TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 5 PETROLEUM STORAGE TANKS
PART 18 OPERATOR TRAINING

20.5.18.1 ISSUING AGENCY: New Mexico Environmental Improvement Board.
[20.5.18.1 NMAC - N, 6/15/09]

20.5.18.2 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 requirement of this part, including any notice, reporting, designation of certified operators, and payment requirements; however, both parties are liable in the event of noncompliance.
[20.5.18.2 NMAC - N, 6/15/09]

20.5.18.3 STATUTORY AUTHORITY: This part is promulgated pursuant to the provisions of the Hazardous Waste Act, NMSA 1978, 74-4-1 through 74-4-14; the Ground Water Protection Act, NMSA 1978, 74-6B-1 through 74-6B-14; and the general provisions of the Environmental Improvement Act, NMSA 1978, 74-1-1 through 74-1-16.
[20.5.18.3 NMAC - N, 6/15/09]

20.5.18.4 DURATION: Permanent.
[20.5.18.4 NMAC - N, 6/15/09]

20.5.18.5 EFFECTIVE DATE: June 15, 2009, unless a later date is indicated in the bracketed history note at the end of a section.
[20.5.18.5 NMAC - N, 6/15/09]

20.5.18.6 OBJECTIVE: The purpose of this part is to ensure that operators of regulated storage tanks are effectively trained to manage and prevent environmental and public health emergencies and other situations requiring on-site response, in order to protect public health, safety and welfare and the environment of the state.
[20.5.18.6 NMAC - N, 6/15/09]

20.5.18.7 DEFINITIONS: The definitions in 20.5.1 NMAC apply to this part. The terms operator and certified operator as used in this part are different terms, as defined in 20.5.1.7 NMAC.
[20.5.18.7 NMAC - N, 6/15/09]

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

A. Designation. Owners and operators shall identify and designate for each storage tank system or group of storage tank systems at a facility, at least one named individual for each class of operator.

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

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

B. Training. All individuals designated as a class A, B or C operator shall, at a minimum, be trained and certified according to these regulations by the applicable deadlines in this part.

C. Exemption. Owners and operators of storage tank systems that have been placed in temporary closure in compliance with Section 9 of 20.5.8 NMAC shall not be required to designate trained class A or class B operators, unless one or both of the following conditions is present:

(1) the storage tank contains greater than one inch of regulated substance; or

(2) the storage tank system has steel components that are in contact with soil, water or concrete.

[20.5.18.8 NMAC - N, 6/15/09]

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

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

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

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

(1) a general knowledge of storage tank system requirements so he can make informed decisions regarding compliance and ensure appropriate individuals are fulfilling operation, maintenance, and recordkeeping requirements and standards of 20.5 NMAC regarding:
(a) spill prevention;
(b) overfill protection;
(c) release detection;
(d) corrosion protection;
(e) emergency response; and
(f) product compatibility;
(2) financial responsibility documentation requirements;
(3) notification requirements;
(4) release and suspected release reporting requirements;
(5) temporary and permanent closure requirements; and
(6) operator training requirements.

[20.5.18.9 NMAC - N, 6/15/09]

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

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

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

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

(1) components of storage tank systems;
(2) materials of storage tank system components;
(3) methods of release detection and release prevention applied to storage tank system components;
(4) operation and maintenance requirements of 20.5 NMAC that apply to storage tank systems and include:
(a) spill prevention;
(b) overfill protection;
(c) release detection;
(d) corrosion protection;
(e) emergency response; and
(f) product compatibility;
(5) reporting and recordkeeping requirements; and
(6) class C operator training requirements.

[20.5.18.10 NMAC - N, 6/15/09]

20.5.18.11 CLASS C OPERATOR: A class C operator is an employee and is, generally, the first line of response to events indicating emergency conditions. This individual is responsible for responding to alarms or other indications of emergencies caused by spills or releases from storage tank systems. This individual notifies the class

B or class A operator and appropriate emergency responders when necessary. Not all employees of a facility are necessarily class C operators.

A. General requirements. The class C operator typically:

(1) controls or monitors the dispensing or sale of regulated substances; and

(2) is responsible for initial response to alarms or releases.

B. Minimum training requirements. At a minimum, the class C operator shall be trained to take action in response to emergencies (such as situations posing an immediate danger or threat to the public or to the environment and that require immediate action) and alarms potentially caused by spills or releases from a storage tank system.

C. Training elements for class C.

(1) Trained class A or class B operators shall:

(a) provide training to class C operators on emergency response procedures and on contacts for alarms potentially caused by spills or releases;

(b) provide simple written instructions on these procedures and contacts; and

(c) post signage with these procedures and contacts in prominent areas of the storage tank facility that are easily visible to any person dispensing a regulated substance.

(2) For purposes of this subsection, emergency response procedures shall include but are not limited to:

(a) procedures for overfill protection during delivery of regulated substances;

(b) operation of the emergency shut off system and alarm response;

(c) release reporting; and

(d) any site specific emergency procedures.

[20.5.18.11 NMAC - N, 6/15/09]

20.5.18.12 TRAINING AND CERTIFICATION DEADLINES AND SCHEDULES:

A. Deadline for designation of operators. Owners and operators of storage tank systems shall post at each facility owned a list of designated and certified class A and B operators, by the following deadlines:

(1) July 1, 2010: all owners of more than 12 facilities;

(2) July 1, 2011: all owners of three to 12 facilities;

(3) July 1, 2012: all owners of one or two facilities[~~.~~]<u>;</u>

<u>(4) July 1, 2012: all owners who own any tanks connected to emergency generators.</u>

B. When requested and at any inspection conducted by the department, owners and operators shall provide to the department a list of designated certified class A and B operators for each facility owned.

C. Owners shall maintain documentation identifying designated and certified class C operators, with proof of training, at each facility.

D. No later than the deadlines established in Subsection A of this section, all designated certified class A, B and C operators shall be trained and possess a current certificate issued by a trainer approved pursuant to this part.

E. After the deadlines established in Subsection A of this section, new operators shall be trained and certified within the following timeframes:

(1) Class A and class B operators shall be trained and certified within 60 days of assuming full operation and maintenance responsibilities at a storage tank system. Owners and operators in rural and remote areas of the state may apply in writing for a 60-day deferral of this requirement. To apply for this deferral, owners and operators must demonstrate to the department that they are located in a rural and remote area, as defined in 20.5.1.7 NMAC.

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

[20.5.18.12 NMAC - N, 6/15/09]

20.5.18.13 OPERATOR PRESENT: After the applicable deadlines in 20.5.18.12 NMAC, owners and operators shall ensure that every facility has either a class A, class B, or class C operator on-site whenever it is open for business and dispensing [~~fuel~~] <u>any regulated substance</u>, except:

A. pursuant to Paragraph (1) of Subsection E of 20.5.18.12 NMAC; [~~and~~]

B. at un-manned facilities, which shall conspicuously post signage required in Paragraph (1) of Subsection C of 20.5.18.11 NMAC, and shall either:

(1) be visited by a class A or B operator every week; or

(2) have a remote monitoring system that:

(a) meets the requirements of 20.5.6 NMAC;

(b) will automatically shut off the delivery or transfer of regulated substances if a suspected release is detected; and

(c) is visited monthly by a class A or B operator[~~.~~]; and

C. at emergency generator systems, which shall comply with the requirements of Subsection B above, unless an owner or operator requests an alternate method and such request is approved by the department.

[20.5.18.13 NMAC - N, 6/15/09]

20.5.18.14 RE-TRAINING AND RE-CERTIFICATION:

A. Class A and B operators shall be re-trained and re-certified every 5 years, in the same manner as original training and certification required in this part. It is the responsibility of owners, operators and certified operators to track certification dates and expiration, and to ensure that a certified operator as required by this part is designated and on-site for every storage tank system by the deadlines in this part and as required in this part.

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

(1) storage tank release detection requirements in 20.5 NMAC; or

(2) release prevention requirements (spill, overfill, or corrosion prevention) requirements in 20.5 NMAC.

C. An owner may elect to re-train and re-certify class A and B operators annually for a storage tank system. Class A and B operators that are re-trained and re-certified annually need not re-train and re-certify as required in Subsection B of this section if the department finds the storage tank system is out of compliance.

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

[20.5.18.14 NMAC - N, 6/15/09]

20.5.18.15 DEFERRAL OF RE-TRAINING:

A. An owner or operator that is a certified operator may apply in writing to the department for a one-time five-year deferral of re-training required in 20.5.18.14 NMAC if he can demonstrate the following:

(1) he owns no more than two facilities;

(2) no significant changes, modifications or upgrades to either of the facilities have been made during the five-year period immediately preceding the deferral application, including changes to spill prevention equipment, overfill protection equipment, leak detection equipment or corrosion protection equipment;

(3) the average monthly throughput at each facility is less than 20,000 gallons over the last 12 months; and

(4) the facility has not been out of compliance as defined in 20.5.18.14 NMAC during the five-year period immediately preceding the deferral application.

B. The department shall promptly evaluate applications for deferral of re-training, and shall respond in writing within 30 days of receipt whether the application is granted, denied, or whether more information is needed. The department shall not unreasonably withhold approval if the applicant meets all requirements of Subsection A of this section. It is the responsibility of owners and operators to timely apply for deferrals of re-training so that they may be processed and evaluated well before the expiration of operator certification.

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

D. Owners and operators that receive a deferral of re-training shall complete re-training as required in 20.5.18.14 NMAC within five years after the deferral is granted. In other words, if approved, these owners and operator shall re-certify class A and B operators after 10 years.

[20.5.18.15 NMAC - N, 6/15/09]

[The department provides an optional form for application for deferral of re-training, available on the department's webpage, www.nmenv.state.nm.us, by calling the department at 505-476-4397 or by writing to the Petroleum Storage Tank Bureau at 1301 Siler Road, Building B, Santa Fe, New Mexico 87507. Owners should mail applications for deferral to this address.]

20.5.18.16 APPROVAL OF TRAINERS AND TRAINING:

A. Training elements. The following topics shall be covered in approved training courses for class A and class B operators:

(1) general overview of department UST and AST program and administrative requirements, including:

(a) registration forms and certificates, and process for filing and modifying them;

(b) notification process and general technical requirements for new installations, repairs, replacements and modifications;

(c) confirmed and suspected releases (including confirmation steps for suspected releases), monthly monitoring or release detection test failures, and other system failures that may indicate a release of regulated substance has or is occurring;

(d) annual tank fees and invoicing process;

(e) general requirements for maintaining and demonstrating financial responsibility;

(f) department process for inspections and technical assistance resources available, including written checklists required in 20.5.18.17 NMAC; and

(g) enforcement process for violations;

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

(3) spill prevention and overfill protection:

(a) rule requirements, including record keeping;

(b) equipment requirements; and

(c) operation and maintenance records;

(4) release detection: for each type of release detection method listed and approved in 20.5.6 NMAC for USTs, ASTs and piping:

(a) rule requirements, including record keeping;

(b) monitoring and equipment requirements, including third party approval requirements; and

(c) operation and maintenance records;

(5) corrosion protection:

(a) rule requirements, including record keeping;

(b) equipment requirements; and

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

(6) classes of operators and operator training requirements, including designation and certification;

(7) temporary and permanent closure requirements:

(a) rule requirements, including record keeping;

(b) return to service;

(c) site assessment; and

(d) change in service;

(8) general requirements for tank installer certification:

(a) rule requirements, including record keeping;

(b) when certified installers are required; and

(c) how to find certified installers and verify certified status.

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

(1) whether the trainer is a third-party, in-house, educational institution or other;

(2) whether the trainer will offer training in multiple locations throughout the state, regionally or locally;

(3) how often the trainer will offer training;

(4) what fee (if any) the trainer will charge;

(5) whether the trainer will offer classes only to employee or in-house operators, to the general public, or to independent contract operators.

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

(1) live training sessions in a classroom setting or at a storage tank system;

(2) internet or computer training program; or

(3) any other equivalent training method approved by the department.

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

(1) name, address and contact information of the proposed trainer;

(2) detailed description of the proposed trainer's experience, education and qualifications to conduct training;

(3) agenda and materials to be used for the proposed class that shall include the elements required in this section;

(4) final tests or other proposed methods of evaluating attendee success;

(5) copies of proposed documentation to certify successful attendees as certified operators as required in 20.5.18.17 NMAC and to be used for the monthly and annual inspections required in 20.5.18.17 NMAC;

(6) the proposed fee schedule for the training class; and

(7) the proposed calendar for the proposed training classes that includes location and frequency.

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

(1) within 30 days of receipt of the original application;[~~, and provide a written approval, denial or request for additional information.~~]

(2) within 60 days of receipt of the second application;

(3) within 90 days of receipt of the third application; and

(4) if the department has denied an application three (3) times, the applicant shall not re-submit an application for a period of one (1) year from the date of receipt of the third denial.

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

G. The department may suspend or revoke a trainer's certificate if it determines that the trainer is not performing adequately or has misrepresented information on the trainer's application. The department shall use the procedures prescribed in the Uniform Licensing Act, Sections 61-1-1 et seq. NMSA 1978, in all suspension and revocation proceedings held pursuant to this rule.

[20.5.18.16 NMAC - N, 6/15/09]

[The department provides an optional form for application for approval of trainer and training class, available on the department's webpage, www.nmenv.state.nm.us, by calling the department at 505-476-4397 or by writing to the Petroleum Storage Tank Bureau at 1301 Siler Road, Building B, Santa Fe, New Mexico 87507. Owners should mail applications for approval of trainer and training to this address.]

20.5.18.17 DOCUMENTATION AND RECORDKEEPING:

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

(1) the operator's name;

(2) the date and location where training was completed;

(3) the facility name, address and department facility identification number for each facility for which the operator is trained; and

(4) the name, address and phone number of the approved trainer that conducted the training.

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

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

D. Approved trainers shall maintain records of successful completion of training, including examination results, for at least 10 years, and shall make the records available to the department on request.

[20.5.18.17 NMAC - N, 6/15/09]

20.5.18.18 RESPONSIBILITIES OF CERTIFIED OPERATORS:

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

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

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

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

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

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

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

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

(2) The certified operator(s) shall ensure that all inspections as outlined in the operations and maintenance plan, required in 20.5.5.9 NMAC, are properly performed and conducted by qualified personnel.

(3) Certified operators may use checklists contained in the operations and maintenance plan, required in 20.5.5.9 NMAC, to document monthly inspections only if the checklists meet the requirements of this section.

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

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

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

[20.5.18.18 NMAC - N, 6/15/09]

[The department provides an optional checklist for compliance with this section that is available on the department's webpage, www.nmenv.state.nm.us, by calling the department at 505-476-4397 or by writing to the Petroleum Storage Tank Bureau at 1301 Siler Road, Building B, Santa Fe, New Mexico 87507.]

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

[20.5.18.19 NMAC - N, 6/15/09]

20.5.18.20 ALTERNATE METHODS:

A. If owners and operators want to propose an alternate method of operator presence at emergency generator systems, other than that specified by this part, owners and operators shall apply in writing to the department, shall provide supporting documentation, and shall not begin the proposed method unless and until the department approves the request in writing. At a minimum, the request for an alternate method shall contain the following:

(1) date the form is completed;

(2) facility name, number, address (with county) and telephone number;

(3) owner name, number, address and telephone number;

(4) citation to regulation for which alternate method is requested;

(5) brief description of the proposed alternate method;

(6) justification of proposed alternate method, including citation to a standard or code supporting its use, if available; and

(7) demonstration of its equivalent protection of public health, safety and welfare and the environment.

B. The department shall not grant the request unless owners and operators demonstrate that the request will provide equivalent protection of public health, safety and welfare and the environment.

HISTORY OF 20.5.18 NMAC: [RESERVED]