

CHAPTER 134
UNDERGROUND STORAGE TANK LICENSING AND CERTIFICATION PROGRAMS

PART A
CERTIFICATION OF GROUNDWATER PROFESSIONALS

567—134.1(455G) Definition. A “groundwater professional” is a person who provides subsurface soil contamination and groundwater consulting services, or who contracts to perform or who supervises remediation or corrective action services at leaking underground storage tank sites. A person who engages only in installation or removal of underground storage tanks and piping is not a “groundwater professional” for the purposes of this chapter.

567—134.2(455G) Certification requirements.

134.2(1) A groundwater professional must be certified as provided in 134.3(455G) before engaging in activities described in 134.1(455G), except that a person engaging in activities described in 134.1(455G) need not be certified if that person is under direct supervision of a certified groundwater professional when engaging in such activities.

134.2(2) In order to be certified as a groundwater professional, a person must be one or more of the following:

- a.* A person certified by the American Institute of Hydrology as a Professional Hydrologist, Professional Hydrogeologist, or Professional Hydrologist (Groundwater).
- b.* A person certified by the National Water Well Association or Association of Groundwater Scientists and Engineers as a Groundwater Professional.
- c.* A person certified by the American Board of Industrial Hygiene as an Industrial Hygienist.
- d.* A professional engineer registered in Iowa.
- e.* A professional geologist certified by a national organization (e.g., American Institute of Professional Geologists, American Association of Petroleum Geologists, Society of Independent Earth Scientists).
- f.* Any person with five years of direct or related experience and training as a groundwater professional or in the field of earth sciences. This must include a minimum of at least two years of education and training, and two years of experience as a groundwater professional.
- g.* Any person with a license, certification, or registration to practice hydrogeology or groundwater hydrology issued by any state in the United States or by a national organization, provided that the license, certification, or registration process requires, at a minimum, both of the following:
 - (1) Possession of a bachelor’s degree from an accredited college.
 - (2) Five years of related professional experience.

134.2(3) In order to be certified as a groundwater professional, the applicant must complete the two-day risk-based correction action (RBCA) course and pass a certification examination offered or authorized by the department.

- a.* An applicant who fails an initial examination may take a second examination.
- b.* Failure of the second examination will result in termination of the application. A person may reapply for groundwater professional certification. The applicant must complete a regularly scheduled course of instruction before retaking the certification examination.
- c.* Professional engineers who qualify for an exemption from taking the certification examination under subrule 134.3(6) must attend the RBCA initial course of instruction in order to be certified.

567—134.3(455G) Certification procedure.

134.3(1) Application. Application for certification shall be made by completing a form provided by the department and submitting evidence of meeting the requirements found in rule 134.2(455G) (i.e., copy of certificate, license, description of experience and training).

134.3(2) Certification fee. The initial certification and each renewal application must be accompanied by a nonrefundable fee in the form of a check or money order payable to the Department of Natural Resources. The certification fee is \$200 every two years and must be renewed biennially by January 1 of each even-numbered year (i.e., 1994, 1996, etc.). No proration of certification fees will be done. The department will assess a fee for each training course and examination, based upon the cost of preparation and administration.

134.3(3) Rescinded IAB 1/9/02, effective February 13, 2002.

134.3(4) Certification issuance and renewal.

a. Upon receipt, review and acceptance of the application and certificate fee, the department shall furnish the applicant with a certificate showing the name of the individual and the expiration date.

b. In order to remain valid, a groundwater professional certificate must be renewed prior to the expiration date specified on the certificate. Renewal applications must be made on a form provided by the department and must be received by the department or postmarked at least 60 days prior to the expiration date of the registration or certification then in effect. The renewal application must be accompanied by the registration or certification fee specified in subrule 134.3(2) and proof of completing the continuing education requirements in 134.3(5).

134.3(5) Continuing education. All groundwater professionals are required to complete at least 12 hours of continuing education during each two-year certification period.

a. The initial course of instruction required in subrule 134.2(3) may be applied toward the first certification period's continuing education requirements. Continuing education credits may not be carried forward to the next certification period.

b. Continuing education must be in the areas relating to underground storage tank contamination assessment and corrective action activities. Courses other than those provided by the department must be submitted to the department for prior approval as meeting the continuing education requirement.

134.3(6) Exemption from examination. The department may provide for an exemption from the certification examination requirements for a professional engineer registered pursuant to Iowa Code chapter 542B upon submission of sufficient proof of exemption to the Iowa comprehensive petroleum underground storage tank fund board as provided in Iowa Code section 455G.18(8). The person must be qualified in the field of geotechnical, hydrological, environmental, groundwater, or hydrogeological engineering. A groundwater professional exempted under this provision must meet the continuing education requirements of subrule 134.3(5).

567—134.4(455G) Suspension, revocation and denial of certification.

134.4(1) General policy. It is the policy of the department to enforce standards of professional and ethical conduct which are generally accepted within the professions which qualify persons for certification in Iowa as groundwater professionals. The department intends to rely on written standards of professional and ethical conduct and competency which are applicable to persons who qualify for certification by virtue of certification by or membership in a professional organization or state licensure as provided in Iowa Code section 455G.18(2).

It is the policy of the department to investigate and enforce standards of conduct by certified groundwater professionals which fall within the scope of their professional relationships with the department, their clients and other state regulatory agencies including the Iowa comprehensive petroleum underground storage tank fund board and their agents.

134.4(2) *Lack of qualification.* The department may suspend, revoke or deny certification as a groundwater professional for any of the following reasons:

- a. A material misstatement of fact in an application for certification.
- b. Failure to provide the fee for certification.
- c. Loss of license, certification, or registration necessary to meet the certification requirements in subrule 134.2(2).
- d. Insufficient proof of qualifications required under rule 134.2(455G).
- e. Failure to successfully complete the certification requirements.
- f. Receipt of a “certificate of noncompliance” with a child support obligation and failure to provide a “withdrawal of a certificate of noncompliance” from the child support recovery unit as provided in Iowa Code chapter 252J.
- g. Default on an obligation owed to or collected by the state as provided in Iowa Code section 421.17(34)“e.”

134.4(3) *Discipline based on a single act or omission.* The department may suspend, revoke or deny certification based on substantial evidence of a single act or failure to act. The severity of the sanction may be based on the gravity of the act or omission and on the degree of culpability such as whether it was negligent, knowing, willful, or with such a degree of reckless disregard as to equate with intentional conduct. Single acts or omissions that may be grounds for discipline include, but are not limited to, the following:

- a. Fraudulent omissions or misstatements of material fact in any reports, correspondence or communications with the department.
- b. Violation of an ethical standard which the person knew or should have known and which results in or reasonably could have resulted in material consequences.
- c. Failure to report the presence of contamination to the parties reasonably believed to be responsible for reporting the contamination to the department as provided in 567—Chapter 131 and 567—135.6(455B).
- d. Knowingly making a material false statement, representation or certification on any application, record, report, or document required to be maintained or submitted by department rule or which is voluntarily submitted to the department.
- e. Gross incompetence in the performance of groundwater professional services and corrective action.
- f. Material misstatement of facts or misrepresentation of information required to be provided pursuant to Iowa Code chapters 455G and 455B, division IV, part 8.

134.4(4) *Discipline based on repeated acts or omissions.* The department may suspend, revoke or deny certification, based on substantial evidence of repeated acts or omissions which, when taken together indicate a lack of competency, professionalism, ethical conduct, or adherence to standards of performance generally expected by the profession. The severity of the sanction may be based on the gravity of the acts or omissions and the degree of culpability. Disciplinary sanctions under this subrule will not be applied without providing the person with at least one written notice of the deficiency and a written warning that future repetition may result in discipline. Conduct or omissions which may be a basis for discipline include but are not limited to the following:

- a. Repeated incidents of substandard field investigation may result in suspension or revocation.
- b. Repeated incidents of substandard, inaccurate or incomplete site cleanup reports and failure to follow site cleanup report instructions may result in suspension or revocation.
- c. Conduct warranting a sanction after prior suspension shall result in a more severe sanction.

134.4(5) Disciplinary procedure.

a. Prior to issuance of a final department action imposing a disciplinary sanction of suspension, revocation or denial of certification, the department shall conduct such lawful investigation as it deems necessary to substantiate material facts sufficient to warrant a disciplinary sanction. The decision to impose a disciplinary sanction shall be made by the administrator of the environmental protection division.

b. Written notice of a sanction shall be sent by restricted certified mail to the person against whom the sanction is imposed. The notice shall provide a brief explanation of the facts relied upon and the sanction to be imposed. The notice shall inform the recipient of applicable appeal rights.

c. A person may appeal a decision imposing a suspension, revocation or denial of certification within 30 days of receipt of the notice. Upon timely receipt of the notice of appeal, contested case procedures, including informal settlement, shall apply as provided in 561—Chapter 7. In accordance with 561—subrule 7.5(2), the department shall initiate pleading by the filing of a petition.

d. Notwithstanding 561—subrule 7.15(7), the sanction imposed shall not take effect until after a contested case hearing and issuance of a proposed decision. If a timely appeal has not been filed, the sanction is effective after 30 days from receipt of the notice. A party may request stay of the sanction, as provided in 561—subrule 7.15(7), after issuance of a proposed decision.

134.4(6) Noncompliance with support order procedures. Upon receipt of a certification of noncompliance with a support obligation as provided in Iowa Code section 252J.7, the department will initiate procedures to deny an application for certification or renewal, or to suspend a certification in accordance with Iowa Code section 252J.8(4). The department shall issue a notice by restricted certified mail to the person of its intent to deny or suspend groundwater professional certification based on receipt of a certification of noncompliance. The suspension or denial shall be effective 30 days after receipt of the notice unless the person provides the department with a withdrawal of the certificate of noncompliance from the child support recovery unit as provided in Iowa Code section 252J.8(4) “c.” Pursuant to Iowa Code section 252J.8(4), the person does not have a right to a hearing before the department to contest the denial or suspension action under this subrule but may seek a hearing in district court in accordance with Iowa Code section 252J.9.

567—134.5(455G) Penalty. A groundwater professional who fails to obtain certification with the department of natural resources as required in this chapter is subject to a civil penalty of \$50. A groundwater professional who knowingly or intentionally makes a false statement or misrepresentation which results in a mistaken classification of a site shall be guilty of a serious misdemeanor and shall have the groundwater professional certification revoked.

These rules are intended to implement Iowa Code section 455G.18.

PART B
CERTIFICATION OF UST COMPLIANCE INSPECTORS

567—134.6(455B) Definition.

“*UST compliance inspector*” means a person who inspects a regulated underground storage tank (UST) to satisfy the requirements of 567—135.20(455B) for compliance with UST technical standards in 567—Chapter 135.

567—134.7(455B) Certification requirements for UST compliance inspectors. A person retained by an owner or operator of an UST facility for the purpose of establishing compliance with the annual UST compliance inspection required by the department under 567—135.20(455B) must hold a current UST compliance inspector certification issued by the department. Inspector certification will be issued by the department only to a person who:

1. Is an Iowa-licensed UST installer or installation inspector under 591—Chapter 15, except that the requirement as set forth under 591—subrule 15.3(4) shall not be applicable to a certified UST compliance inspector.
2. Attends the required training approved by the department as provided in 567—134.10(455B).
3. Achieves a passing grade of 85 percent on a certification examination administered or approved by the department as provided in 567—134.10(455B).
4. Submits an accurate and complete application.
5. Is not found to be in violation of this chapter and has not had a certification revoked by the department pursuant to 567—134.16(455B) or by the underground storage tank fund board pursuant to 591—Chapter 15.

567—134.8(455B) Temporary certification.

134.8(1) Until training and testing procedures are developed, the department may issue a temporary inspector certification to any person who:

- a. Is an Iowa-licensed installer or installation inspector as provided in 567—134.7(455B), numbered paragraph “1.”
- b. Completes the U.S. EPA UST Web-based training modules: “Introduction to the Underground Storage Tanks (UST) Program” and “Basic UST Inspector Training” with a minimum passing grade of 85 percent.

134.8(2) A person issued a temporary UST compliance inspector certification must complete the approved training and pass the examination in accordance with 567—134.10(455B) by April 1, 2007. Failure to achieve a passing grade on the examination before April 1, 2007, will result in revocation of temporary certification.

567—134.9(455B) Application for inspector certification.

134.9(1) The applicant shall be an individual.

134.9(2) An applicant for inspector certification shall submit, in addition to all applicable fees, an application on forms provided by the department. The application shall contain the following information:

- a. Evidence that the applicant meets the experience and qualification prerequisites contained in 567—134.7(455B).
- b. The applicant’s name, address and telephone number.
- c. Other information necessary for a determination of the applicant’s qualifications.

134.9(3) Training and certification fees. An initial nonrefundable application fee of \$150 in the form of a check or money order payable to the Department of Natural Resources must accompany the initial application for certification and \$50 for each renewal application. The \$150 application fee covers the cost of the certification examination. The department will assess an additional fee for each training course based upon the cost of administration.

134.9(4) An application for certification must be received by the department no later than 60 days prior to the announced date of the certification examination.

134.9(5) An application must be complete upon submission.

134.9(6) An applicant meeting the requirements of this rule will be granted admission to the examination for inspector certification.

567—134.10(455B) Training and certification examination.

134.10(1) Prior to taking the compliance inspector examination, the applicant must:

a. Complete the U.S. EPA UST Web-based training modules: “Introduction to the Underground Storage Tanks (UST) Program” and “Basic UST Inspector Training” with a minimum passing grade of 85 percent.

b. Attend the department’s inspector training course or designated approved course.

134.10(2) The department will establish administrative and technical content for the examination and the standards and criteria against which the department will evaluate candidates in determining the fitness of candidates for inspector certification.

134.10(3) At least once in each calendar year, the department will schedule a date and location for the examination for certification of inspectors.

134.10(4) Only applicants who have been authorized by the department to take an examination will be admitted to an examination or issued a certification as a result of passing an examination. Authorization to take an examination will be based on the applicant’s compliance with the requirements of this chapter.

134.10(5) To receive a passing grade on the examination, the applicant for certification must achieve a minimum score of 85 percent. An applicant who fails an initial examination may take a second examination.

134.10(6) The application of an applicant who fails the second examination will be terminated. An applicant who fails the second examination may reapply for inspector certification but may not retake the examination until the applicant has successfully completed a regularly scheduled course of instruction that is administered or approved by the department. Successful completion means attendance at all sessions of training and attainment of the minimum passing grade established by the department for the approved training course.

567—134.11(455B) Renewal of certification.

134.11(1) *Renewal period.* Certification shall be for a two-year period and must be renewed by January 1 of each odd-numbered year, beginning January 1, 2009. Applications for renewal must be submitted on a form provided by the department and no later than 60 days prior to the expiration date. If a certified inspector fails to renew the certification by the expiration date, the department may grant, upon a showing of good cause, a 30-day grace period during which the applicant may submit the application and payment of the renewal fee as provided in 134.9(3).

134.11(2) *Continuing education.* Certified inspectors must successfully complete eight hours of training approved by the department to maintain certification.

134.11(3) *Minimum inspections.* In order to renew certification, an inspector must have conducted at least 25 compliance inspections each year.

567—134.12(455B) Professional liability insurance requirements. All certified compliance inspectors are required to have professional liability insurance with minimum liability limits of \$1 million per occurrence and in the aggregate. All persons covered by the certification provisions of this chapter shall provide written proof of coverage upon request of the department.

567—134.13(455B) Licensed company. A company employing certified UST compliance inspectors shall be registered with the department as a licensed UST compliance company. A company shall lose its license if it fails to employ at least one certified inspector or if it employs uncertified individuals to do compliance inspections required by the department. The annual license fee is \$50.

567—134.14(455B) Compliance inspection. The UST compliance inspector shall conduct a compliance inspection in accordance with the standards set out in this rule and with department written instructions and guidelines. The inspector shall notify the department of the date of a site inspection at least ten days prior to the inspection or another time frame approved by the department.

134.14(1) Inspection process. The inspector shall record the inspection on a form provided by the department and conduct the inspection to address all items contained on the inspection form. The department may approve an alternative inspection form if requested by the inspector. The completed inspection form must be maintained by the inspector or licensed company for five years. Upon completion of the site inspection, the inspector shall send an inspection report to the owner and operator within ten business days, except for the notice of a potential suspected or confirmed release as provided in paragraph “b.” At a minimum, the report shall satisfy the following:

a. The inspector shall notify the owner and operator of any compliance violations or deficiencies and those specific actions necessary to correct the violations or deficiencies in accordance with 567—Chapter 135.

b. The inspector shall immediately upon discovery notify the owner and operator of a suspected release as provided in 567—135.6(455B). The notice shall advise the owner and operator of their duty to report the condition to the department within 24 hours or within 6 hours if a hazardous condition exists as defined in 567—131.1(455B) and of their duty to take necessary steps to investigate and confirm suspected releases within the time frames specified in 567—135.6(455B). The inspector shall record in the inspection report submitted to the department the date and time of the notice to the owner and operator.

c. The inspector shall notify the owner and operator of applicable time frames to correct violations or deficiencies if established by rule, or within 60 days of receipt of the inspection report or another reasonable time period approved by the department.

d. The inspector may enter the initial site inspection results electronically as provided in 134.14(2) and complete a follow-up final electronic report as provided below or wait until completion of the follow-up activities to submit a final electronic report. In either case, a final electronic report shall be submitted to the department and a copy provided to the owner and operator as provided in 134.14(2), within the following time frames:

(1) Within 10 business days of the inspection, if the results of the inspection find no violations or deficiencies requiring corrective action.

(2) Within 10 business days of the inspector’s receipt of all necessary documentation of all action required to correct violations and deficiencies.

(3) In any case, no later than 90 days of the site inspection.

134.14(2) Electronic inspection reporting. The inspector shall prepare an electronic report in accordance with the following:

a. The inspector shall enter the results of the site inspection discovered at the time of the inspection and any actions taken to correct violations and deficiencies on an Internet-based electronic format developed by the department and in accordance with guidance. The department’s software will be capable of generating an inspection report.

b. The department will develop a generally compatible electronic platform using XML language. The department will provide the XML schema file format to describe the data needed to allow an inspector to transfer multiple site inspection results in an electronic batch process over the Internet using the department’s inspection Web site.

c. The inspector shall provide a print copy of the electronically generated inspection report to the owner and operator or an alternative report approved by the department.

134.14(3) Any evidence of violations or deficiencies observed during the inspection must be photographed using a digital camera with at least a 1-2 megapixel resolution. The digital photographs must be submitted as part of the electronic inspection report and maintained by the inspector for five years as part of the inspector's records.

134.14(4) The inspector must provide any inspection records provided by the owner and operator to the department upon request.

134.14(5) Inspection technical requirements. An inspector of an UST system must check for compliance with the technical standards of 567—Chapter 135 following the department's guidance. The inspection of an UST system currently in operation shall include, but not be limited to, the following:

- a. The material currently stored in the UST.
- b. The type of tank and lines currently at the site as compared to the registered information on the department's database.
- c. Checking site records demonstrating operational compliance, 567—subrule 135.4(5).
- d. Checking release detection records, 567—subrule 135.5(6).
- e. Visually checking for releases or other violations by opening covers of dispensers, manways, and containment sumps for submersible pumps and other piping connections for:
 - (1) Indications of a product release and leaking equipment.
 - (2) Deteriorating product lines or excessive bends in product lines or flex connectors.
 - (3) Proper anchoring of breakaways (dispensers only).
- f. Current operating status of cathodic protection system, if present.
- g. Presence and operational condition of spill and overflow equipment, 567—paragraph 135.3(1) "c."

Any problems observed during the inspection must be photographed using a digital camera with at least a 1-2 megapixel resolution.

567—134.15(455B) Disciplinary actions.

134.15(1) The department may impose disciplinary actions which may include, but are not limited to, notices of deficiency, probationary notices, suspension of a certification or license and, pursuant to 567—134.16(455B), revocation of a certification or license.

134.15(2) A notice of deficiency or probationary notice shall not be an appealable decision. The recipient of a notice may contest the basis for the notice in writing, and such response shall be made part of the certification record. A person subject to a notice to suspend or revoke a certification may appeal the notice as provided in 567—Chapter 7.

134.15(3) The department may suspend the certification of a certified inspector or licensed company for good cause, and based on a single act or omission or repeated acts or omissions. The suspension may require the certified inspector to take remedial measures intended to correct or prevent future acts and omissions. Good cause includes, but is not limited to:

- a. A violation of these rules.
- b. Negligent misrepresentation of material facts in a compliance report.
- c. Negligent failure to identify a material violation of UST operation and maintenance standards set out in 567—134.14(455B).
- d. Repeated failure to conduct compliance inspections and submit reports in accordance with the standards set out in 567—134.14(455B).
- e. Incompetence on the part of the certified inspector as evidenced by errors in the performance of duties and activities for which the certification was issued.
- f. Repeated failure to submit reports of inspection activities to the department or the owner and operator as provided in 567—134.14(455B).

134.15(4) The suspension of a company license or inspector certification shall prevent the company or person from engaging in activities for which certification or licensure is required.

134.15(5) The department may require that the certified inspector successfully complete a special training program, examination or other remedial measures sponsored or approved by the department and designed to strengthen the specific weakness in the certified inspector's performance of duties as identified in the suspension order.

134.15(6) A certified inspector or licensed company shall immediately surrender the certificate or license, as applicable, to the department as of the effective date of a suspension order. The department may reinstate the certification or license if it is determined the person has satisfied the terms of the suspension order and the certification has not expired.

567—134.16(455B) Revocation of inspector certification or company license.

134.16(1) The department may revoke the inspector certification or company license for one or more of the following:

- a. Willful disregard of, or willful or repeated violations of, this chapter or 567—Chapter 135.
- b. Fraudulent omissions or misstatements of material facts in a compliance inspection report or in other written or oral communications with the department.
- c. A knowing and willful failure to detect and report a material violation of UST operation and maintenance standards as part of a compliance inspection required by 567—135.20(455B).
- d. Acts or omissions warranting suspension after having certification or license previously suspended.
- e. The revocation of a certification as an installer or installation inspector under 591—Chapter 15.

134.16(2) A certified inspector or licensed company shall immediately surrender certification or licensing documents after the effective date of a revocation decision.

These rules are intended to implement Iowa Code section 455B.474.

PART C
UNDERGROUND STORAGE TANK
INSTALLER AND INSPECTOR LICENSING

567—134.17(455B) Definitions. As used herein:

“Board” means the Iowa comprehensive petroleum underground storage tank fund board.

“Certificate of noncompliance” means a document provided by the child support recovery unit certifying that the named obligor is not in compliance with a support order or with a written agreement for payment of support entered into by the unit and the obligor.

“Child support recovery unit” means the child support recovery unit created by Iowa Code section 252B.2.

“Deductible” means the portion of a claim paid by insureds on the policy issued by the board.

“Department” means the Iowa department of natural resources.

“Inspector” means a licensed individual who is engaged in the inspection and approval of the installation of new or upgraded underground storage tank systems.

“Installer” means a licensed individual or licensed company engaged in the installation of a new underground storage tank system or the upgrading or lining of existing underground storage tank systems.

“In the aggregate” means for all claims or suits in a single year seeking damages under an insurance policy issued by the board.

“Licensed company” means a person, or company which employs a person who meets all of the qualifications to install, upgrade, repair, test or line underground storage tank systems.

“*Licensed individual*” means an individual who has received a license to perform any of the activities regulated under this chapter.

“*Liner*” means a licensed company or an individual who lines a tank using an acceptable procedure under subrule 134.24(2).

“*Maintenance*” means minor service work to existing equipment, associated with underground storage tank systems, which is installed above grade level and can be observed from grade level. Maintenance does not require licensing.

“*Obligor*” means a natural person as defined in Iowa Code section 252B.1 who has been ordered by a court or administrative agency to pay support.

“*OSHA*” means the Occupational Safety and Health Act.

“*Precision test*” means a tank and line tightness test that meets the requirements in rule 567—135.4(455B).

“*Removal*” means the process of removing and disposing of an underground storage tank system no longer in service or the process of abandoning an underground storage tank system in place, in accordance with rule 567—135.9(455B).

“*Repair*” means modification or correction of any existing portion of an underground storage tank system through such means as replacement of valves, fill pipes, vents, liquid level monitoring systems, and installation of spill and overfill devices, provided the activity occurs above grade, and the maintenance and inspection of the efficacy of cathodic protection devices. Repair does not include activities which are maintenance as defined in this chapter.

“*Self-insured retention*” means the portion of a claim paid by insureds who self-insure a portion of their risk as part of a policy issued by the board. Expenses included as a part of the self-insured retention are the cost of claims settlements or suits, the cost of adjusting, legal fees, court costs and any other investigative cost associated with the claim.

“*Tester*” means a licensed company or individual who tests tanks, lines, leak detection systems, or monitoring systems, using an acceptable procedure under subrule 134.23(2). For the purposes of this definition, an owner, operator or one of their employees performing vapor monitoring, cathodic protection tests, statistical inventory reconciliation or using an automated in-tank gauging device installed at a site location they own or operate shall not be defined as a tester. An owner or operator or one of their employees may also perform volumetric, nonvolumetric or vacuum tests on their own tanks and hydrostatic pressure tests on their own lines, provided they have received certification from the manufacturer or supplier of the system for its usage and the system has been approved by the U.S. EPA.

“*Testing*” means the process of utilizing a system to test underground storage tank systems or any part thereof for tightness, leak detection, cathodic protection or monitoring.

“*Underground storage tank system*” means tank or tanks and associated piping intended to contain and dispense petroleum products and for which proof of financial responsibility is, or on a date definite will be required to be maintained pursuant to the Federal Resource Conservation and Recovery Act, 40 CFR 280, and the regulations in effect on December 31, 1994, adopted pursuant to that Act or successor Acts or amendments.

“*Unit*” means the child support recovery unit created in Iowa Code section 252B.2.

“*U.S. EPA*” means the United States Environmental Protection Agency.

“*Withdrawal of a certificate of noncompliance*” means a document provided by the unit certifying that the certificate of noncompliance is withdrawn and that the licensing authority may proceed with issuance, reinstatement, or renewal of an obligor’s license.

567—134.18(455B) Applicability of Part C. All persons and companies that are currently licensed under the former board rules in 591—Chapter 15 shall be subject to Part C of this chapter. All persons conducting underground storage tank installations and installation inspections as provided in 567—subparagraph 135.3(1)“e”(2) and installers, installer inspectors and testers required to be licensed under board rules shall be licensed by the department in accordance with this chapter.

567—134.19(455B) Licensing—general and fees. Effective January 1, 1995, new and renewal licenses shall be on a calendar-year basis, with the licensing fees to be prorated from the date of application or expiration of license to cover the time period to the next anniversary date. The license application will note the type of work the individual or company will be performing.

Persons working for a licensed company as an installer, liner or tester may not provide services as an inspector on sites that are being installed, upgraded or lined by that employer for the period of employment and the first six months following termination of employment with that company.

Persons working for a licensed company as an installer, liner or tester may provide services as an inspector on sites that are being installed or lined by their prior employer six months after leaving the licensed company.

If a licensed individual leaves the employment of a licensed company, the licensed company shall notify the department within 30 days of that occurrence.

134.19(1) Licensing of individuals. Licenses will not be issued to persons who are in noncompliance with the child support recovery unit. The following individuals shall be licensed:

a. Installers, liners and testers. The license application will note the type of work the individual will be performing: installation or the upgrading of underground liquid storage tank systems to meet federal U.S. EPA or 591—11.4(455B,455G) requirements, corrosion protection, monitoring and leak detection systems, tank lining, tank and line tightness testing and removal done in conjunction with the above. The annual license fee is \$35. The annual \$35 individual fee is waived for a sole proprietor doing business as a licensed company.

b. Inspectors.

(1) The application for an inspector will note the type of work the inspector will be performing: inspections of underground storage tank systems or any part thereof on new or upgraded equipment.

(2) Underground storage tank systems which have been lined do not require an internal inspection by the inspector, but shall meet all requirements as outlined herein for lining underground storage tank systems.

(3) Cathodic systems do not need a separate inspection if the only work being completed is adding cathodic protection designed by a corrosion expert to an existing system.

(4) The annual license fee is \$50.

134.19(2) Licensed company. Companies employing licensed individuals for installation, upgrading, lining or testing of underground liquid storage tank systems shall be registered as a licensed company. A company shall lose its license if it fails to employ at least one licensed individual or if it employs unlicensed individuals to do work requiring a license. Sole proprietors need only to apply for a company license. However, employees of a sole proprietor must be licensed individually under 134.19(1)“a.” The annual license fee is \$50.

134.19(3) License not required. A license is not required for the following list of exceptions:

a. Individuals or companies performing only underground storage tank system removal. Please note that they may be subject to requirements in subrule 134.19(4).

b. Individuals or companies performing maintenance as herein defined.

c. Individuals installing groundwater or vapor monitoring wells used in the remediation of a site or to be used for leak detection at a site. Please note that individuals installing wells might be subject to the requirements in 567—Chapter 135 and this chapter.

134.19(4) OSHA safety requirements. All licensed individuals and companies regulated under this chapter will conduct their work as required by OSHA safety requirements defined under 29 CFR 1910, effective on July 1, 1993. OSHA standards apply whenever flammable, combustible or hazardous materials are present, especially during the following activities:

- a. Excavating, placing liquid underground storage tank systems in excavations, and ballasting liquid underground storage tank systems with flammable, combustible or hazardous materials.
- b. Purgings, cleaning and removal of liquid underground storage tank systems which have contained flammable, combustible or hazardous materials.
- c. Testing as a part of an installation or after the system has been placed in service.

567—134.20(455B) Educational requirements for installers, liners, testers and inspectors.

134.20(1) Education and examination.

a. Prior to the issuance of a license as an installer, liner or inspector, the applicant shall successfully complete a course of instruction and pass a qualification examination approved by the department, unless exempted under subrule 134.20(2).

b. Examination requirements for all installers, liners, and inspectors are as follows:

- (1) A passing grade of not less than 85 percent is required on the Iowa examination.
- (2) Candidates who have failed the examination may not perform work unless supervised by the appropriate licensed individual for the work they are performing.
- (3) A fee as approved by the department may be charged for each examination and course of instruction.

(4) Nothing herein shall limit the right of the department to require additional educational requirements of license holders.

134.20(2) Exceptions on completion of the course of instruction or examination. A course of instruction is not required in the following circumstances:

a. Individuals doing testing only are not required to complete the course of instruction. However, the department will establish a separate test by January 1995 that all persons renewing their license as a tester will be required to take and pass in accordance with the same provisions outlined in subrule 134.20(1) in order to renew their license in 1996. The test will cover all types of systems being installed and also leak detection requirements.

b. Installers, liners, testers or inspectors with more than two years' experience as an installer, inspector or liner as defined under rule 134.17(455B) may take the examination without taking the course. If the candidate is not successful on the second attempt, then an approved course and the Iowa examination shall be successfully completed in order to obtain a license.

134.20(3) Reciprocity. Persons who complete the University of Wisconsin Liquid Storage Tank Program, or a program offered by another state or recognized regulatory agency which covers installations of underground liquid storage tank systems and is approved by the department, shall successfully pass the Iowa examination only. Candidates shall provide an outline and evidence of the successful completion of the course. If the content of the course taken is not similar to that offered by the department, the department may still require that the Iowa course be taken.

134.20(4) Continuing education. Effective January 1, 1995, each person licensed hereunder shall complete a refresher course covering changes in installation, lining and testing standards at least once every two years and the course shall be completed prior to the anniversary of the next license renewal. The department shall evaluate continuing education courses. Testers are exempt from this requirement. The first refresher course shall be completed prior to the January 1, 1996, license renewal date for all individuals licensed on or after January 1, 1995.

567—134.21(455B) Environmental liability insurance requirements. All licensed installers, liners, testers and inspectors are required to have environmental liability insurance with minimum liability limits of \$250,000 per occurrence and in the aggregate, as approved by the department.

134.21(1) Licensed company. A licensed company is required to provide environmental liability insurance for all licensed activities of the company and its licensed installers, liners and testers.

134.21(2) Licensed installers, liners, testers and inspectors. Each licensed installer, liner, tester and inspector is required to provide proof of environmental liability insurance covering licensed activities. The insurance may be provided by the licensed company employing the individual, or by the individual licensee.

134.21(3) Exception to this requirement. Licensed installers, liners, testers and inspectors employed by owners or operators of underground storage tank systems, to work on their own system(s) and not for others, are exempted from insurance requirements. Licensed persons may install, line or inspect liquid underground storage tank systems owned by the licensed person's employer, but shall not perform both inspection and installation of a liquid underground storage tank system owned by the licensed company.

134.21(4) Forms of acceptable insurance. All parties covered by the licensing provisions of this chapter shall provide evidence of environmental liability insurance to the department upon request. This subrule applies to all companies and individuals as outlined in rule 134.21(455B).

a. Environmental liability insurance may be provided by a private insurer authorized to do business in Iowa.

b. Evidence of environmental liability insurance may be provided using methods of self-insurance as outlined in 567—Chapter 136.

c. Environmental liability insurance shall, at minimum, cover the same risks as provided for by the board in its approved insurance document form.

567—134.22(455B) Installers. Installers of underground liquid storage tank systems shall apply for a license as an installer and shall indicate on the license application the types of installations and upgrade procedures they use.

134.22(1) Installer licensing requirements. The requirements are as follows. The applicant shall:

a. Possess two years of experience in underground storage tank system installation procedures or other experience approved by the department.

b. Pay the annual licensing fee as provided for in rule 134.19(455B).

c. Provide evidence of environmental liability insurance as provided for in rule 134.21(455B).

d. Complete the educational and examination requirements described in rule 134.20(455B), unless otherwise exempted under subrule 134.20(2).

e. The applicant shall provide proof of certification, training or approval from the manufacturers or suppliers of underground liquid storage tank systems for which the applicant is requesting a license to install or upgrade including, but not limited to:

- (1) Tank systems.
- (2) Piping systems.
- (3) Leak detection and monitoring systems.
- (4) Corrosion protection systems.

f. The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

134.22(2) Responsibilities of installers. A licensed installer shall be on site during the performance of all work, including subcontracted work, for which the owner/operator has contracted to have completed by the installer. A licensed installer does not need to be on site during paving, site grade preparations or when electrical work is being conducted. If removal is a part of the work being completed by or subcontracted by the installer, these same rules apply. Work on the site may be subcontracted by the licensed installer to another person or firm. The licensed installer is responsible for the integrity of the complete installation under the control of the licensed installer. Tank installation includes all work associated with the placement of the tanks, pipes, pumps, dispensers, gauging systems, monitoring systems, corrosion protection, containment devices, and ancillary systems which, if installed incorrectly, could cause or delay detection of a leak. This specifically includes excavation, equipment placement, backfilling, piping, electrical work, paving, testing calibration and start-up.

134.22(3) Documentation of work performed, installers and liners. Installations of all new systems or upgrading to meet U.S. EPA or 591—11.4(455G) requirements of underground liquid storage tank systems requires the submission to the department of a copy of the new owner-signed DNR Form 148 by the licensed company. Each licensed installer or liner responsible for the new system installation or the upgrading of an existing system shall sign the DNR Form 148 as required by 567—paragraph 135.3(3)“e.”

567—134.23(455B) Testers. Testers of underground liquid storage tank systems shall apply for licensing as a tester and note on the license application the systems and method(s) of testing they will use. If the applicant is employed by a licensed installer company as an installer or liner, a separate tester application is not required.

134.23(1) Tester licensing requirements. The requirements are as follows. The applicant shall:

- a. Possess one year’s experience in testing underground storage tank system installations.
- b. Pay the annual licensing fee as provided for in rule 134.19(455B).
- c. Provide evidence of environmental liability insurance as provided for in rule 134.21(455B).
- d. Provide the department proof of certification, training or approval from the manufacturers or suppliers of testing methods and systems for which the applicant is seeking a license and, after January 1, 1995, meet requirements outlined in rule 134.20(455B).
- e. The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

134.23(2) Approval of testing systems. Testing systems which have been evaluated by the U.S. EPA or the department and which meet or exceed the U.S. EPA criteria for the detection of leaks and cathodic protection shall be accepted.

134.23(3) Documentation of work performed—testers. A copy of the test results shall be attached to the DNR Form 148 when testing is done in connection with a new or the upgrading of an existing underground liquid storage system installation. A precision test is required when the system is covered and is ready to be placed into service; a volumetric, nonvolumetric or vacuum test may be used as a method for testing the system and a hydrostatic pressure test may be used for testing the lines. Systems used for leak detection or monitoring, such as statistical inventory reconciliation, vapor or water monitoring wells or tracer type tests, shall not be acceptable as a precision test at the completion of the installation of a new or upgrading of an existing system. Automatic in-tank gauging may be acceptable if third-party U.S. EPA approval as a precision test has been received for testing tanks.

- a. The test results shall identify the tanks tested, the test method employed, the results of the test, and shall be dated and signed by the licensed tester performing the tests.
- b. The original DNR Form 148 without attachments shall be mailed to the department.
- c. Inspectors are not required for testing liquid underground storage tank systems, lines, leak detection and cathodic protection as required by 567—Chapter 135 after the liquid underground storage tank systems have been put into service.

567—134.24(455B) Additional liner requirements. Liners of underground liquid storage tank systems shall apply for licensing as a liner and the liner and lining system must be a U.S. EPA-approved system.

134.24(1) *Liner licensing requirements.* The requirements are as follows:

- a. The applicant must possess at least one year of experience in lining underground storage tank systems with an approved lining method (see subrule 134.24(2)).
- b. The applicant must pay the annual licensing fee as provided for in rule 134.19(455B).
- c. The applicant must complete educational and examination requirements described in rule 134.20(455B) unless otherwise excepted under subrule 134.20(2).
- d. The applicant must provide evidence of environmental liability insurance as provided for in rule 134.21(455B).
- e. The applicant must be certified, licensed or approved by a lining system manufacturer or supplier for which the applicant is requesting a license and which meets the requirements in subrule 134.24(2). A copy of the lining system specification installation instructions and other documentation shall be provided to the department with the license application.
- f. The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

134.24(2) *Approval of lining systems.*

a. The lining method employed must be specifically designed for the purpose, compatible with the product stored, and meet acceptable national standards. The following standards are acceptable:

- (1) American Petroleum Institute, Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks, API 1631; or
- (2) National Leak Detection Association, Interior Inspection, Repair and Lining of Steel and Fiberglass Storage Tanks, NLPAs Standard 631, Draft of the Third Edition, February 1990.

b. No other standard will be acceptable for lining. Licensed liners shall certify, in writing to the inspector, if the system is being fully upgraded, that the requirements as noted in subrule 134.24(2) have been met. If the system is only being lined, the liner shall certify to the department that the requirements as noted under 134.24(455B) have been met.

134.24(3) *Documentation of work performed—liners.* Liners shall follow the process as outlined in subrule 134.22(3) for the documentation of work performed.

567—134.25(455B) Inspectors. Inspectors of underground liquid storage tank systems shall apply for licensing as an inspector and shall be trained and licensed to do the requisite work. Engineers that have met requirements in Iowa to be a registered professional engineer (P.E.) may be exempt from the educational requirement as provided for in rule 134.20(455B), but not the examination requirement.

134.25(1) *Inspector licensing requirements.* The requirements are as follows:

- a. The applicant must possess at least one year of experience in underground storage tank system installations, testing, inspecting or design.
- b. The applicant must pay the annual licensing fee as provided for in rule 134.19(455B).
- c. The applicant must complete educational and examination requirements as described in rule 134.20(455B) unless otherwise excepted under subrule 134.20(2).
- d. The applicant must provide evidence of environmental liability insurance as provided for in rule 134.21(455B).
- e. The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

134.25(2) Documentation of work performed—inspector.

a. A copy of the inspection report shall be attached to the DNR Form 148 when the inspection is done in connection with a new system or the upgrading of an existing underground liquid storage system installation. “Repair” and “maintenance” as defined in 134.17(455B) do not require inspection.

(1) A licensed inspector shall inspect the job site a minimum of two times during the course of the new tank or system installation or the upgrading of an existing system.

(2) If the work being completed consists of the adding or replacement of spill or overflow devices, lining or cathodic protection designed by a corrosion expert, an inspection is not required.

(3) If the work being done consists of more than lining or adding or replacement of spill/overflow equipment, then an inspection shall be completed.

b. New installations and upgrades shall have one of the inspections take place prior to the covering of the system when all tanks and pipes are exposed. The final inspection shall take place when all systems are operational and the system has been covered, but shall occur prior to actual operation. The inspector shall be present and visually observe the final inspection and be able to attest to the results. A video or other recording device showing the work completed by the installer or liner shall not be used nor shall it be an acceptable method of providing independent inspection of the work completed.

134.25(3) Compensation. Licensed inspectors shall be compensated on the basis of a fee for each inspection by the owner or operator.

567—134.26(455B) Inspector notification regulation.

134.26(1) The licensed company is responsible for notifying the licensed inspector hired by the owner/operator prior to performing approved work. The owner/operator is responsible for notifying any state or local agency with rules impacting installations or upgrades, and identifying who the inspector shall be, if other than a governmental entity.

134.26(2) Work plan approval requires prior notice to the inspector. The notification shall include, at a minimum, the following information:

a. Description of the work planned.

b. The licensed individual responsible for the work to be performed.

c. A schedule of the work to be performed.

The inspector shall review the work plan, and any required changes by the inspector must be submitted to the installer prior to the beginning of the described work.

134.26(3) A “preinstallation checklist” as approved by the department shall be submitted at least 14 days prior to an installation or upgrade by the licensed company to the inspector and the department.

134.26(4) Inspectors are required to use an inspection form or checklist which has been approved by the department. Payment for services and department-approved secondary containment is dependent on the owner or operator as required herein having the work inspected.

134.26(5) The licensed inspector and licensed individual or company shall agree upon an inspection schedule before work commences.

134.26(6) Rescheduling due to weather or unforeseen job-site conditions shall be done as soon as the extenuating circumstances are recognized to minimize the disruption of schedules.

134.26(7) Inspectors who work directly for or as a subsidiary of a licensed company may not inspect the work of those licensed companies.

a. If the inspector establishes a contract to perform inspection services for a company or individual in any form, or performs more than five inspections per calendar year for any one company or individual, then the inspector is required to disclose that relationship in writing to the department within 30 days of the fifth inspection.

b. The department may require the owner or operator to seek alternative inspection services for any reason deemed prudent to ensure quality installations.

134.26(8) An inspector has the right to keep work from starting or to stop work on a job if standards as outlined herein are not followed by the installer. Furthermore, once an inspector has been placed on a job, that inspector cannot be replaced without the department's approval.

567—134.27(455B) Standards. Standards for new tank installations are prescribed in 567—Chapter 135, the federal technical standards for underground storage tank systems (40 CFR Part 280) and the following publications:

1. Underground Storage Tanks; Technical Requirements and State Program Approval Final Rules, 40 CFR Parts 280 & 281, Part II, Federal Register, Friday, September 23, 1988, and 567—Chapter 135, except as mandated by upgrade requirements in 591—11.4(455B,455G).

2. Installation of Underground Storage Systems, American Petroleum Institute Publication 1615, 1987.

3. Recommended Practice for the Installation of Underground Liquid Storage System, Petroleum Equipment Institute RP100-90.

4. American National Standard Code for Pressure Piping, American Society of Mechanical Engineers Standard ANSI B31.

567—134.28(455B) General procedures.

134.28(1) Database. The department will maintain a database including the following information:

- a. Liquid underground storage tank systems registered with the department.
- b. Licensed individuals (installers, liners, testers, inspectors).
- c. Licensed companies (employers of licensed individuals).
- d. Violations (including disposition or status).

134.28(2) Revocation of license. A license may be revoked for 12 months if the licensed company or individual, including installers, testers, liners or inspectors:

a. Fails to perform duties or the assigned work consistent with industry standards as outlined in Part C of this chapter.

b. Intentionally falsifies reports to the department.

c. Intentionally fails to report to the department when a prohibited practice regulated by this chapter is observed or identified at a site at which they are performing work regulated by this chapter.

d. Fails to report to the department any practice by any party, including the owner/operator, which is prohibited under these rules.

e. Acts in collusion with any other party.

f. Fails to report a release from an underground storage tank system to the department that is discovered by the licensed individual at a site at which they are performing work regulated by this chapter, but which has not been reported as required under 567—135.6(455B).

g. A license will be revoked upon receipt by the department of a certificate of noncompliance from the child support recovery unit.

134.28(3) Appeal. Nothing herein shall eliminate the ability of the license holder to appeal, under Iowa Code chapter 17A procedures, any administrative action allowed by these rules. Notwithstanding Iowa Code section 17A.18, the obligor does not have a right to a hearing before the department to contest the department actions under Iowa Code chapter 252J but may request a court hearing pursuant to Iowa Code section 252J.9 within 30 days of the provision of notice under this section.

These rules are intended to implement 2007 Iowa Acts, Senate File 499, section 10, and Iowa Code chapter 252J.

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