

567—69.7(455B) Time of transfer (TOT) inspections.

69.7(1) *Inspection criteria.* Pursuant to Iowa Code section 455B.172(11), if a building where a person resides, congregates, or is employed is served by a PSDS, the PSDS shall be inspected prior to any transfer of ownership of the building.

a. Properly functioning system. If a PSDS is properly treating wastewater and not creating an unsanitary condition in the environment at the time of inspection, the system is not required to meet the department's current construction standards. However, the discharge restrictions in 69.1(8) shall always apply.

b. Future demolition. Pursuant to Iowa Code section 455B.172(11)“a”(7), a TOT inspection and upgrade of a PSDS serving a building is not required when the buyer of a building served by a PSDS intends to demolish or raze the building, as long as the building is not occupied and is removed by the date agreed upon in the waiver for building demolition form, available from the department. For purposes of this paragraph, a building includes inhabitable residences, other inhabitable structures, or commercial buildings.

c. Future inspection. In the event that weather or other temporary physical conditions prevent an inspection from being conducted, the buyer shall execute a binding agreement for weather delayed inspection with the administrative authority, using a department form.

d. Future installation or renovation. In the following instances, a buyer may execute a binding agreement for future installation or renovation with the administrative authority, using a department form.

(1) If an inspection fails; or

(2) If all parties agree an existing PSDS will not pass inspection and a buyer wishes to forego an inspection.

e. Forms. The forms for a waiver for building demolition, binding agreement for weather delayed inspection, and binding agreement for future installation are available on the department's website at www.iowadnr.gov.

f. Failure or improper function. If a PSDS is failing to ensure effective wastewater treatment or is otherwise improperly functioning, the PSDS shall be renovated to meet the department's current construction standards. A PSDS is failing to ensure effective wastewater treatment or is otherwise improperly functioning when one or more of the following conditions exist:

(1) The system's septic tank is constructed of metal; is not watertight; was not designed for use as a PSDS tank; or is damaged and cannot be repaired to the manufacturer's standards using a manufacturer-approved method;

(2) The system's primary treatment tank is less than 500 gallons;

(3) All fixtures on the property served by the PSDS that produce or transport domestic waste do not enter the PSDS;

(4) More than 50 percent of the system's soil absorption area does not accept water;

(5) There is evidence that the system is failing to effectively treat wastewater or is otherwise improperly functioning in a manner not detailed above; or

(6) The system is a dry well structure or seepage pit.

g. Exemptions. For purposes of this subrule, transfer does not include the situations listed in Iowa Code section 455B.172(11)“a”(1) through 455B.172(11)“a”(12).

69.7(2) *Certified TOT inspectors.* Inspections shall be conducted by an inspector certified by the department, in accordance with Iowa Code section 455B.172 and this rule. In order to be a certified TOT inspector, an individual shall have met the experience requirements, have successfully completed the inspection course and examination, and have been issued a TOT certification by the department.

a. Experience requirements. In order to be certified by taking the inspection course and examination only, an individual must have at least two years' experience in the operation, installation, inspection, design or maintenance of PSDSs. Individuals lacking this experience must complete additional coursework before attending the inspection course with examination. The additional courses shall include but not be limited to “Basics of Onsite” offered by the Onsite Wastewater Training Center of Iowa or equivalent courses as determined by the department.

b. Examination application form and evaluation.

(1) All applications to take the certified TOT inspector examination shall be filed using a department form, available on the department's website at www.iowadnr.gov.

(2) Examination applications shall be reviewed by the department and an application review decision will be sent to the applicant. The applicant shall have the right to dispute the application evaluation.

(3) An examination application approval shall be valid for examination purposes for one year from the date the application is approved by the department.

c. Certification. Applicants who successfully meet the requirements of this subrule will receive a TOT certification from the department. The department shall maintain a current listing of certified TOT inspectors on its website at www.iowadnr.gov.

(1) All certificates shall expire on June 30 of even-numbered years and must be renewed every two years.

(2) Renewal applications shall be submitted on a department form, available on the department's website at www.iowadnr.gov, and shall be submitted 60 days before the expiration date of the current certificate. Renewal certificates will only be granted to inspectors that meet the continuing education unit (CEU) requirements of 69.7(2) "d," that have paid the appropriate certification fee in 69.7(2) "e," and that conduct inspections in accordance with 69.7(3).

(3) Inspectors who have complied with the continuing education requirements may continue to request a renewal up to 45 days following expiration of their certificate. However, inspectors may not perform inspections until a renewal certificate has been issued by the department.

(4) Inspectors whose certification has expired must retake the inspector class and test to become recertified.

d. Continuing education units (CEUs). The following CEU requirements apply to TOT certification:

(1) A certified inspector must earn 1.2 CEUs or 12 contact hours during each two-year period. Newly certified inspectors (previously uncertified) who become certified after April 1 of a two-year period will not be required to earn CEUs until the next two-year period.

(2) CEUs must be earned during each two-year period from April 1 of the even-numbered year until March 31 of the next even-numbered year. CEUs earned between April 1 and the end of the 45-day grace period cannot be counted towards a certification that expires on June 30 of that year.

(3) All activities for which CEU credit will be granted must be approved by an accredited college, university, technical institute, or the department and shall be related to PSDSs. Any entity providing training eligible for CEU credit shall, upon request, provide the training at no cost to one department staff member for audit purposes and shall provide all course materials to the department upon request.

(4) It is the personal responsibility of a certified inspector to maintain a record of and notify the department of the CEUs earned during the two-year period. The CEUs earned during the period shall be shown on the renewal application.

e. Certification fees. The following nonrefundable fees apply:

(1) The examination application fee is \$50.

(2) The new inspector certification fee is \$300. This fee must be paid prior to the issuance of a certification. This fee shall be prorated to \$75 for each one-half year of a two-year period from a certification issuance date to June 30 of the next even-numbered year. Certifications obtained within the first half year period of the certification period shall be subject to the full certification fee of \$300. The department will inform the applicant of the prorated fee amount prior to certification.

(3) The certification renewal fee is \$300. This fee must accompany a renewal application in order for a certificate to be renewed.

f. Certified inspector obligations. Certified inspectors shall conduct TOT inspections in accordance with this subrule.

69.7(3) Inspection procedures. TOT inspections shall be conducted as follows:

a. Inspection report.

(1) A TOT inspection shall be conducted using a department form, available on the department's website at www.iowadnr.gov.

(2) Upon completion of an inspection, all information, inspection data, and all attachments shall be provided as follows: to the department for review; to the county environmental health department for

review and enforcement of any follow-up mandatory improvements to the system; and to the person ordering the inspection within ten business days from the inspection date.

(3) Submittal of a complete inspection form and all attachments in the online TOT database, available on the department's website at www.iowadnr.gov, shall be deemed compliant with this requirement.

b. Record search.

(1) Prior to an inspection, a certified inspector shall contact the administrative authority to obtain any permits, as-built drawings, or other available information concerning the system being inspected. Information may also be obtained from service providers or the homeowner.

(2) The inspector shall:

1. Verify an existing as-built drawing, or
2. If no as-built drawing is available, develop an as-built drawing as part of the inspection.

c. Septic tanks, vault toilets, and holding tanks. At the time of inspection, any existing tank(s) shall be opened and have the contents properly disposed of, and the condition of the tank and its components shall be documented and included in the final inspection report. Alternatively, the owner may provide evidence of proper tank pumping by a licensed commercial septic tank cleaner within three years prior to the inspection, so long as such evidence includes documentation of the size and condition of the tank and its components at the time of pumping.

d. Pumps and pump chambers. Pump chambers or vaults shall be opened for inspection. The pump and all alarms and controls shall be tested to ensure proper operation.

e. Secondary treatment. Proof that a secondary treatment system (if any) is in place shall be provided. This proof includes but is not limited to performing and documenting the following actions during the inspection:

- (1) Opening and inspecting all distribution box(es) or drop box(es);
- (2) Locating and uncovering the header pipe of a soil absorption system, if the pipe location and status is unknown;
- (3) Locating the vents and discharge pipe of a sand filter and probing the treatment area. A gravity sand filter with a distribution box shall have the box opened and inspected;
- (4) Locating, opening the lids, and inspecting the components of any PTS according to the manufacturer's recommendations, and documenting the product model and serial numbers of the PTS;
- (5) Probing any soil-based treatment systems to determine their condition; and
- (6) A hydraulic loading test.

f. Discharging systems. During an inspection, a representative sample of effluent shall be collected for CBOD₅ and TSS from all PSDSs, with the exception of soil absorption systems, and the test results shall be included in the inspection report. The effluent quality shall meet the requirements of NPDES General Permit No. 4 for CBOD₅ and TSS. A certified inspector shall report the discharge location(s) for all discharging PSDSs.

g. Other systems and system components. Any PSDS or component not mentioned above shall be inspected for compliance with these rules and for proper function. Examples of components include but are not limited to effluent screens, tertiary treatment systems, disinfection devices, alarms, control boxes, and timers.

69.7(4) Certified TOT inspector disciplinary action.

a. Reasons for disciplinary action. Disciplinary action may be taken against a certified TOT inspector on any of the grounds specified in Iowa Code section 455B.219 or the following more specific grounds:

- (1) Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified inspector.
- (2) Failure to submit required inspection records or other reports required under applicable permits or department rules, including failure to submit complete records or reports.
- (3) Knowingly making any false statement, representation, or certification on any application, record, report, or document required to be maintained or submitted under any applicable permit or department rule.

b. Disciplinary sanctions. Disciplinary sanctions may include the following:

- (1) Permanent revocation without chance of recertification or for a specified period of time.

- (2) Revocation or suspension of the practice of a particular aspect of a PSDS inspection.
- (3) Probation under specified conditions relevant to the specific grounds for disciplinary action.
- (4) Additional education, training, or reexamination may be required as a condition of reinstatement.
- (5) Civil penalties not to exceed \$1,000 may be assessed for causes identified in 69.7(4)“a” through the issuance of an administrative order.

c. Procedure.

(1) Department staff shall initiate a disciplinary action by conducting a lawful investigation to establish a legal and factual basis for action. The department shall provide written notice to a certified inspector when considering disciplinary actions. The notice shall provide the certified inspector 20 days to state their position and present relevant facts.

(2) If an agreement as to appropriate disciplinary action, if any, can be reached between the department and the certified inspector, a written stipulation and settlement shall be entered into. The stipulation and settlement shall recite the basic facts and violations alleged, any facts established by the certified inspector, and the reasons for the particular sanction imposed.

(3) If an agreement as to appropriate disciplinary action cannot be reached, the department may initiate formal disciplinary procedures in a letter, sent by certified mail, that imposes disciplinary sanctions deemed appropriate by the department.

(4) A certified inspector may appeal any disciplinary sanction imposed by the department by filing a notice of appeal with the director within 30 days of receipt of a disciplinary sanction letter. If an appeal is filed, the department shall initiate contested case proceedings in accordance with 567—Chapter 7 and Iowa Code chapter 17A.

(5) Upon certificate revocation, application for certification may be allowed two years from the revocation date unless otherwise specified in accordance with 69.7(4)“b.” Any such applicant must meet all eligibility requirements in 69.7(2), successfully complete an examination, and be certified in the same manner as a new applicant.

69.7(5) *Procedures for noncompliance with child support order.* Upon receipt of a certification of noncompliance with a child support obligation as provided in Iowa Code section 252J.7, the department will initiate procedures to deny an application for inspector certification or renewal, or to suspend a certification in accordance with Iowa Code section 252J.8(4). The department shall issue to the person by certified mail a notice of its intent to deny or suspend inspector certification based on receipt of a certificate 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.

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