TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 5 PETROLEUM STORAGE TANKS
PART 14 CERTIFICATION OF TANK INSTALLERS

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

20.5.14.2 SCOPE: This part applies to persons installing, replacing, repairing, modifying or removing storage tank systems. This part shall not apply to persons closing storage tank systems pursuant to 20.5.8 NMAC.
[20.5.14.2 NMAC - Rp, 20.5.14.2 NMAC, 6/15/2009]

20.5.14.3 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 74-1-16.
[20.5.14.3 NMAC - Rp, 20.5.14.3 NMAC, 6/15/2009]

20.5.14.4 DURATION: Permanent.
[20.5.14.4 NMAC - Rp, 20.5.14.4 NMAC, 6/15/2009]

20.5.14.5 EFFECTIVE DATE: June 15, 2009, unless a later date is indicated in the bracketed history note at the end of a section.
[20.5.14.5 NMAC - Rp, 20.5.14.5 NMAC, 6/15/2009]

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

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

20.5.14.8 GENERAL REQUIREMENTS FOR UST SYSTEMS:

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

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

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

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

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

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

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

20.5.14.9 GENERAL REQUIREMENTS FOR AST SYSTEMS:

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

(1) internal lining of a tank through the application of such materials as epoxy resins;

(2) coating or lining of secondary containment for AST systems;

(3) installation, replacement, repair or modification of cathodic protection systems;

(4) any other installation, replacement, repair or modification specifically approved in writing by the department as an exception to the requirement for a certified tank installer;

(5) an applicant for AST installer certification pursuant to Subsection C of 20.5.14.13 NMAC;

(6) normal maintenance; and

(7) work on line or tank leak detection systems performed by technicians trained to work on line or tank leak detection systems by the manufacturer of the systems, or other equivalent training approved by the department.

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

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

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

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

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

20.5.14.10 INDIVIDUAL CERTIFICATION FOR UST SYSTEMS:

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

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

(a) applicant’s name, permanent residence address and telephone number;

(b) applicant’s business address and any business name used by the applicant, with the business address, telephone number and facsimile transmission number;

(c) applicant’s date of birth;

(d) applicant’s social security number;

(e) construction industries division license number, type of license, name of license holder under which applicant is working and expiration of license;

(f) whether the construction industries division license in Subparagraph (e) of Paragraph (1) of this subsection has ever been suspended or revoked; if so, an explanation of the circumstances of the suspension or revocation;

(g) the supervisor's name, business name, address and telephone number with whom the applicant apprenticed as a tank installer;

(h) a description of the number of years of experience the applicant has as a tank installer (specify USTs and ASTs);

(i) a description of the types and number of tanks the applicant has installed (specify USTs and ASTs) in the past 4 years;

(j) a description of the types and number of piping systems the applicant has installed, replaced, repaired or modified (specify USTs and ASTs) in the past 4 years; and

(k) whether applicant owes child support in New Mexico.

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

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

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

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

(6) The applicant shall pass the on-site examination for which 20.5.14.13 NMAC provides. The installation for an on-site examination shall include the on-site installation of a tank, dispenser system or meter, venting, ancillary equipment and initial testing.

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

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

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

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

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

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

[20.5.14.10 NMAC - Rp, 20.5.14.10 NMAC, 6/15/2009]

[The department provides an optional form that may be used to apply for certification. Applicants should submit application forms to the Petroleum Storage Tank Bureau, attention: Application for Certified Installer, 1301 Siler Road, Building B, Santa Fe, New Mexico 87507.]

20.5.14.11 INDIVIDUAL CERTIFICATION FOR AST SYSTEMS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[The department provides an optional form that may be used to apply for certification. Applicants should submit application forms to the Petroleum Storage Tank Bureau, attention: Application for Certified Installer, 1301 Siler Road, Building B, Santa Fe, New Mexico 87507.]

20.5.14.12 EXPERIENCE REQUIREMENTS:

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

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

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

20.5.14.13 ON-SITE EXAMINATION:

A. To qualify for individual certification under 20.5.14.10 or 20.5.14.11 NMAC, an applicant shall pass an on-site examination consisting of a successful installation of the regulated and applicable (AST or UST) type

of storage tank system in the presence of a designated employee of the department. The applicant shall complete each aspect of the installation successfully in order to pass the examination, including use of proper materials, proper assembly of materials and proper testing of the tank and piping at the appropriate times during the installation.

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

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

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

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

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

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

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

20.5.14.15 RENEWAL OF CERTIFICATION:

A. Applications for renewal of [~~C~~]certification issued under 20.5.14.10 and 11 NMAC shall be [~~renewed~~] submitted no later than [~~March~~] February 16 of the fourth year after the certification was granted to ensure renewal by March 16, [~~and~~] which renewal shall expire March 16 of the fourth calendar year after it was issued. [~~Certification should be renewed prior to expiration but may be renewed up to three months after the date of expiration upon payment of a late fee in addition to the renewal fee and the meeting of the requirements for renewal set forth below.~~] Certification [~~which has not been renewed within this time period~~] for installers who do not submit a timely renewal application shall be considered lapsed and invalid on March 16; the department shall not accept applications for renewal after [~~the close of the period~~] February 16. Any installer whose certification has lapsed as provided in this subsection shall submit [~~each~~] an application for new certification under 20.5.14.10 or 20.5.14.11 NMAC and comply with the requirements thereof.

B. At least [~~30~~] 90 days before the expiration date of certification, the department shall mail a renewal application reminder to the installer, at the installer's address of record with the department. It is the duty

and responsibility of the installer to timely [~~renew~~] submit the renewal application [~~the~~] for certification pursuant to Subsection A whether or not an application reminder has been received from the department.

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

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

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

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

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

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

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

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

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

F. For purposes of this section, “demonstrate” means provide copies of registration forms, inspection reports, installation checklists, written statements or other documents verifying the certified installer’s on-site, physical, hands-on participation in critical junctures of a particular installation, replacement, repair or modification.

[20.5.14.15 NMAC - Rp, 20.5.14.15 NMAC, 6/15/2009]

[The department provides an optional form that may be used to apply for renewal of certification. Applicants should submit renewal forms to the Petroleum Storage Tank Bureau, attention: Application for Certified Installer, 1301 Siler Road, Building B, Santa Fe, New Mexico 87507.]

20.5.14.16 NEW MEXICO LAWS AND RULES TEST:

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

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

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

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

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

20.5.14.17 INSTALLER DUTIES AND OBLIGATIONS:

A. A contracting company shall not agree to perform installation, replacement, repair or modification services unless it is or has in its employ one or more certified installers competent to perform the particular installation, replacement, repair or modification involved, and who shall:

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

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

(3) give notice as required by these regulations.

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

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

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

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

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

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

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

20.5.14.18 COMPLAINTS:

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

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

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

20.5.14.19 INVESTIGATIONS, ENFORCEMENT, PENALTIES:

A. The department may undertake such investigations and take such actions as it deems necessary to ensure compliance with the provisions of this part, including the issuance of compliance orders and the commencement of civil actions under the provisions of the Hazardous Waste Act, NMSA 1978, Sections 74-4-1 through 74-4-14. The department may also initiate proceedings to revoke an installer's certification under NMSA 1978, Section 74-4-4.4C and 20.5.14.15 NMAC. The department may revoke certification for an installer upon grounds that the installer:

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

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

(3) was derelict in the performance of a duty as a certified tank installer (including repeated failure to provide notice, as required in 20.5.14.17 NMAC).

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

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

20.5.14.20 DEPARTMENT ACTIONS AGAINST CERTIFIED INSTALLERS:

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

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

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

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

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

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

HISTORY OF 20.5.14 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-14, Underground Storage Tank Regulations - Part XIV - Certification of Tank Installers, filed 2/14/89.

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

History of Repealed Material:

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

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

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

Other History:

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

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

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

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

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