

567—134.18(455B) Disciplinary actions—suspension, revocation and denial of certification.**134.18(1) General.**

a. It is the policy of the department to enforce standards of professional and ethical conduct that are generally accepted within the professions that qualify a person for certification in Iowa. The department intends to investigate and enforce standards of conduct by a certificate holder that fall within the scope of the certificate holder's relationship with the department. The department may impose disciplinary actions, which may include notice of deficiency, probation, suspension, revocation, or denial of a certificate.

b. The suspension or revocation of a certificate shall prevent the certificate holder from engaging in activities for which certification is required. A certificate holder shall immediately surrender the certificate after the effective date of a suspension or revocation decision. The department may reinstate the certification if it is determined the person has satisfied the terms of the suspension order and the certification has not expired. Additional education, training, and reexamination may be required as a condition of reinstatement.

c. A notice of deficiency may be issued to any certificate holder for any reason below and is not appealable pursuant to 134.18(5).

134.18(2) Reasons for discipline for groundwater professionals. The department may impose probationary requirements or 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 567—134.9(455B).

d. Insufficient proof of qualifications required under 567—134.9(455B).

e. Failure to successfully complete the certification requirements.

f. Default on an obligation owed to or collected by the state as provided in Iowa Code section 421.17(27) "e."

g. Fraudulent omissions or misstatements of material fact in any reports, correspondence or communications with the department.

h. Violation of an ethical standard that the person knew or should have known and that results in or reasonably could have resulted in material consequences.

i. 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).

j. Knowingly making a materially false statement, representation or certification on any application, record, report, or document maintained or submitted to the department.

k. Gross incompetence in the performance of groundwater professional services and corrective action.

l. Material misstatement of facts or misrepresentation of information provided pursuant to Iowa Code chapter 455B, subchapter IV, part 8.

m. Repeated acts or omissions that, 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 that may be a basis for discipline include but are not limited to the following:

(1) Repeated incidents of substandard field investigation will result in suspension or revocation.

(2) Repeated incidents of substandard, inaccurate or incomplete site cleanup reports and failure to follow site cleanup report instructions will result in suspension or revocation.

(3) Conduct warranting a sanction after prior suspension will result in a revocation.

134.18(3) Reasons for discipline for compliance inspectors.

a. *Probation or suspension.* The department may impose probationary requirements or suspend the certification of a certified inspector for good cause. The suspension may require the certificate holder to

take remedial measures intended to correct or prevent future acts and omissions. Good cause includes but is not limited to:

- (1) A violation of these rules.
- (2) Negligent misrepresentation of material facts in a compliance report.
- (3) Negligent failure to identify a material violation of UST operation and maintenance standards set out in 567—134.10(455B).
- (4) Repeated failure to conduct compliance inspections and submit reports in accordance with the standards set out in 567—134.10(455B).
- (5) 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.
- (6) Repeated failure to submit reports of inspection activities to the department or the owner and operator as provided in 567—134.10(455B).

b. Revocation. The department may revoke the inspector certification 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 compliance inspection 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 as part of a compliance inspection required by 567—135.19(455B).
- (4) Acts or omissions warranting suspension after having certification previously suspended.
- (5) The revocation of a certification as an installer or installation inspector under 567—134.11(455B) or 567—134.14(455B).

134.18(4) *Reasons for discipline for all other certificate holders.*

a. Probation or suspension. The department may impose probationary requirements or suspend the certificate of any other individual or company certified under this chapter for good cause. A suspension may require the certificate holder 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 certificate holder as evidenced by errors in the performance of duties and activities for which the certificate was issued.
- (4) Repeated failure to submit reports of activities to the department or the owner/operator as provided in this chapter.

b. Revocation. The department may revoke the certification 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) 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 certification was previously suspended.

134.18(5) *Disciplinary procedure for all certificate holders.*

a. Prior to issuance of a final department action imposing a disciplinary sanction of probation, 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.

b. Written notice of a sanction shall be sent by 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 probation, 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 7—Chapter 2506

and 561—Chapter 2506. In accordance with 7—subrule 2506.11(1), the department shall initiate pleading by the filing of a petition.

d. 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 rule 7—2506.29(17A), after issuance of a proposed decision.

134.18(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 certified mail to the person of its intent to deny or suspend 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.

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