of 20.5.14.11 NMAC, accompanied by a nonrefundable \$50.00 fee, ~~together with a \$25.00 late~~
19 ~~fee if the renewal application is filed after, but within three months of, the date of expiration;~~

20 (2) demonstrate as required by 20.5.14.12 NMAC that the installer has completed at least two AST
21 system installations, replacements, repairs or modifications during the four-year period preceding the renewal
22 application; and

23 (3) demonstrate that the installer has passed a New Mexico laws and rules AST test administered by
24 the department pursuant to 20.5.14.16 NMAC, within the prior three months.

25 E. An applicant for renewal shall be afforded opportunity for hearing before the secretary, as
26 provided in 20.5.14.20 NMAC, in the event the department contemplates withholding renewal for any cause other
27 than failure to pay the required renewal fee.

28 F. For purposes of this section, "demonstrate" means provide copies of registration forms, inspection
29 reports, installation checklists, written statements or other documents verifying the certified installer's on-site,
30 physical, hands-on participation in critical junctures of a particular installation, replacement, repair or modification.
31 [20.5.14.15 NMAC - Rp, 20.5.14.15 NMAC, 6/15/2009]

32 [The department provides an optional form that may be used to apply for renewal of certification. The form is
33 available on the department's website, www.nmenv.state.nm.us or by contacting the Petroleum Storage Tank
34 Bureau at 505-476-4397 or 1301 Siler Road, Building B, Santa Fe, New Mexico 87507. Applicants should submit
35 renewal forms to the Petroleum Storage Tank Bureau, attention: Application for Certified Installer, 1301 Siler Road,
36 Building B, Santa Fe, New Mexico 87507.]

37 **20.5.14.16 NEW MEXICO LAWS AND RULES TEST:**

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

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

45 C. An installer must pass a test by a grade of seventy percent or higher. The department will notify
46 an installer applicant in writing of a passing or failing grade, no later than 15 working days after the installer took a
47 test.

48 D. Any installer may re-take the New Mexico laws and rules test for each type of test once within 30
49 days of receipt of notice of a failing grade. If the installer does not pass a test the second time, the installer must re-
50 apply for certification complying with the requirements for initial certification in 20.5.14.10 NMAC or 20.5.14.11
51 NMAC.

52 [20.5.14.16 NMAC - N, 6/15/2009]

53 **20.5.14.17 INSTALLER DUTIES AND OBLIGATIONS:**

1 A. ~~A contracting company~~ No person shall not agree to perform installation, replacement, repair or
2 modification services unless ~~it-the person~~ is or ~~has in its employ one or more~~ employs a certified installers
3 competent to perform the particular installation, replacement, repair or modification involved, ~~and who~~.

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

9 C. A certified installer shall:

10 (1) exercise responsible supervisory control over any installation, replacement, repair or modification
11 undertaken it undertakes;

12 (2) at a minimum, be physically present on-site at all critical junctures in the installation,
13 replacement, repair or modification; and

14 (3) give notice as required by these regulations, 20.5 NMAC.

15 ~~B. A certified installer shall exercise responsible, supervisory control over any installation,~~
16 ~~replacement, repair or modification undertaken and shall, at a minimum, be physically on-site at all critical junctures~~
17 ~~in the installation, replacement, repair or modification and give notice as required by these regulations, 20.5 NMAC.~~

18 ~~C. A certified installer shall have adequate knowledge of appropriate materials, technical~~
19 ~~requirements and installation, replacement, repair or modification procedures for any storage tank system the~~
20 ~~installer undertakes to install, replace, repair or modify. A certified installer shall not perform any installation,~~
21 ~~replacement, repair or modification, or affix his signature or certification number to any installation, replacement,~~
22 ~~repair or modification for which the installer lacks competence.~~

23 D. A certified installer shall not certify to an owner or operator of a storage tank system that an
24 installation, replacement, repair or modification is complete unless the installation, replacement, repair, or
25 modification complies with the New Mexico Hazardous Waste Act, NMSA 1978, Sections 74-4-1 through 74-4-14,
26 and the petroleum storage tank regulations promulgated pursuant to the act, 20.5 NMAC. ~~Where the installation,~~
27 ~~replacement, repair or modification is being performed for an owner or operator on a contract basis, both t~~~~The~~
28 ~~certified installer and the contracting company for whom the individual works are is~~ responsible for the accuracy of
29 ~~the any~~ representations made to the owner or operator.

30 E. Certified installers have a duty to report to the department any and all suspected or confirmed
31 releases, as those terms are used in 20.5.7 NMAC, detected at a site or the surrounding area by the installer or
32 persons working under his supervisory control, as required by 20.5.7 NMAC.

33 F. Certified installers shall not perform any installation, replacement, repair, modification or removal
34 without providing notice as required by the provisions of 20.5 NMAC, except for emergency repairs as described in
35 20.5.5 NMAC and defined in 20.5.1 NMAC. Certified installers shall not perform any activity described as a
36 critical juncture in 20.5.5 NMAC, without providing the 24-hour notice required by that part, except for emergency
37 repairs.

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

40 [20.5.14.17 NMAC - Rp, 20.5.14.16 NMAC, 6/15/2009]

41
42 **20.5.14.18 COMPLAINTS:**

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

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

51 [20.5.14.18 NMAC - Rp, 20.5.14.17 NMAC, 6/15/2009]

52
53 **20.5.14.19 INVESTIGATIONS, ENFORCEMENT, PENALTIES:**

54 A. The department may undertake such investigations and take such actions as it deems necessary to
55 ensure compliance with the provisions of this part, including the issuance of compliance orders and the
56 commencement of civil actions under the provisions of the Hazardous Waste Act, NMSA 1978, Sections 74-4-1

1 through 74-4-14. The department may also initiate proceedings to revoke an installer's certification under NMSA
 2 1978, Subsection C of Section 74-4-4.4C and ~~20.5.14.15~~20.5.14.20 NMAC. The department may revoke
 3 certification for an installer upon grounds that the installer:

4 (1) exercised fraud, misrepresentation or deception in obtaining the certification;

5 (2) exhibited gross incompetence in the installation, replacement, repair, modification or removal of a
 6 storage tank system; or

7 (3) was derelict in the performance of a duty as a certified ~~tank~~ installer required in 20.5.14.17
 8 NMAC (including repeated failure to provide notice of releases or of the installation, replacement, repair,
 9 modification or removal of storage tank systems as required in 20.5.14.17 NMAC).

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

12 [20.5.14.19 NMAC - Rp, 20.5.14.18 NMAC, 6/15/2009]

13
 14 **20.5.14.20 DEPARTMENT ACTIONS AGAINST CERTIFIED INSTALLERS:**

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

18 ~~B. If the applicant or the certified installer does not mail a request for a hearing within the time and in~~
 19 ~~the manner required by the Uniform Licensing Act, NMSA 1978, Section 61-1-4, the department may take the~~
 20 ~~action contemplated in the notice and such action shall be final and not subject to judicial review.~~

21 ~~C. If a hearing is requested in accordance with the provisions of this section, the secretary shall,~~
 22 ~~within 20 days of receipt of such request, notify the requestor of the time and place of hearing, the name or names of~~
 23 ~~the person or persons who will conduct the hearing for the secretary and the statutes and regulations authorizing the~~
 24 ~~secretary to take the contemplated action, which hearing shall be held not more than 60 nor less than 15 days from~~
 25 ~~the date of service of such notice.~~

26 B. Hearings Proceedings under this section shall be conducted in accordance with the provisions of the
 27 Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through 61-1-33.

28 D. If the department revokes certification pursuant to this section, the certified installer may not apply
 29 for certification for a minimum of two years for the type of installer certification revoked (either UST installer
 30 certification pursuant to 20.5.14.10 NMAC or AST installer certification pursuant to 20.5.14.11 NMAC). However,
 31 if the certified installer is certified for another type of installer certification, ~~it~~the certified installer shall not be
 32 affected by the revocation of the certification for the other type of installer certification.

33 [20.5.14.20 NMAC - Rp, 20.5.14.19 NMAC, 6/15/2009]

34
 35 **HISTORY OF 20.5.14 NMAC:**

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

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

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

40
 41 **History of Repealed Material:**

42 20 NMAC 5.14, Environmental Protection, Underground Storage Tanks, Certification of Tank Installers (filed
 43 2/27/97), repealed 8/15/03.

44 20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers (filed 7/16/03) repealed 4/4/08.

45 20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers (filed 3/5/08) repealed 6/15/09.

46
 47 **Other History:**

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

51 20 NMAC 5.14, Underground Storage Tanks, Certification of Tank Installers, (filed 10/6/95) replaced by 20 NMAC
 52 5.14, Underground Storage Tanks, Certification of Tank Installers, effective 4/1/97.

53 20 NMAC 5.14, Underground Storage Tanks, Certification of Tank Installers, (filed 2/27/97) renumbered,
 54 reformatted and replaced by 20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers, effective
 55 8/15/03.

- 1 20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers (filed 7/16/03) replaced by 20.5.14
- 2 NMAC, Petroleum Storage Tanks, Certification of Tank Installers, effective 4/4/08.
- 3 20.5.14 NMAC, Petroleum Storage Tanks, Certification of Tank Installers (filed 3/5/08) replaced by 20.5.14
- 4 NMAC, Petroleum Storage Tanks, Certification of Tank Installers, effective 6/15/09.
- 5