

CHAPTER 26  
BACKFLOW PREVENTION ASSEMBLY TESTER REGISTRATION

**641—26.1(135K) Applicability.** This chapter applies to all persons who test or repair backflow prevention assemblies in Iowa.

**641—26.2(135K) Definitions.**

*“Administrative authority”* means an individual, board, department, or agency employed by a city, county or other political subdivision of the state who is authorized by local ordinance to administer and enforce the provisions of the plumbing code as adopted.

*“Approved course”* means a course covering the testing and repair of backflow prevention assemblies which have been approved by the department.

*“Backflow prevention assembly”* means a device or means to prevent backflow into a potable water system. There are three types of testable backflow prevention assemblies:

1. “Double check valve backflow prevention assembly” (DCV) consists of two independently acting internally loaded check valves, four properly located test cocks and two isolation valves.
2. “Pressure vacuum breaker backflow prevention assembly” (PVB) consists of a loaded air inlet valve, an internally loaded check valve, two properly located test cocks, and two isolation valves.
3. “Reduced pressure principle backflow prevention assembly” (RP) consists of two independently acting internally loaded check valves, a differential pressure relief valve, four properly located test cocks, and two isolation valves.

*“Department”* means the Iowa department of public health.

*“Registered backflow prevention assembly tester”* (registered tester) means a person who has successfully completed an approved course and who has registered with the department.

**641—26.3(135K) Registration required.** After July 1, 1993, no person shall test or repair a backflow prevention assembly unless the person is a registered backflow prevention assembly tester.

**641—26.4(135K) Course approval and standards.**

**26.4(1)** After April 1, 1993, a person or organization sponsoring a backflow prevention assembly training course shall apply to the department for approval of the course at least 15 days before the course is scheduled to begin. The application shall include:

- a. Sponsoring organization name, contact person, address, and telephone number.
- b. Course dates and times.
- c. Course location.
- d. Course outline, including approximate times allotted to each training segment.
- e. A list of reference materials, texts and audio-visual materials used in the course.
- f. The name(s) and qualifications of the instructor(s).
- g. A list of the backflow prevention assemblies available for classwork and the number of test stations available for the students.
- h. The maximum class size.
- i. A \$50 nonrefundable filing fee.

**26.4(2)** To be approved, a course must be at least 32 instructional hours and shall cover at least the following subjects:

- a. Backflow definitions, causes and examples.
- b. Description of backflow prevention assemblies, their proper application and installation, and their operational characteristics.
- c. Description and operational characteristics of test equipment.
- d. Techniques for testing backflow prevention assemblies.

- e.* Troubleshooting of backflow prevention assemblies.
- f.* Record keeping and the responsibilities of regulatory agencies and the registered tester.
- g.* The course shall conclude with a written examination of at least 50 questions and a practical examination of testing techniques on all three types of testable backflow prevention assemblies. The student must achieve passing marks on both examinations to have successfully completed the course.

**26.4(3)** The lead course instructor shall:

- a.* Have successfully completed an approved course or document the successful completion of a course that meets the requirements of an approved course.
- b.* Have at least three years' experience in cross connection control.

**26.4(4)** Backflow prevention assembly testing instruction laboratory.

- a.* The testing laboratory for a course shall be equipped with examples of each of the three testable assemblies from at least three different manufacturers. At least one double check valve assembly and one reduced pressure principle assembly larger than two inches shall be provided.

- b.* The testing laboratory shall provide at least one test station per three students based on the stated maximum class size.

#### **641—26.5(135K) Registration.**

**26.5(1)** A person wishing to become a registered tester shall apply on forms supplied by the department. The applicant must submit:

- a.* A completed application form.
- b.* Documentation of successful completion of an approved course.
- c.* A \$50 nonrefundable filing fee.
- d.* If a person applies for registration between July 1 and December 31 of an even-numbered year, the filing fee will be \$25. The registration shall be renewed according to subrule 26.5(3).

**26.5(2)** A person who has completed a course of training prior to April 15, 1993, or has completed a training course in another state may be registered in Iowa. The person shall submit:

- a.* A completed Iowa application form.
- b.* Documentation showing that the training course met the hour and subject requirements for an approved course.
- c.* Documentation of successful completion of the training course.
- d.* A \$50 nonrefundable filing fee.

**26.5(3)** Each registered tester shall renew the registration between April 1 and June 1 of each odd-numbered year on forms provided by the department. The registered tester shall submit:

- a.* A completed registration renewal application form.
- b.* Documentation that the registered tester has completed at least five hours of training related to backflow prevention or assembly testing since the previous registration.
- c.* A \$50 nonrefundable filing fee.
- d.* Registration renewal applications received after June 1 of each odd-numbered year shall include a \$25 penalty.

#### **641—26.6(135K) Standards of conduct.**

**26.6(1)** A registered tester shall comply with these rules and with the ordinances, rules and policies of the administrative authority in each jurisdiction in which the registered tester tests a backflow prevention assembly.

**26.6(2)** A registered tester shall maintain a record for each assembly tested for at least five years after the date the assembly was tested. The record may be reviewed during normal business hours by an authorized representative of the department or by an authorized representative of the administrative authority of the jurisdiction in which the assembly is located. The assembly record shall include at least:

- a.* The name, address and telephone number of the assembly owner.

- b.* The location of the facility in which the assembly is located.
- c.* The location of the assembly within the facility.
- d.* The type, brand, model, size, and serial number of the assembly.
- e.* The date and time of the test.
- f.* Time elapsed since the assembly was previously tested.
- g.* Results of the test.
- h.* Any repairs or maintenance done to the assembly.

**641—26.7(135K) Penalty.** A person who violates a provision of this chapter shall be guilty of a simple misdemeanor pursuant to the authority of Iowa Code chapter 135K.

**641—26.8(135K) Denial, suspension or revocation of registration and denial or revocation of course approval.**

**26.8(1)** The department may deny an application for registration or renewal, or may suspend or revoke a registration when it finds that the registrant has committed any of the following acts:

- a.* Negligence or incompetence in the testing of a backflow prevention assembly.
- b.* Fraud in obtaining registration or renewal.
- c.* Falsification of the assembly records required by subrule 26.6(2).
- d.* Failure to comply with these rules and with the ordinances of an administrative authority in whose jurisdiction the registered tester tests a backflow prevention assembly.

**26.8(2)** The department may deny or revoke the approval for a course when it finds:

- a.* That the lead instructor is not qualified in accordance with subrule 26.4(3).
- b.* That the course did not comply with subrule 26.4(2).
- c.* That the course testing laboratory did not comply with subrule 26.4(4).

**26.8(3)** Complaints. Complaints regarding a registered tester or an approved course shall be in writing to the department. The address is: Iowa Department of Public Health, Bureau of Environmental Health, 321 East 12th Street, Des Moines, Iowa 50319-0075. The complainant shall provide:

- a.* The name of the registered tester, or
- b.* The name of the sponsoring person or organization of an approved course.
- c.* Specific details of the action(s) by the registered tester that did not comply with the rules, or
- d.* The specific way(s) that an approved course did not comply with the rules.

**26.8(4)** Appeals.

*a.* Notice of denial, suspension or revocation of registration, or denial or revocation of course approval shall be sent to the affected individual or organization by restricted certified mail, return receipt requested, or by personal service. The affected individual or organization shall have a right to appeal the denial, suspension or revocation.

*b.* An appeal of a denial, suspension or revocation shall be submitted by certified mail, return receipt requested, within 30 days of the receipt of the department's notice. The address is: Iowa Department of Public Health, Plumbing Code Program, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. If such a request is made within the 30-day time period, the notice of denial, suspension or revocation shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, suspension or revocation has been or will be removed. After the hearing, or upon default of the applicant or alleged violator, the administrative law judge shall affirm, modify or set aside the denial, suspension or revocation. If no appeal is submitted within 30 days, the denial, suspension or revocation shall become the department's final agency action.

*c.* Upon receipt of an appeal that meets contested case status, the appeal shall be transmitted to the department of inspections and appeals within five working days of receipt pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the

denial, suspension or revocation is based shall be provided to the department of inspections and appeals.

*d.* The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10, Iowa Administrative Code.

*e.* When the administrative law judge makes a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. The proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in paragraph 26.8(4)“*f.*”

*f.* Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for appeal shall state the reason for appeal.

*g.* Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- (1) All pleadings, motions and rules.
- (2) All evidence received or considered and all other submissions by recording or transcript.
- (3) A statement of all matters officially noticed.
- (4) All questions and offers of proof, objections, and rulings thereon.
- (5) All proposed findings and exceptions.
- (6) The proposed findings and order of the administrative law judge.

*h.* The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by restricted certified mail, return receipt requested, or by personal service.

*i.* It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

*j.* Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is Bureau of Environmental Health, Iowa Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319-0075.

*k.* The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

These rules are intended to implement Iowa Code chapter 135K.

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