

Summary of Major Petroleum Storage Tank Regulation Rule Changes

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Note: Revised rules were filed with State Records & Archives 2/16/12 and are effective 3/17/12.

The purpose of this Summary is to identify only the most significant changes to the revised rules: those affecting equipment, testing, operating practices, and enforcement. The revised rules include numerous changes, including non-substantive formatting changes; minor substantive changes that do not require significant modifications in practice, certification, or equipment; and major substantive changes. An exhaustive list and discussion of all changes is included in the PSTB's Petition and Statement of Reasons filed 6.24.11, and the redline-strikethrough rules and transmittal forms filed 2/16/12, on the PSTB web page (www.nmenv.state.nm.us/ust) on the link to "PST Rules – Proposed."

Part 1: General Provisions and Definitions

1. Eliminates exemption for emergency generator tanks in definition of ASTs and USTs (20.5.1.2: Scope, 20.5.1.7.A(2), 20.5.1.7.U(3) NMAC).
2. Defines "installation of a new or replaced motor fuel dispenser system" to clarify that installation only of a dispenser cabinet does not trigger secondary containment requirements; secondary containment is only required if equipment necessary to connect the dispenser to the storage tank system is installed or replaced with the dispenser and/or cabinet. Connection equipment may include check valves, shear valves, unburied risers, flexible connectors or other transitional components (20.5.1.7.I(5), 20.5.4.15.A(2) NMAC).

Part 2: Registration of Tanks

3. Requires registration of emergency generator tank systems within 90 days of the effective date of rules, or by 6/15/12 (20.5.2.8.C NMAC).

Part 4: New and Upgraded Storage Tank Systems: Design, Construction and Installation

4. Lists elements for AST installations with detailed requirements for concrete foundation and support (20.5.4.19.A).
5. Provides a list of options for new concrete secondary containment for ASTs, including coating/lining, approval by a professional engineer, or installation using an approved alternate method (20.5.4.29.B(1)).
6. Adds methods for upgrading existing concrete secondary containment for ASTs, including all methods approved for new concrete secondary containment, or coating/lining approved by the PSTB (20.5.4.29.B(2)).
7. Plans stamped by a professional engineer stating that secondary containment for a tank system will contain a release for 7 days and will properly support the AST system, will fulfill either new or upgraded AST concrete secondary containment requirements (20.5.4.29.B(4)).
8. Extends the deadline for closing or upgrading existing AST secondary containment (based on PSTB 12/3/10 written policy) to July 1, 2013 (20.5.4.35).
9. Broader Alternate Methods section allows variances of both materials and methods, whether or not they are supported by a code or standard, as long as owner/operator demonstrates that the Alternate Method provides equivalent protection of public health, safety and welfare, and the environment (20.5.4.38). Similar changes to Alternate Methods in 20.5.5.23 and 20.5.6.24.

Part 5: General Operating Requirements

10. Operation and Maintenance Plans for unmanned facilities may be kept at an alternate location (rather than at the facility), and eliminates these plans for some facilities unless corrosion protection and release detection must be maintained (20.5.5.9).
11. Owners and operators of emergency generator systems existing on 7/1/11 shall adopt and implement Operation and Maintenance Plans by 7/1/12 (20.5.5.9.E).
12. Requires all liquids (whether water, regulated substance or other liquid) be removed from sumps, secondary containment and vaults (20.5.5.8, 20.5.5.10, 20.5.5.11, 20.5.5.12).

Part 6: Release Detection

13. Exempts emergency generator tanks from release detection requirements (20.5.6.2).
14. Clarifies that new and replaced UST systems installed after 4/4/08 must use interstitial monitoring as release detection, and that only UST systems installed before 4/4/08 may use monthly inventory control with tank tightness testing (20.5.6.9.C).
15. Expands and clarifies options for visual inspection of double-walled and double-bottomed AST systems (20.5.6.20.B).
16. Details requirements for reports on annual line leak detector testing to ensure releases are not occurring (20.5.6.23.A).

Part 7: Reporting and Investigation of Suspected and Confirmed Releases

17. Clarifies threshold standards in soil for release reporting: 100 parts per million analytical results, field screening more than 100 whole instrument units, significant visible staining or odors (20.5.7.10).

Part 10: Administrative Review

18. Adds a definition of “aggrieved party” to clarify and expand right to seek administrative review of PSTB decisions (20.5.10.7, 20.5.10.8, 20.5.10.9, 20.5.10.10).

Parts 12 & 13: Corrective Action

19. Clarifies that PSTB oversees all tank cleanups, whether paid for by the Corrective Action Fund, by an owner, or by any other source of funds (20.5.12.8, 20.5.13.8);
20. Requires PSTB approval before a tier evaluation or risk assessment is performed, (20.5.12.9, 20.5.12.16, 20.5.12.21);
21. Eliminates requirement for owners/operators to drill to groundwater in all site investigations (20.5.12.16, 20.5.12.21, 20.5.13.15);
22. Establishes a vapor mitigation standard to meet the OSHA standard, defined in 20.5.1.7.P(11), of 10 percent lower explosive level (20.5.12.11, 20.5.13.10).

Part 14: Certification of Tank Installers

23. Clarifies that a certified tank installer is not required for closure (20.5.14.8).
24. Streamlines and details the certified installer renewal process, with automatic expiration of certification if not timely renewed (20.5.14.15).

Part 16: Qualifications of Persons Performing Corrective Action

25. Deletes redundant appeal provisions and provides appeal using Part 10 (20.5.16.13, 20.5.16.14, 20.5.16.15).

Part 18: Operator Training

26. Changes process for reviewing trainer applications and for revoking trainer approval (20.5.18.16).

27. Requires trained operators for emergency generator tanks by 7/1/12, exempts most emergency generator tank systems from the requirement for the presence of a trained operator, and allows an alternate method for the presence of a trained operator at an emergency generator system (20.5.18.12, 20.5.18.20).

28. Eliminates re-training for temporarily closed tank systems unless a tank has more than 1 inch of product or has steel components needing corrosion protection (20.5.18.14.E).

Part 19: Delivery Prohibition

29. Prohibits the delivery, deposit or acceptance of product (regulated substance) at or to a storage tank or facility holding petroleum identified by PSTB as ineligible (20.5.19.2, 20.5.19.6, 20.5.19.8).

30. Establishes mandatory and discretionary classifications for ineligibility following federal and state law, for violations involving installation and operation/maintenance of equipment for spill prevention, overfill protection, leak detection and corrosion protection (20.5.19.9).

31. Gives owners/operators opportunity to correct violations by providing notice before a storage tank or facility is declared ineligible for delivery (20.5.19.10).

32. Provides mechanisms to identify tanks and facilities that are ineligible for delivery: red tags, certificates, posting on PSTB webpage (20.5.19.11, 20.5.19.12).

33. Requires removal of regulated substances if violations are not corrected within 30 days of a tank or facility being red-tagged (20.5.19.12).

34. Provides a process for owners/operators to notify PSTB in writing when violations are corrected (20.5.19.14.A).

35. Requires PSTB to promptly re-classify a facility as eligible for delivery, when violations are corrected (after a facility or tank has been red-tagged) (20.5.19.14).

36. Allows deferral of delivery prohibition for up to 180 days in rural and remote areas and for matters of national security (20.5.19.15).

37. Authorizes PSTB to allow delivery to red-tagged tank or facility in certain emergency situations or for limited types of tank testing or calibration (20.5.19.16).

38. Prohibits tampering with storage tank equipment, including red tags (20.5.19.17).

39. Requires product deliverers (defined in 20.5.1.7.P(14)) to comply with all PST Regulations in 20.5 (20.5.19.17).

40. Provides an expedited administrative appeal process for owners/operators of tanks or facilities that have been red-tagged (20.5.19.18).