

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 a 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 a UST system must check for compliance with the technical standards of 567—Chapter 135 following the department's guidance. The inspection of a 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 overfill 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.

134.14(6) Conflict of interest. A compliance inspector shall not conduct a compliance inspection if the compliance inspector is the owner or operator of the UST system, an employee of the owner or operator of the UST system, or a person having daily on-site responsibility for the operation and maintenance of the UST system.

[ARC 8124B, IAB 9/9/09, effective 10/14/09]

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
LICENSING OF UST PROFESSIONALS

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

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

“Cathodic protection tester” means a licensed individual who provides installation, maintenance and testing services on underground storage tank corrosion protection systems.

“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.

“Install” or *“installation”* means the physical construction of a UST system including, but not limited to, activities such as excavating, backfilling, testing, placement of the tank, underground piping, release detection devices, corrosion protection systems, spill and overflow devices and any associated administrative activities such as notifications, record keeping and record submissions.

“Installation 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 of 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 provides services to install underground storage tank lining and to repair underground storage tanks.

“Maintenance” means the normal operational upkeep to prevent a UST system from releasing a regulated substance or to ensure that a release is detected.

“Modification” means to change a UST system currently in use by the installation of new UST system components. “Modification” includes, but is not limited to, the addition of corrosion protection to a previously lined tank, installation of new underground piping or replacement of existing underground piping, changing the primary release detection method to one of the methods listed in OAR 340-150-0450 through 340-150-0470, or adding secondary containment. “Modification” does not include those activities defined in this rule as “repair” or “replacement.”

“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).

“Remover” means a licensed individual who is engaged in permanent closure activities by removal or filling in place of underground storage tank systems in accordance with rule 567—135.15(455B).

“Repair” means to restore any portion of a UST system that has failed. “Repair” does not include the activities defined in this rule by “modification” or “replacement.”

“Replacement” means to effect a change in any part of a UST system above grade by exchanging one unit for a like or similar unit. “Replacement” does not include activities defined in this rule as “repair” or “modification.”

“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.

“Service technician” means a nonlicensed individual who works for a licensed individual or a licensed company or who is certified by a manufacturer to conduct modification or replacement activities at UST facilities.

“Tester” means a licensed company or individual who tests tanks, lines, leak detection systems, or monitoring systems as required by 567—Chapter 135 and this chapter. For the purposes of this definition, an owner, operator or an employee of an owner or operator performing leak detection or cathodic protection monitoring, as required by 567—Chapter 135, is not a tester.

“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 professional*” means an individual licensed under Part C of this chapter.

“*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.

[ARC 7946B, IAB 7/15/09, effective 8/19/09]

567—134.18(455B) Applicability of Part C. All persons and companies that are currently licensed under the former board rules in rescinded 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, installation inspectors, liners, testers, and removers shall be licensed by the department in accordance with Part C of this chapter. Service technicians as defined in rule 567—134.17(455B) are exempt from licensure under Part C of this chapter.

[ARC 7946B, IAB 7/15/09, effective 8/19/09]

567—134.19(455B) General licensing requirements. Applications for licenses shall be submitted on a form provided by the department along with all required supporting documentation. Existing licenses as of [insert the effective date of these amendments] and new licenses shall expire December 31, 2010. Subsequently, licenses shall be issued and renewed on a two-year calendar basis, beginning January 1, 2011. All applicants must be at least 18 years of age. The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

134.19(1) Licensing classifications. A separate license will be issued for:

- a. UST installers and installation inspectors;
- b. UST removers;
- c. UST testers;
- d. Cathodic protection testers; and
- e. UST liners.

134.19(2) Individual and company licenses. A company employing licensed individuals for installation, upgrading, removal, lining or testing of underground storage tank systems shall be registered as a licensed company. A company shall have its license revoked if it fails to employ at least one licensed individual or if it employs unlicensed individuals to do work requiring a license. Individuals who are not companies as defined in rule 567—134.17(455B) are required to have an individual license only.

134.19(3) License fees. A \$200 fee shall be submitted with a company license application and with an individual license application. Companies and individuals are licensed separately as set forth in subrule 134.19(2). Individuals may apply for multiple individual licenses at once, paying only one \$200 processing fee. All fees are nonrefundable.

134.19(4) License issuance. Upon receipt, review, and acceptance of the application and application fee, the department shall furnish the applicant with a license showing the name of the individual/company and the expiration date. In order to remain valid, the license shall be renewed prior to the expiration date specified on the license.

134.19(5) Environmental liability insurance. All license holders, including licensed companies, are required to have environmental liability insurance with minimum liability of \$1 million per occurrence, as well as in the aggregate. Current license holders shall have 45 days from August 19, 2009, to upgrade their environmental liability insurance.

a. *Licensed company.* A licensed company is required to provide environmental liability insurance for all licensed activities of the company and its licensed UST professionals.

b. Licensed individuals. Each licensed installer, installation inspector, remover, liner, cathodic protection tester, and tester is required to provide proof of environmental liability insurance covering licensed activities. The insurance may be provided by the licensed company employing the licensed individual or by the individual licensee.

c. Insurance exception. UST professionals employed by owners or operators of underground storage tank systems to work only on the owner's or operator's private system(s) are exempt from insurance requirements.

d. Forms of acceptable insurance. All parties covered by the licensing provisions of Part C of this chapter shall provide evidence of environmental liability insurance to the department upon request.

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

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

134.19(6) Examinations and course of instruction. Prior to the issuance of a license as an installer, installation inspector, remover, liner, tester, or cathodic protection tester, the applicant shall successfully complete a department or department-approved course of instruction and pass a qualification examination approved by the department.

a. Examination requirements for all license holders.

(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 an appropriately licensed individual.

(3) A fee reflecting the actual costs of developing and administering each course of instruction and examination shall be charged.

(4) Nothing in Part C of this chapter shall limit the right of the department to require additional educational requirements of license holders.

b. Exceptions to completion of the course of instruction or examination. All license holders, except cathodic protection testers, are required to complete the course of instruction. Cathodic protection testers are only required to maintain NACE certification, STI cathodic protection certification or equivalent certification approved by the department. Testers may qualify for reciprocity under paragraph 134.19(6)“c” if the department approves the public or private certification or training program completed. For testers, the department will approve or deny the certification based upon a review of the course of instruction, applicable manuals and handouts, and the examination.

c. Reciprocity. Persons who are certified under another state or federal regulatory program which has been approved by the department may be eligible for licensure in Iowa without having to take a course of instruction or pass the examination. However, these individuals shall still pay the \$200 application fee and qualify for license renewal by fulfilling continuing education requirements.

d. Repeat examination attempts. An applicant who fails an initial examination may take a second examination within one calendar year without having to retake the course of instruction. Failure of the second examination will result in termination of the application. A person may reapply for licensure. The applicant shall complete a course of instruction before retaking the examination.

134.19(7) Continuing education. Each person licensed under Part C of this chapter shall complete a department-approved refresher course every two years, except for licensed cathodic protection testers. Cathodic protection testers shall maintain NACE or STI certification or another certification approved by the department. Beginning with the first application for license renewal, each UST professional shall provide evidence to the department, prior to submission of the application for renewal, that at least 12 credit hours of department-approved continuing education have been satisfactorily completed since the last license was issued or renewed. The department may limit the number of credits granted for similar courses during a renewal period. The requirement for continuing education may be met only by those continuing education offerings which have been approved by the department.

a. Form of approval. Approval may take the form of:

(1) Program approval granted by the department to the sponsor or instructor of a continuing education offering;

(2) Individual requests for credit granted by the department to an installer or inspector for a continuing education offering whose sponsor or instructor did not seek program approval; or

(3) Blanket approval granted by the department to continuing education offerings sponsored by the department or other professional organizations whose standards have been approved by the department.

b. Procedures for department approval of continuing education offerings.

(1) Application for program approval shall be made by the sponsor or instructor to the department and include an agenda or an outline of the content of the proposed continuing education offering.

(2) Application shall be made at least 45 days prior to the desired effective date of approval.

(3) The application shall be reviewed by the department, and notice of approval or denial of program approval shall be sent to the sponsor or instructor. Credit hours may be limited by the department based on program content.

c. Proof of participation. A certificate of satisfactory completion of a department-approved continuing education offering issued by the sponsor or instructor constitutes sufficient evidence of satisfactory completion for purposes of meeting the continuing education requirement.

[ARC 7946B, IAB 7/15/09, effective 8/19/09]

567—134.20(455B) License renewal procedures.

134.20(1) Renewal applications shall be made on a form provided by the department and received by the department or postmarked no later than November 1 of the expiration year of the license at issue. The renewal application shall be accompanied by the \$200 renewal fee as specified in subrule 134.19(3) and proof of environmental liability insurance as required under subrule 134.19(5). Applications received after the November 1 deadline, but before the January 1 expiration date, will be accepted and will require an additional \$50 late fee.

134.20(2) To be eligible for renewal, the licensee shall fulfill all continuing education requirements, along with any other requirements set forth in each license classification rule under Part C of this chapter. The department will consider all past disciplinary actions against the licensee when evaluating renewal eligibility.

[ARC 7946B, IAB 7/15/09, effective 8/19/09]

567—134.21(455B) Conflict of interest. A licensed individual or a licensed company may not conduct a UST installation inspection at any facility at which the licensee is engaged in professional services which are regulated under Part C of this chapter, e.g., installations, modifications, repairs, or replacements of UST systems. A person working for a licensed company as an installer, liner, remover, or tester shall not provide services as an installation inspector on sites where UST systems are being installed or lined by the person's prior employer until six months after leaving the prior employer's 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.

[ARC 7946B, IAB 7/15/09, effective 8/19/09]

567—134.22(455B) Duty to report. Any UST professional licensed under Part C of this chapter shall timely report suspected and confirmed releases within 24 hours of discovery (6 hours if a hazardous condition exists) as described in rule 567—135.6(455B) to the owner and operator on a form prescribed by the department. The UST professional shall recommend to the owner and operator any release confirmation actions or other investigatory and response actions which in the UST professional's judgment would be consistent with the requirements of rule 567—135.6(455B). The UST professional shall submit a copy of the form to the department within seven days of discovering a confirmed release. The UST professional is not responsible for reporting a suspected release as described in rule 567—135.6(455B) directly to the department.

[ARC 7946B, IAB 7/15/09, effective 8/19/09]

567—134.23(455B) OSHA safety requirements. All licensed individuals and companies regulated under Part C of this chapter shall conduct their work as required by OSHA safety requirements defined

under 29 CFR § 1910 (2006). OSHA standards apply whenever flammable, combustible, or hazardous materials are present, especially during the following activities:

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

[ARC 7946B, IAB 7/15/09, effective 8/19/09]

567—134.24(455B) Installers.

134.24(1) *Licensure qualifications.* An installer of an underground storage tank system shall apply for a license as an installer and shall indicate on the license application the types of installations and upgrade procedures the installer intends to use. In addition to the licensing requirements listed under rule 567—134.19(455B), an installer must:

- a. Provide documentation of at least two years of relevant experience;
- b. Provide documentation of manufacturer certification for past installations and proof of current certification for future work including, but not limited to, tank systems, piping systems, leak detection and monitoring systems, and corrosion protection systems; and
- c. Have completed at least 40 hours of OSHA training.

134.24(2) *Renewal qualifications.* To be eligible for license renewal, an installer shall:

- a. Fulfill the department's continuing education requirements in rule 567—134.19(455B);
- b. Maintain manufacturer certification if available and notify the department within 30 days if the certification is lost; and
- c. Complete the annual eight-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) refresher course.

134.24(3) *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. The licensed installer is responsible for all UST-related work at the site and must ensure that the performance of the work and the finished work conform to industry standards and codes and manufacturers' requirements. The licensed installer is responsible for ensuring that all local installation permits and notice requirements are satisfied. 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. Tank installation specifically includes excavation, equipment placement, backfilling, piping, electrical work, testing calibration, and start-up. Tank installation also includes installation of the appropriate equipment to meet National Emissions Standards for Hazardous Air Pollutants (NESHAP) requirements (40 CFR § 63.6580, Subpart ZZZZ), including submerged fill and vapor balance systems (Stage 1 vapor recovery) and the testing of those systems. Installers shall have on their person at all times while on a UST job site a 40-hour general site worker program identification card or any valid refresher card that complies with OSHA standards.

134.24(4) *Documentation of work performed.* Installing a new UST system or upgrading a UST system requires an installer to submit a copy of DNR Form 148, signed by the owner, to the department. Each licensed installer responsible for the new system installation or the upgrading of an existing system shall sign DNR Form 148 as required by 567—paragraph 135.3(3)“e.”

[ARC 7946B, IAB 7/15/09, effective 8/19/09]

567—134.25(455B) Testers. A tester of underground storage tank systems shall apply for licensing as a tester and note on the license application the systems and method(s) of testing the tester will use. In addition to the licensing requirements listed under rule 567—134.19(455B), a tester shall provide documentation of at least two years of relevant experience, documentation of manufacturer certification for past testing, and proof of current certification for future work.

134.25(1) *Renewal qualifications.* To be eligible for license renewal, a tester shall fulfill the department's continuing education requirements in rule 567—134.19(455B) and shall maintain manufacturer certification or notify the department within 30 days if the certification is lost.

134.25(2) *Documentation of work performed.* A copy of the test results shall be attached to DNR Form 148 when testing is done in connection with a new installation or the upgrading of an existing underground storage tank system. 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 system or the 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, and the results of the test. Test results shall be dated and signed by the licensed tester who performed the tests.

b. The original DNR Form 148 without attachments shall be mailed to the department.

134.25(3) *Exception to inspection requirement.* Installation inspectors are not required for the testing of underground storage tank systems, lines, leak detection, and cathodic protection as required by 567—Chapter 135 after the system has been put into service.

[ARC 7946B, IAB 7/15/09, effective 8/19/09]

567—134.26(455B) *Liners.* In addition to the licensing requirements listed under rule 134.19(455B), a liner shall provide documentation of at least two years of relevant experience, provide documentation of manufacturer certification for past linings and proof of current certification for future work, and have completed at least 40 hours of OSHA training.

134.26(1) *Renewal qualifications.* To be eligible for license renewal, a liner shall:

a. Fulfill the department's continuing education requirements in rule 567—134.19(455B);

b. Maintain manufacturer certification and immediately notify the department if the certification is lost; and

c. Complete the annual eight-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) refresher course.

134.26(2) *Lining system investigation and installation requirements.*

a. Inspection of internal lining. A steel underground storage tank that satisfies the corrosion protection requirement as set forth in 567—subparagraph 135.3(2) "b"(1) by the addition of an internal lining shall be internally inspected within ten years of the date the tank was lined and every five years thereafter. The purpose of the inspection is to determine if the lining continues to perform according to the manufacturer's specifications, state and federal rules, and national standards and codes and to determine if the tank is still structurally sound. The department accepts both manned entry and video camera periodic inspections. The lining method employed must be specifically designed for the purpose, be compatible with the product stored, and meet acceptable federal and state standards as set forth in 567—Chapter 135.

b. Integrity testing for tanks. Liners shall verify structural integrity, to include thickness and strength of the underground storage tanks, whenever tanks are physically entered (manned entry) for periodic inspections. The following standards must be used for lining and periodic inspections and integrity testing:

(1) Physical (manned entry) inspection. American Petroleum Institute (API) Standard 1631: Interior Lining and Periodic Inspection of Underground Storage Tanks.

(2) Video camera inspection. API Standard 1631; "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera" developed by Ken Wilcox Associates Inc. (KWA), Methods A and C; and ASTM G-158 (approved prediction models).

(3) Repairs to lining. Standard 631 of the National Leak Prevention Association (NLPA): Entry, Cleaning, Interior Inspection, Repair and Lining of Underground Storage Tanks. Repaired lining must meet the requirements of API 1631 § 8.

(4) Documentation of the inspection. API 1631—Form C: Tank Re-Inspection Affidavit. Liners shall document any defects noted in the system including, but not limited to, holes and perforations using API 1631—Form C: Tank Re-Inspection Affidavit and shall include photographs of all methods of repair.

134.26(3) Responsibilities of liners. While on UST job sites, liners shall have on their person at all times a 40-hour general site worker program identification card or any valid refresher card that complies with OSHA standards.

134.26(4) Documentation of work performed. A liner shall submit the API 1631 report form to the department, certifying that all work was performed in accordance with applicable industry standards. [ARC 7946B, IAB 7/15/09, effective 8/19/09]

567—134.27(455B) Installation inspectors. In addition to the licensing requirements listed under rule 134.19(455B), an installation inspector shall provide documentation of at least one year of experience with underground storage installations, testing, inspecting, or design; documentation of manufacturer certification for past work; and proof of current certification for future work. An engineer who intends to apply for licensure as an installation inspector and who has met the requirements in Iowa to be a registered professional engineer (P.E.) may be exempt from the educational requirement so long as UST installation is in the scope of the engineer's P.E. license and regular practice as provided for in rule 567—134.19(455B). Engineers, however, are not exempt from fulfilling the examination requirement.

134.27(1) Renewal qualifications. To be eligible for license renewal, an installation inspector shall fulfill the department's continuing education requirements in rule 567—134.19(455B) and shall maintain manufacturer certification or notify the department within 30 days if the certification is lost.

134.27(2) Documentation of work performed.

a. A copy of the inspection report must be submitted within 14 days after the inspection is complete. Both the inspection form and DNR Form 148 must be received by the department before the UST system can be activated.

b. A licensed installation inspector shall inspect the job site a minimum of three times during the course of the new tank installation or system upgrade.

c. For new installations, the first inspection shall occur before the UST system is installed. The second inspection shall occur before the covering of the system, when all tanks and pipes are exposed. The inspector shall witness testing of the primary and secondary piping and testing of the secondary containment, including sumps, under-dispenser containment (UDC), and secondary containment leak detection equipment. The final inspection shall occur when all components are operational and the system has been covered, but before actual operation. The installation inspector shall be present on site, shall visually observe all inspections, and shall be able to attest to the results. A video or other recording device showing the work completed by the installer shall not be used nor shall it be an acceptable method of providing independent inspection of the work completed.

134.27(3) Inspection required. When concrete is cut or excavation is required that could affect the integrity or operation of the UST system or when a component that routinely contains product is installed, replaced or repaired, one inspection is required. This inspection shall occur when the component is uncovered and replaced or repaired but before operation recommences. Whenever secondary containment, such as UDC or sump, is installed, at least one inspection is required after the equipment is installed and before the system is backfilled.

134.27(4) Inspection not required. Replacing, repairing or installing the following does not require an inspection: drop tubes, overflow devices, spill buckets, installation of ATG systems, dispensers, submersible turbine pumps, automatic line leak detectors, internal lining and periodic inspections or lining repair, cathodic protection systems, interstitial sensors, flex connectors, and line and tank tightness testing.

134.27(5) Pre-work notification requirement.

a. A licensed company/individual hired by an owner/operator to perform work shall notify the owner's/operator's licensed installation inspector of choice prior to commencing work. Additionally, the owner/operator is responsible for supplying the name of the installation inspector if it is not a governmental entity to any state or local agency with rules affecting installations or upgrades.

b. The pre-work notice given to the installation inspector shall include, at a minimum, the following information:

- (1) Description of the work planned.
- (2) The licensed individual responsible for the work to be performed.
- (3) A schedule of the work to be performed.
- (4) A copy of the UST notification of intent to install form submitted to the department.

c. The installation inspector shall review the work plan, and any required changes by the installation inspector must be submitted to the company/individual prior to the beginning of the described work. An inspection schedule must be agreed upon before work commences. Changes to the work schedule, to include the inspection schedule, because of weather or unforeseen job-site conditions shall be agreed upon as soon as the extenuating circumstances are recognized.

134.27(6) *Pre-installation and installation checklists.*

a. The licensed company/individual performing the work shall submit to both the installation inspector and the department a notification of intent to install form 30 days prior to an installation or upgrade.

b. Installation inspectors are required to use the department's installation inspection checklist. The installation inspection checklist must be submitted within 14 days following the tank installation inspection.

134.27(7) *Conflict of interest.* In addition to the conflict-of-interest provisions outlined in rule 567—134.21(455B), the following apply to installation inspectors:

a. If the installation inspector establishes a contract to perform inspection services for an owner/operator, or performs more than five inspections per calendar year for any one owner/operator, then the installation 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/operator to seek alternative inspection services for any reason deemed prudent to ensure quality installations.

134.27(8) *Miscellaneous requirements.* An installation inspector has the right to postpone work or to stop work on a job if standards as outlined in Part C of this chapter are not followed by the installer. Furthermore, once an installation inspector has been placed on a job, that installation inspector cannot be replaced without the department's approval. Installation inspectors must verify that any local permit and notice requirements are in place.

[ARC 7946B, IAB 7/15/09, effective 8/19/09]

567—134.28(455B) *Removers.* In addition to the licensing requirements listed under rule 567—134.19(455B), a remover shall provide documentation of at least two years of removal or other relevant experience and complete at least 40 hours of OSHA training. An engineer who intends to apply for licensure as a remover and who has met the requirements in Iowa to be a registered professional engineer (P.E.) may be exempt from the licensure requirements under rule 134.19(455B) so long as UST-related work is within the scope of the engineer's P.E. license and regular practice. Engineers are not exempt from fulfilling the examination requirement in subrule 134.19(6).

134.28(1) *Renewal qualifications.* To be eligible for license renewal, a remover shall:

- a. Fulfill the department's continuing education requirements in rule 567—134.19(455B);
- b. Comply with all local permitting and notice requirements;
- c. Comply with department-issued UST closure guidance; and
- d. Complete the annual eight-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) refresher course.

134.28(2) *Responsibilities and documentation of work performed.* A licensed remover shall be on site during the performance of all UST closure-related work, including subcontracted work, for which the owner/operator has contracted to have completed by the remover. Removers are responsible for ensuring that all work performed complies with the safety requirements of OSHA. Removers shall submit to the department a notification of closure form 30 days prior to the scheduled removal or fill in place as required in 567—subrule 135.15(2). Removers shall submit to the department the closure report within 45 days

of removal or fill in place as required in 567—paragraph 135.15(3) “e.” Removers shall ensure that all local permits and notice requirements are satisfied. Removers shall have on their person at all times while on a UST job site a 40-hour general site worker program identification card or any valid refresher card that complies with OSHA standards. The closure investigation required by 567—subrule 135.15(3) may be conducted by a licensed remover if the remover is a certified groundwater professional licensed under Part A of this chapter. If the remover is not a certified groundwater professional, the remover may subcontract with a certified groundwater professional.

[ARC 7946B, IAB 7/15/09, effective 8/19/09]

567—134.29(455B) Disciplinary actions.

134.29(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 a person for licensure in Iowa under Part C of this chapter. The department intends to investigate and enforce standards of conduct by a licensee which fall within the scope of the licensee’s professional relationship with the department, the licensee’s clients, and other state regulatory agencies. The department may impose disciplinary actions which may include, but are not limited to, notice of deficiency; probationary notices; and suspension, revocation, and denial of a license. The criteria identified in subrules 134.20(1) and 134.20(2) will be utilized by the department in deciding whether to issue an initial license or to renew a previously issued license.

134.29(2) *Notice of deficiency or probation.* 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 licensee’s record. A person subject to a notice to suspend or revoke a license may appeal the notice as provided in 567—Chapter 7.

134.29(3) *Suspension.*

a. The department may suspend the license of any individual or company for good cause for either a single act or omission or repeated acts or omissions. The suspension of a company or individual licensee shall prevent the company or individual licensee from engaging in activities for which the license is required. The suspension may require the licensee to take remedial measures intended to correct or prevent future acts or omissions. Good cause includes, but is not limited to:

- (1) A violation of these rules.
- (2) Negligent misrepresentation of material facts in a report submitted to the department.
- (3) Incompetence on the part of the licensee as evidenced by errors in the performance of duties and activities for which the license was issued.
- (4) Repeated failure to submit reports of activities to the department or the owner/operator as provided in this chapter.

b. The department may require that the licensee 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 licensee’s performance of duties as identified in the suspension order.

c. A licensed company or individual shall immediately surrender the applicable license to the department as of the effective date of a suspension order. The department may reinstate the license if it is determined that the company or individual has satisfied the terms of the suspension order and the license is not expired.

134.29(4) *Revocation.*

a. The department may revoke the license of a company or individual for one or more of the following:

- (1) Willful disregard of, or willful or repeated violations of, this chapter or 567—Chapter 135.
- (2) Fraudulent omissions or misstatements of material facts in a report or in other written or oral communications with the department.
- (3) A knowing and willful failure to detect and report a material violation of UST operation and maintenance standards.
- (4) Acts or omissions warranting suspension after a license was previously suspended.

b. A licensee shall immediately surrender the license after the effective date of the revocation decision.

[ARC 7946B, IAB 7/15/09, effective 8/19/09]

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