567—135.3(455B) UST systems—design, construction, installation and notification.

135.3(1) *Performance standards for new UST systems.* In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new UST systems must meet the following requirements. The UST system must be secondarily contained in accordance with subrule 135.3(9).

a. Tanks. Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

(1) The tank is constructed of fiberglass-reinforced plastic; or

NOTE: The following codes of practice may be used to comply with subparagraph 135.3(1)*"a"*(1): Underwriters Laboratories Standard 1316, "Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures" or Underwriters Laboratories of Canada S615, "Standard for Reinforced Plastic Underground Tanks for Flammable and Combustible Liquids."

(2) The tank is constructed of steel and cathodically protected in the following manner:

1. The tank is coated with a suitable dielectric material;
2. Field-installed cathodic protection systems are designed by a corrosion expert;
3. Impressed current systems are designed to allow determination of current operating status as required in paragraph 135.4(2)*"c."* This shall be accomplished by providing the rectifier with ampere and voltage meters that can be read by the owner and operator for comparison to the design standard set by the corrosion expert or a device that can warn the owner and operator when changes in ampere and voltage occur outside the design standard set by the corrosion expert;
4. Cathodic protection systems are operated and maintained in accordance with subrule 135.4(2) or according to guidelines established by the department; and
5. Impressed current systems must be designed not to cause stray current that can damage other underground structures (metal electrical conduits, water lines, gas lines, etc.); or

NOTE: The following codes of practice may be used to comply with subparagraph 135.3(1)*"a"*(2):

- Steel Tank Institute "Specification STI-P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks";
- Underwriters Laboratories Standard 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks";
- Underwriters Laboratories of Canada S603, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," and S603.1, "Standard for External Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids," and S631, "Standard for Isolating Bushings for Steel Underground Tanks Protected with External Corrosion Protection Systems";
- Steel Tank Institute Standard F841, "Standard for Dual Wall Underground Steel Storage Tanks"; or
- NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Systems by Cathodic Protection," and Underwriters Laboratories Standard 58, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids."

(3) The tank is constructed of steel and clad or jacketed with a noncorrodible material; or

NOTE: The following industry codes may be used to comply with subparagraph 135.3(1)*"a"*(3):

- Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for Underground Storage Tanks";
- Steel Tank Institute ACT-100® Specification F894, "Specification for External Corrosion Protection of FRP Underground Storage Tanks";
- Steel Tank Institute ACT-100-U® Specification F961, "Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks"; or
- Steel Tank Institute Specification F922, "Steel Tank Institute Specification for Permatank®."

(4) The tank is constructed of metal without additional corrosion protection measures provided that:

1. The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and

2. Owners and operators maintain records that demonstrate compliance with the requirements of paragraph 135.3(1)*"a"*(4)"1" for the remaining life of the tank; or

(5) The tank construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than subparagraphs 135.3(1)*"a"*(1) to (4).

b. Piping. The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified in this rule. This includes piping for remote tank fill locations.

All piping must have secondary containment, installed according to manufacturer's specifications, and be compatible with the product stored and the environment to which it will be exposed. Piping must maintain its original specifications and structural integrity. Piping whose structural integrity has degraded must be replaced. All piping installations must meet National Fire Prevention Association Standard 30 and Standard 30A or the International Fire Code as adopted by the Iowa state fire marshal in 661—Chapter 221, "Flammable and Combustible Liquids."

(1) The piping is constructed of a noncorrodible material; or

NOTE: The following codes of practice may be used to comply with subparagraph 135.3(1)*"b"*(1):

- Underwriters Laboratories Standard 971, "Nonmetallic Underground Piping for Flammable Liquids"; or
- Underwriters Laboratories of Canada Standard S6660, "Standard for Nonmetallic Underground Piping for Flammable and Combustible Liquids."

(2) The piping is constructed of steel and cathodically protected in the following manner:

1. The piping is coated with a suitable dielectric material;

2. Field-installed cathodic protection systems are designed by a corrosion expert;

3. Impressed current systems are designed to allow determination of current operating status as required in paragraph 135.4(2)*"c"*; and

4. Cathodic protection systems are operated and maintained in accordance with subrule 135.4(2) or guidelines established by the department; or

NOTE: The following codes of practice may be used to comply with subparagraph 135.3(1)*"b"*(2):

- American Petroleum Institute Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems";
- Underwriters Laboratories Subject 971A, "Outline of Investigation for Metallic Underground Fuel Pipe";
- Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems";
- NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";
- NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection"; or
- National Fire Protection Association Standard 30, "Flammable or Combustible Liquids Code."

(3) The piping is constructed of metal without additional corrosion protection measures provided that:

1. The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and

2. Owners and operators maintain records that demonstrate compliance with the requirements of paragraph 135.3(1)*"b"*(3)"1" for the remaining life of the piping; or

(4) The piping construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in subparagraphs 135.3(1)*"b"*(1) to (3).

c. Spill and overfill prevention equipment.

(1) Except as provided in subparagraph 135.3(1)*"b"*(2), to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment:

1. Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); and

2. Overfill prevention equipment that will:

- Automatically shut off flow into the tank when the tank is no more than 95 percent full; or
- Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank (not allowed for suction product delivery systems, for tanks with stage 1 vapor recovery or when product delivery is by pumping) or triggering a high-level alarm; or
- Restrict flow 30 minutes prior to overfilling, alert the transfer operator with a high-level alarm one minute before overfilling, or automatically shut off the flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.

(2) Owners and operators are not required to use the spill and overfill prevention equipment specified in subparagraph 135.3(1)*"b"*(1) if:

1. Alternative equipment is used that is determined by the department to be no less protective of human health and the environment than the equipment specified in paragraph 135.3(1)*"b"*(1)"1" or "2"; or

2. The UST system is filled by transfers of no more than 25 gallons at one time.

(3) Flow restrictors used in vent lines may not be used to comply with paragraph 135.3(1)*"c"*(1)"2" when overfill prevention is installed or replaced.

(4) Spill and overfill prevention equipment must be periodically tested or inspected in accordance with subrule 135.4(12).

(5) Spill prevention equipment must be kept free of any liquid and debris. Any liquid or debris must be removed prior to product delivery.

d. Installation. The UST system must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions. The UST system installation shall be conducted by an installer licensed by the department under 567—Chapter 134, Part C, and in accordance with 567—subrules 134.24(3) and 134.24(4).

NOTE: Tank and piping system installation practices and procedures described in the following codes may be used to comply with the requirements of paragraph 135.3(1)*"d"*:

- American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System";
- Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems"; or
- National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code," and 30A, "Code for Motor Fuel Dispensing Facilities and Repair Garages."

e. Certification of installation. All owners and operators must ensure that the following methods of certification, testing, and inspection are used to demonstrate compliance with paragraph 135.3(1)*"d"* by providing a certification of compliance on the UST registration form in accordance with subrule 135.3(3).

(1) The installer is licensed by the department as provided in 567—Chapter 134, Part C; and

(2) The installation has been inspected by a licensed installation inspector as required by 567—Chapter 134, Part C.

f. Dispenser systems. Each UST system must be equipped with under-dispenser containment (UDC) for any new or replaced dispenser system.

(1) A dispenser system is considered new when both the dispenser and the equipment needed to connect the dispenser to the underground storage tank system are installed at a location where there previously was no dispenser (new UST system or new dispenser location at an existing UST system). The equipment necessary to connect the dispenser to the underground storage tank system includes check

valves, shear valves, unburied risers or flexible connectors, or other transitional components that are underneath the dispenser and connect the dispenser to the underground piping.

(2) UDC shall be installed whenever an existing dispenser system is removed and replaced with another dispenser and the equipment used to connect the dispenser to the underground storage tank system is replaced. This equipment includes flexible connectors or risers or other transitional components that are beneath the dispenser and connect the dispenser to the piping. UDC is not required when only the emergency shutoff or shear valves or check valves are replaced.

(3) UDC shall be installed beneath the dispenser whenever ten feet or more of piping is repaired or replaced within ten feet of a dispenser.

(4) UDC must be liquid-tight on its sides, bottom, and at any penetrations. UDC must allow for visual inspection and access to the components in the containment system or be periodically monitored for leaks from the dispenser system.

135.3(2) *Upgrading of existing UST systems.* Owners and operators must permanently close any UST system that does not meet the new UST system performance standards or has not been upgraded in accordance with paragraphs 135.3(2)*"b"* through *"d."* This subrule does not apply to previously deferred UST systems. Upgrading is no longer allowed for UST systems not upgraded by December 22, 1998.

a. Alternatives allowed. Not later than December 22, 1998, all existing UST systems had to comply with one of the following requirements:

(1) New UST system performance standards under 135.3(1);

(2) The upgrading requirements in paragraphs *"b"* through *"d"* below; or

(3) Closure requirements under rule 567—135.15(455B), including applicable requirements for corrective action under rules 567—135.7(455B) to 567—135.12(455B).

Replacement or upgrade of a tank system on a petroleum contaminated site classified as a high or low risk in accordance with rule 567—135.12(455B) shall be a double wall tank or a tank equipped with a secondary containment system with monitoring of the space between the primary and secondary containment structures in accordance with paragraph 135.5(4)*"g."*

b. Tank upgrading requirements. Steel tanks had to be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:

(1) *Interior lining.* Tanks upgraded by internal lining must meet the following:

1. The lining was installed in accordance with the requirements of subrule 135.4(4), and

2. Within ten years after lining, and every five years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.

3. If the internal lining is no longer performing in accordance with original design specifications and cannot be repaired in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, the lined tank must be permanently closed in accordance with rule 567—135.15(455B).

(2) *Cathodic protection.* Tanks upgraded by cathodic protection meet the requirements of paragraphs 135.3(1)*"a"*(2)"2," "3," and "4" and the integrity of the tank was ensured using one of the following methods:

1. The tank was internally inspected and assessed to ensure that the tank was structurally sound and free of corrosion holes prior to installing the cathodic protection system; or

2. The tank had been installed for less than ten years and is monitored monthly for releases in accordance with 135.5(4)*"d"* through *"i"*; or

3. The tank had been installed for less than ten years and was assessed for corrosion holes by conducting two tightness tests that meet the requirements of paragraph 135.5(4)*"c."* The first tightness test must have been conducted prior to installing the cathodic protection system. The second tightness test must have been conducted between three and six months following the first operation of the cathodic protection system; or

4. The tank was assessed for corrosion holes by a method that is determined by the department to prevent releases in a manner that is no less protective of human health and the environment than paragraphs 135.3(2)*"b"*(2)"1" to "3."

(3) *Internal lining combined with cathodic protection.* Tanks upgraded by both internal lining and cathodic protection must have met the following:

1. The lining was installed in accordance with the requirements of subrule 135.4(4); and

2. The cathodic protection system was installed within six months of lining installation and meets the requirements of paragraphs 135.3(1)*"a"*(2)"2," "3," and "4."

NOTE regarding paragraph 135.3(2)*"b"*: The following historical codes of practice were listed as options for complying with paragraph 135.3(2)*"b"*:

- American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks";
- National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection";
- National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"; and
- American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems."

NOTE regarding paragraph 135.3(2)*"b"*(1)"2": The following codes of practice may be used to comply with the periodic lining inspection requirement of this subrule:

- American Petroleum Institute Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";
- National Leak Prevention Association Standard 631, Chapter B, "Future Internal Inspection Requirements for Lined Tanks";
- Ken Wilcox Associates Recommended Practice, "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera"; or
- Underwriters Laboratories (UL) 1856 Underground Fuel Tank Internal Retrofit Systems.

c. Piping upgrading requirements. Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements of paragraphs 135.3(1)*"b"*(2)"2," "3," and "4."

NOTE: The codes of practice listed in the note following subparagraph 135.3(1)*"b"*(2) may be used to comply with this requirement.

d. Spill and overfill prevention equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with UST system spill and overfill prevention equipment requirements specified in paragraph 135.3(1)*"c."*

135.3(3) *Registration and notification requirements.*

a. Except as provided in paragraph 135.3(3)*"b,"* the owner of an underground storage tank existing on or before July 1, 1985, shall complete and submit to the department a copy of the registration form provided by the department.

b. The owner of an underground storage tank system taken out of operation between January 1, 1974, and July 1, 1985, shall complete and submit to the department a copy of the registration form provided by the department unless the owner knows the tank has been removed from the ground. For purposes of this subrule, "owner" means the person who owned the tank immediately before the discontinuation of the tank's use.

c. An owner or operator who brings into use an underground storage tank system after July 1, 1985, shall complete and submit to the department a copy of the registration form provided by the department within 30 days of the final installation inspection required in 567—paragraph 134.27(2)*"c"* by a licensed installation inspector. The owner or operator shall not allow the deposit of any regulated substance into the tank without prior approval of the department or until the permanent registration tag and annual tank tag have been attached to the tank fill pipe and the tank system is covered by an approved financial responsibility mechanism in accordance with 567—Chapter 136.

d. All owners and operators of new UST systems must provide UST system details and a site diagram, and certify in the registration form compliance with the following requirements:

(1) Installation of tanks and piping under paragraph 135.3(1)*"e"*;

(2) Cathodic protection of steel tanks and piping under paragraphs 135.3(1)*"a"* and *"b"*;

(3) Financial responsibility under 567—Chapter 136;

(4) Release detection methods under subrules 135.5(2) and 135.5(3);

(5) Class A, B and C operator certification under subrule 135.4(6);

(6) NESHAP Stage 1 vapor recovery.

e. All owners and operators of new UST systems must ensure that the licensed installer certifies in the registration form that the methods used to install the tanks and piping comply with the requirements in paragraph 135.3(1)*"d."*

f. Exemption from reporting requirement. Paragraphs 135.3(1)*"a"* to *"c"* do not apply to an underground storage tank for which notice was given pursuant to Section 103, Subsection c, of the Comprehensive Environmental Response, Compensation, and Liabilities Act of 1980. (42 U.S.C. Subsection 9603(c))

g. Reporting fee. The registration form submitted by the owner to the department under paragraphs 135.3(1)*"a"* to *"c"* shall be accompanied by a fee of $10 for each tank included in the form.

h. Notification requirement for installing a tank. A person installing an underground storage tank and the owner or operator of the underground storage tank must notify the department of their intent to install the tank 30 days prior to installation. Notification shall be on a form provided by the department.

i. Notification requirements for a person who acquires, sells, installs, modifies or repairs a UST system.

(1) A person, company or lending institution that assumes ownership or operation of a regulated underground storage tank must submit notification to the department on a form provided by the department within 30 days of acquisition and prior to tank operation. The owner must include copies of training certificates for the Class A and Class B operators (135.4(6)) and proof of financial responsibility required in 567—Chapter 136. The new owner is responsible for any current and back tank management fees that have not been previously paid.

(2) A person who sells, installs, modifies, or repairs a tank used or intended to be used in Iowa shall notify, in writing, the purchaser and the owner or operator of the tank of the obligations specified in paragraphs 135.3(3)*"c"* and *"j"* and the financial assurance requirements in 567—Chapter 136. The notification must include the prohibition on depositing a regulated substance into tanks which have not been registered and issued tags by the department, or tanks which do not have financial assurance as required in 567—Chapter 136. A standard notification form supplied by the department may be used to satisfy this requirement.

j. It is unlawful for a person to deposit or accept a regulated substance in an underground storage tank that has not been registered and issued permanent or annual tank management tags in accordance with rule 567—135.3(455B). It is unlawful for a person to deposit or accept a regulated substance into an underground storage tank if the person has received notice from the department that the underground storage tank is subject to a delivery prohibition or if there is a "red tag" attached to the UST fill pipe or fill pipe cap as provided in subrule 135.3(8).

(1) The department may provide written authorization to receive a regulated substance when there is a delay in receiving tank tags or at new tank installations to allow for testing the tank system.

(2) The department may provide known depositors of regulated substances lists of underground storage tank sites that have been issued tank tags, those that have not been issued tank tags, and those subject to a delivery prohibition pursuant to subrule 135.3(8). These lists do not remove the requirement for depositors to verify that current tank tags are affixed to the fill pipe prior to delivering product. Regulated substances cannot be delivered to underground storage tanks without current tank tags or those displaying a delivery prohibition "red tag" as provided in subrule 135.3(8).

(3) A person shall not accept or deposit a regulated substance in an underground storage tank after receiving written or oral notice from the department that the tank is not covered by an approved form of financial responsibility in accordance with 567—Chapter 136.

k. If an owner or operator fails to register an underground storage tank within 30 days after installation pursuant to paragraph 135.3(3)*"c,"* the owner or operator shall pay an additional $250 per tank late fee upon registration of the tank. The imposition of this fee does not preclude the department from assessing an additional administrative penalty in accordance with Iowa Code section 455B.476.

135.3(4) *Farm and residential tanks.*

a. The owner or operator of a farm or residential tank of 1100 gallons or less capacity used for storing motor fuel for noncommercial purposes is subject to the requirements of this subrule.

b. Farm and residential tanks, installed before July 1, 1987, are required to be registered with the department.

c. Farm and residential tanks installed on or after July 1, 1987, must be in compliance with all the underground storage tank regulations.

135.3(5) *Registration tags and annual management fee.*

a. Tanks of 1100 gallons or less capacity that have registered with the department will be issued a permanent registration tag.

b. The owner or operator of tanks over 1,100-gallon capacity must submit a tank management fee form and fee payment of $65 per tank by January 15 of each year.

(1) An additional $250 per tank late fee must be paid if the tank management fee is not paid by March 1.

(2) The owner or operator must submit written proof that the tanks are covered by an approved form of financial responsibility in accordance with 567—Chapter 136.

(3) Upon proper payment of the fee and acceptable proof of financial responsibility, and a determination there are no outstanding compliance violations, a one-year renewal tag will be issued for the period from April 1 to March 31.

(4) If there are outstanding compliance violations, the annual tank tags may be withheld until the violations are corrected.

(5) The department shall refund a tank management fee if the tank is permanently closed prior to April 1 for that year.

c. The owner or operator shall affix the tag to the fill pipe of the underground storage tank where it will be readily visible.

d. A person who conveys or deposits a regulated substance shall inspect the underground storage tank to determine the existence or absence of a permanent registration tag, a current annual renewal tag, or a delivery prohibition "red tag" as provided in subrule 135.3(8). If a current annual renewal tag, or a silver permanent tag for regulated tanks less than 1,100 gallons is not affixed to the fill pipe or fill pipe cap or if a delivery prohibition "red tag" is displayed, the person shall not deposit the substance in the tank.

e. The owner or operator must return the tank tags upon request of the department for failure to meet the requirements of rules 567—135.3(455B) to 567—135.5(455B) or the financial responsibility rules in 567—Chapter 136 after permanent tank closure or when tanks are temporarily closed for over 12 months, or when the tank system is suspected to be leaking and the responsible party fails to respond as required in subrule 135.8(1). The department will not return the tags until the tank system is in full compliance with the technical requirements of this chapter and financial responsibility requirements of 567—Chapter 136.

135.3(6) *Previously unregistered petroleum underground storage tanks.* A petroleum underground storage tank required to be registered under subrules 135.3(3) and 135.3(4), which has not been registered shall be registered under the following conditions:

a. The tank registration fee under paragraph 135.3(3)*"g"* shall accompany the registration.

b. The storage tank management fee and any late fees under subrule 135.3(5) and paragraph 135.3(3)*"k"* shall be paid for past years in which the tank should have been registered.

c. The department may waive the late fee(s).

135.3(7) *Exemption certificates from the environmental charge on petroleum diminution.* Rescinded IAB 5/19/21, effective 6/23/21.

135.3(8) *Delivery prohibition process.*

a. Identifying sites subject to delivery response prohibition action.

(1) Annual renewal tag and tank management fee process. Owners and operators shall certify to the following on a form prepared by the department when applying for annual tank tags pursuant to subrule 135.3(5):

1. Installation and performance of an approved UST and piping release detection method as provided in rule 567—135.5(455B), including an annual line tightness test and a line leak detector test if applicable.

2. Installation of an approved overfill and spill protection system as provided in paragraph 135.3(1)*"c."*

3. Installation of an approved corrosion protection system as provided in paragraphs 135.3(1)*"a"* and *"b."*

4. If the UST system has been out of operation for more than three months, that the UST system has been temporarily closed in accordance with rule 567—135.15(455B) and a certification of temporary closure has been submitted to the department.

5. If the UST system has been removed or filled in place within the last 12 months, the date of removal or filling in place and whether a closure report has been submitted as provided in rule 567—135.15(455B).

(2) Sites with provisional status. If the UST system has been classified as operating under provisional status as provided in paragraph 135.3(8)*"c,"* owners and operators when applying for annual tank tags pursuant to subrule 135.3(5) must certify on a form prepared by the department that the owners and operators are in compliance with an approved provisional status remedial plan as provided in paragraph 135.3(8)*"c."*

(3) Compliance inspections. The department may initiate a delivery prohibition response action based on: (1) a finding resulting from a third-party compliance inspection conducted pursuant to rule 567—135.20(455B); (2) a department investigation and inspection conducted pursuant to Iowa Code section 455B.475; or (3) review of a UST system check or other documentation submitted in response to a suspected release under rule 567—135.6(455B) or in response to a confirmed release under rule 567—135.7(455B).

b. Delivery prohibition eligibility criteria. A delivery prohibition response action may be initiated upon a finding that the UST system is out of compliance with department rules and meets the eligibility criteria as specified below. Reinstatement criteria define the standards and process for owners and operators to document that they have taken corrective action sufficient to authorize resumption of fuel to the USTs. Prior to initiation of the delivery prohibition, owners and operators are afforded a minimum level of procedural due process such as prior notice and the opportunity to present facts to dispute the finding. Where notice and the opportunity to take corrective action prior to initiation of a delivery prohibition response action are required, notice by the department or by a certified compliance inspector as provided in rule 567—135.20(455B) shall be sufficient.

If the department finds that any one of the following criteria has been satisfied, the department may initiate a delivery prohibition response action following the notice procedures outlined in paragraph *"e"* of this subrule. After initiation of the delivery prohibition response action, the department will offer the owner or operator an opportunity to establish reinstatement criteria by written documentation and, if requested, an in-person meeting.

(1) An approved release detection method for USTs or UST piping is not installed, such as automatic tank gauging, groundwater monitoring wells and line leak detectors, and there is no record that an approved method such as inventory control, statistical inventory reconciliation, or interstitial space monitoring has been employed during the previous three months. If the owner or operator claims to have documentation that an approved release detection method has been conducted, the owner or operator will be given two business days to produce the documentation.

REINSTATEMENT CRITERIA: The owner or operator must submit results of a passing UST system precision tightness test at the 0.1 gallon-per-hour leak rate in paragraphs 135.5(4)*"c"* and 135.5(5)*"b."* The owner or operator must also document installation and operation of an approved release detection system. This may include proof that a contract has been signed with a qualified statistical inventory

reconciliation provider or that a qualified inventory control method has been implemented and training has been provided to onsite supervisory personnel.

(2) No documentation of a required annual line tightness test or line leak detector test has been provided, and the owner or operator has failed to conduct the required testing within 14 days of written notice by the department or a certified compliance inspector as provided in rule 567—135.20(455B).

REINSTATEMENT CRITERIA: The owner or operator must provide documentation of a passing line precision tightness test at the 0.1 gallon-per-hour leak rate in paragraph 135.5(5)*"b"* and a line leak detector test as provided in paragraph 135.5(5)*"a."*

(3) Overfill and spill protection is not installed.

REINSTATEMENT CRITERION: The owner or operator must provide documentation that overfill and spill protection equipment has been installed.

(4) A corrosion protection system is not installed or there is no record that an impressed current corrosion protection system has been in operation for the prior six months.

REINSTATEMENT CRITERIA: A manned entry tank integrity inspection must be completed prior to installation of a corrosion protection system, and the owner or operator must submit results of a passing UST system precision tightness test at the 0.1 gallon-per-hour leak rate in paragraphs 135.5(4)*"c"* and 135.5(5)*"b."* A corrosion protection analysis must be completed and approved by the department.

(5) The owner or operator has failed to provide proof of financial responsibility in accordance with 567—Chapter 136.

REINSTATEMENT CRITERION: The owner or operator must submit acceptable proof of financial responsibility in accordance with 567—Chapter 136.

(6) A qualified UST system release detection method is installed and is being used but the documentation or the absence of documentation is sufficient to question the reliability of the release detection over the past 12-month period. The owner or operator shall be notified of the deficiencies, shall be given at least two business days to produce documentation of compliance and, if necessary, shall be required to conduct a leak detection system analysis and a system tightness test within 14 days. If the owner or operator fails to produce documentation of compliance or to conduct the system analysis and the UST system precision tightness test at the 0.1 gallon-per-hour leak rate in paragraphs 135.5(4)*"c"* and 135.5(5)*"b,"* the department may initiate a delivery prohibition response action. Notice by the department or a compliance inspector as provided in rule 567—135.20(455B) shall be sufficient to initiate a delivery prohibition response action.

REINSTATEMENT CRITERIA: The owner or operator must submit documentation that the leak detection method analysis sufficiently documents compliance and explains the reasons for the accuracy and reliability concerns. If necessary, the owner or operator must submit passing results of a UST system precision tightness test at the 0.1 gallon-per-hour leak rate in paragraphs 135.5(4)*"c"* and 135.5(5)*"b."*

(7) The owner or operator has failed to document completion of a three-year corrosion protection test or to repair defective corrosion protection equipment within 30 days after notice of the violation by the department or a certified compliance inspector as provided in rule 567—135.20(455B).

REINSTATEMENT CRITERION: The owner or operator must submit documentation of a three-year corrosion protection test as provided in rule 567—135.3(455B).

(8) The owner or operator has failed to complete a compliance inspection required by rule 567—135.20(455B) within 60 days after written notice of the violation by the department.

REINSTATEMENT CRITERION: The owner or operator must submit a compliance inspection report as provided in rule 567—135.20(455B).

(9) The owner or operator has failed to take necessary abatement action in response to a confirmed release as provided in subrules 135.7(2) and 135.7(3).

REINSTATEMENT CRITERION: The owner or operator must document compliance with the abatement provisions in subrules 135.7(2) and 135.7(3).

(10) The owner or operator has failed to undertake and document release investigation and confirmation steps within seven days in response to a suspected release as provided in paragraph 135.6(3)*"a."*

REINSTATEMENT CRITERION: The owner or operator must document release confirmation and system check as provided in paragraph 135.6(3)*"a."*

(11) The owner or operator has failed to provide documentation of Class A or B operator training.

REINSTATEMENT CRITERION: The owner or operator must submit a copy of the certificates of training for Class A and B operators.

(12) The owner or operator has failed to install required secondary containment.

REINSTATEMENT CRITERION: The owner or operator must document secondary containment has been installed as provided in subrule 135.3(9).

(13) The owner or operator has failed to pay the annual tank management fee.

REINSTATEMENT CRITERION: The owner or operator must pay the current and any previous unpaid tank management fees in addition to any late fees as provided in paragraph 135.3(5)*"b."*

(14) When tanks are no longer in use or in temporary closure.

REINSTATEMENT CRITERION: The owner or operator must provide a completed Return to Service form along with required documents.

c. Provisional status. The department may classify a UST system as operating under a provisional status when the department documents a pattern of UST operation and maintenance violations under rules 567—135.3(455B) through 567—135.5(455B) and suspected release and confirmed release response actions under rules 567—135.6(455B) and 567—135.7(455B). The department shall provide the owner or operator with a notice specifying the basis for the proposed classification and a proposed remedial action plan. The objective of the remedial action plan is to provide the owner and operator an opportunity to undertake certain remedial actions sufficient to establish a reasonable likelihood that future regulatory compliance will be achieved.

The remedial action plan may include but is not limited to provisions for owner/operator training, development of a facility-specific compliance manual, more frequent third-party compliance inspections than otherwise required under rule 567—135.20(455B), monthly reporting, and retention of a third-party compliance manager/consultant. If the owner or operator and the department cannot reach agreement on a remedial action plan, the department may initiate enforcement action by issuance of an administrative order pursuant to 567—Chapter 10. This provision does not grant the owner or operator an entitlement to this procedure, and the department reserves all discretion to undertake an enforcement action and assess penalties as provided in Iowa Code sections 455B.476 and 455B.477.

d. Administrative orders. The department may impose a delivery prohibition as a remedy for violations of the operation and maintenance provisions in rules 567—135.3(455B) through 567—135.5(455B) and the suspected and confirmed release response actions in rules 567—135.6(455B) and 567—135.7(455B). This remedy may be in addition to the assessment of penalties as provided in Iowa Code section 455B.476 and other appropriate injunctive relief necessary to correct violations.

e. Due process prior to initiation of a delivery prohibition response action.

(1) Prior to imposing a delivery prohibition response action under paragraph 135.3(8)*"b"* above, the department will provide notice to the owner or operator or, if notice to the owner or operator cannot be confirmed, to a person in charge at the UST facility of the basis for the finding and the intent to initiate a delivery prohibition response action. Notice may be by verbal contact, by facsimile, or by regular or certified mail to the UST facility address or the owner's or operator's last-known address. The owner and operator will be given a minimum of one business day to provide documentation that the finding is inaccurate or that reinstatement criteria in subparagraphs 135.3(8)*"b"*(1) through (5) have been satisfied. Additional days and the opportunity for a telephone or in-person conference may be provided the owner and operator to contest the factual basis for a finding under subparagraphs 135.3(8)*"b"*(6) through (14). Additional procedural due process may be afforded the owner and operator on a case-by-case basis sufficient to satisfy Constitutional due process standards.

If insufficient information is submitted to change the finding, the department will notify the owner or operator and a person in charge at the UST facility of the final decision to impose the delivery prohibition response action.

(2) Provisional status. Upon a finding that an owner or operator under provisional status has failed to comply with the terms of a remedial action plan as provided above, the department may initiate a

delivery prohibition response action by giving actual notice to the owner or operator of the basis for the finding of noncompliance and the department's intent to initiate a delivery prohibition response action. The delivery prohibition response action shall not be imposed without providing the owner or operator the opportunity for an evidentiary hearing consistent with the provisions for suspension and revocation of licenses under 567—Chapter 7.

f. Delivery prohibition procedure. Upon oral or written notice that the delivery prohibition response action has been imposed, the owner or operator and any person in charge of the UST facility shall be notified that they are not authorized to receive any further delivery of regulated substances until conditions for reinstatement of eligibility are satisfied. Owners and operators are required to provide the department with names and contact information for all persons who convey or deposit regulated substances to the USTs. The department will attempt to notify known persons who convey or deposit regulated substances to the USTs that they are not authorized to deliver to the USTs until further notice by the department as provided in paragraph 135.3(3)*"j"* and subrule 135.3(5).

The department shall visit the site and affix a "red tag" to the fill pipes or fill pipe caps of all affected USTs. It is unlawful for any person to deposit or accept a regulated substance into a UST that has a "red tag" affixed to the fill pipe or fill pipe cap. The department may allow the owner and operator to dispense and sell the remainder of existing fuel unless the department determines there is an immediate risk of a release or other risk to human health, safety or the environment. The department shall confirm in writing the basis for the delivery prohibition response action, contacts made prior to the action, and steps the owner or operator must take to reinstate fuel delivery.

135.3(9) *Secondary containment requirements for UST system installations.* All new and replacement underground storage tank systems and appurtenances used for the storage and dispensing of petroleum products shall have secondary containment in accordance with this subrule. The secondary containment provision includes the installation of containment sumps.

a. Tanks and piping installed or replaced after November 28, 2007, must have secondary containment that is designed, installed, and maintained according to the performance standards in subrule 135.3(1) and paragraph 135.5(3)*"b."*

(1) The secondary containment may be manufactured as an integral part of the primary containment or constructed as a separate containment system.

(2) At a minimum, the secondary containment must:

1. Contain regulated substances leaked from the UST system until detected and removed.

2. Prevent the release of regulated substances into the environment at any time during the operational life of the underground storage tank system.

3. Be checked for evidence of a release from the tank at least every 30 days as provided in paragraph 135.5(2)*"a."*

b. Testing and inspection. Containment sumps shall be liquid-tight and must be inspected and tested in accordance with the following:

(1) Inspections for secondary containment sumps (spill catchment basins, turbine sumps, transition or intermediate sumps, and under-dispenser containment).

1. Inspections for secondary containment sumps shall consist of visual inspection by an Iowa-licensed installer or Iowa-certified compliance inspector every two years.

2. Containment sumps must be intact (no cracks or perforations) and liquid-tight, including sides and bottom.

3. Containment sumps must be maintained and kept free of debris, liquid, and ice at all times.

4. Regulated substances leaked or spilled into any containment sumps shall be immediately removed.

(2) Secondary containment sumps used for interstitial monitoring of piping shall be tested upon installation and periodically in accordance with subrule 135.4(12).

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