

CHAPTER 134**UNDERGROUND STORAGE TANK CERTIFICATION PROGRAMS**

567-134.1(455B) Scope. The purpose of this chapter is to provide rules for the certification of groundwater professionals, compliance inspectors, and other UST professionals, including certification qualification, fees and administration.

567—134.2(455B) Definitions incorporated by reference. The definitions in 567 IAC Chapter 135, Iowa Code 455B.471, and 40 of ~~40 C.F.R. § 280.12 (2015) Federal Regulations (CFR) 280~~ shall apply to this chapter.

567—134.3(455B) Certification classifications for individuals and companies

134.3(1) A separate certification will be issued for:

- a. UST installers;
- b. UST removers;
- c. UST testers;
- d. UST cathodic protection testers;
- e. UST liners;
- f. UST installation inspectors;
- g. UST compliance inspectors;
- h. Groundwater professionals;
- i. UST professional companies

134.3(2) A company employing certified individuals for compliance inspections, installation, upgrading, removal, lining or testing of UST systems shall be certified as a company. A company may have its certification revoked if it employs uncertified individuals to do work requiring a certification.

134.3(3) Service technicians as defined in 567 – 135 are exempt from certification under this chapter.

567-134.4(455B) General certification requirements

134.4(1) Applications and certificates

a. Applications for certifications shall be submitted on a form provided by the department along with all required supporting documentation. Certificates shall be issued and renewed on a two-year calendar basis. Groundwater professional certificates expire on December 31 of each odd numbered year and all other certificates expire on December 31 of each even numbered year. All applicants must be at least 18 years of age.

b. Applications shall contain the following information:

- (1) Evidence that the applicant meets the experience, education, and other qualification prerequisites contained in this chapter for each certification.
- (2) Contact information for the applicant.
- (3) Other information necessary for a determination of the applicant's qualifications.

134.4(2) Certification fees. A \$200 fee shall be submitted for each groundwater professional certification. For all other certifications, a \$200 fee shall be submitted with each application for an initial company and individual certification application, including when an individual applies for multiple non-groundwater professional certifications using a single DNR-approved form. Fees non-refundable, are payable to the Department of Natural Resources, and will not be prorated.

134.4(3) Reciprocity. Persons who are certified as a UST installer, installation inspector, tester, liner, or remover under another state or federal regulatory program which has been approved by the department may be eligible for certification in Iowa without having to take a course of instruction or pass the examination. Applicants for reciprocity shall still pay the application fee and follow certification renewal requirements.

567-134.5(455B) Liability insurance

134.5(1) Environmental liability insurance All certificate holders, except for compliance inspectors and groundwater professionals, must hold environmental liability insurance as required by Iowa Code 455B.474(10). A certified company may provide insurance for all of its employees who are UST certificate holders.

134.5(2) Employer exception. UST professionals employed by owners or operators of UST systems to work only on the owner's or operator's private system(s) are exempt from insurance requirements.

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Commented [RC18]: Iowa Code 455B.474(10)g states that reciprocity can be given "upon demonstration that the out-of-state certification criteria is substantially equivalent to rules adopted by the commission." This provision is under the section that gave original authority to the Dept for Part C of current 134, so CGPs and compliance inspectors are not included here, and 134 also explicitly states that CP Testers must maintain specific other certification, so they are also not included.

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134.5(3) Forms of acceptable insurance. All parties certified by this chapter, except groundwater professionals and compliance inspectors, will provide evidence of environmental liability insurance to the department.

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

b. Evidence of environmental liability insurance may be provided using methods of self-insurance as outlined in 567—136.

134.5(4) 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.

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567-134.6(455B) Training courses and examinations

134.6(1) Requirements

a. Prior to the issuance of a certification as a groundwater professional, installer, installation inspector, or remover, the applicant will successfully complete a department-led or department-approved training course and pass a qualification examination offered or approved by the department.

b. Examination requirements for all individual certificate holders.

(1) A passing grade of not less than 75 percent is required on the respective examinations for installers, installation inspectors, removers and compliance inspectors. A passing grade of not less than 70 percent is required on the groundwater professional examination.

(2) Applicants who have failed the examination may not perform work unless supervised by an appropriately certified individual.

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

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

c. An applicant who receives less than a passing score on an examination may retake the test within 180 days without reapplying. The application of an applicant who fails the second examination will be denied. An applicant who fails the second examination may reapply for certification, but may not retake the examination until the applicant has successfully completed a course of instruction that is administered or approved by the department and which is administered after the applicant's second test.

134.6(2) Educational offering requirements

a. The requirement for educational offerings may be met only by those courses which have been approved by the department.

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

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

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

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

c. Procedures for course approval

(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 education offering.

(2) 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.

d. Proof of participation. Any approved course must provide participants a certificate of satisfactory completion of the course or provide the department a list of participants who have satisfactorily completed the course.

134.6(3) Exceptions to required training

a. An applicant may be issued a compliance inspector certification without the required training if all other requirements are satisfied and the required training is not offered within 60 days of the date of application. The applicant must attend required training when required training is next offered. If an applicant receives a

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certification under this temporary exception, the individual must attend required training, if offered, before renewal of the certification.

b. If an applicant receives a compliance inspector certification under the temporary training exception above all compliance inspection activities must be conducted under the supervision of a trained Iowa-certified compliance inspector. Supervision does not require the trained Iowa-certified compliance inspector to be on site for compliance inspections conducted by the inspector who has not completed the required training. The trained Iowa-certified compliance inspector must co-sign compliance inspections conducted by the inspector who has not completed the required training.

c. Cathodic protection testers are not required to complete a course of instruction but are required to maintain AMPI certification, STI cathodic protection certification or equivalent certification approved by the department.

134.6(4) Exemption from examination

a. A professional engineer exempted from groundwater professional certification examination pursuant to provision Iowa Code 455B.474(9)(g) must meet the continuing education requirements of 567-134.8(2) for the exemption to apply.

b. An engineer who is conducting business as an installation inspector or remover and who has met the requirements in Iowa to be a registered professional engineer (P.E.) is exempt from the educational requirements so long as UST related work is in the scope of the engineer's P.E. license and regular practice. Professional engineers must meet the continue education requirement of 567-134.8 for this exemption to apply.

567-134.7(455B) Certification issuance. Upon receipt, review, and acceptance of an application and corresponding fee, the department will furnish the applicant with a certificate showing the name of the individual or company, and the expiration date.

567-134.8(455B) Certification renewal

134.8(1) Renewal period. Applications for renewal must be submitted on a form provided by the department and no later than 30 days prior to the expiration date. If a certificate holder fails to renew the certification by the expiration date, the department may grant a grace period during which the applicant may submit the application and payment of the renewal fee.

134.8(2). Renewal requirements.

a. The renewal application shall be accompanied by a \$200 renewal fee. Company renewal applications will include proof of liability insurance as required under 567-134.5. Applications received after the December 1 deadline will be accepted with an additional \$50 late fee.

b. To be eligible for renewal, an individual certificate holder shall fulfill all continuing education requirements, along with any other requirements set forth in each certification classification rule in this chapter. The department will consider all past disciplinary actions against the certificate holder when evaluating renewal eligibility.

134.8(3) Continuing education

Individual certificate holders must complete continuing education requirements as follows.

a. Groundwater professionals must complete 12 hours of continuing education every two years in the areas relating to underground storage tank contamination assessment and corrective action activities.

b. Cathodic protection testers must complete continuing education sufficient to maintain AMPP (NACE) or STI cathodic protection certification, or department-approved equivalent certification.

c. All other certificate holders must complete 8 hours of department approved continuing education every 2 years.

d. Proof of completion of continuing education must be submitted to the department no later than the date of each renewal application. The department may limit the number of hours granted for similar courses during a renewal period.

e. An individual's first certification period's continuing education requirements can be waived. Continuing education hours cannot be carried forward to the next renewal period.

f. Courses other than those currently approved by the department may be submitted to the department for consideration of approval.

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567-134.9(455B) Groundwater professional certification requirements In order to be certified as a groundwater professional, a person must meet one or more of the criteria described in Iowa Code section 445B.474(9). For a person to qualify under Iowa Code section 455B.474(9)(b)(4), at least two years of related formal education is required. Per 455B.474(9)(c), for persons qualified to be certified under this rule, the failure to obtain a certificate prior to conducting applicable work will result in a fifty-dollar civil penalty.

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567-134.10(455B) UST compliance inspector certification requirements

134.10(1) Qualifications

a. A person retained by an owner or operator of a UST facility for the purpose of determining compliance of a UST system for a compliance inspection required by the department under 567—135.19 must hold a current UST compliance inspector certification issued by the department.

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b. Inspector certification will be issued by the department to a person who:

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(1) Meets the certification requirements listed under 567—134.6;

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(2) Satisfies one of the following:

1. Is a certified installer;

2. Is a certified installation inspector;

3. Has participated on a minimum of 50 onsite compliance inspections with a certified compliance inspector;

4. Has two years of experience working with petroleum equipment, including installations, maintenance, or testing; or

5. Has other relevant experience approved by the department; and

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(3) Is not found to be in violation of this chapter and has not had a UST professional certification revoked by the department.

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134.10(2) Renewal qualifications. To be eligible for certification renewal, a compliance inspector shall have:

a. Fulfilled the department's continuing education requirements in 567—134.8; and

b. Conducted at least 12 compliance inspections in the past two years.

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134.10(3) UST compliance inspector responsibilities

a. The UST compliance inspector shall conduct a compliance inspection in accordance with this rule and 567—135. 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.

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b. *Inspection process* 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:

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(1) The inspector shall notify the owner and operator of any violations or deficiencies related to 567—135 or other applicable state or federal law, and those specific actions necessary to correct the violations or deficiencies.

~~(2) The inspector shall immediately upon discovery notify the owner and operator of a suspected release as provided in 567—135.6. 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 and of their duty to take necessary steps to investigate and confirm suspected releases within the time frames specified in 567—135.6. The inspector shall record in the inspection report submitted to the department the date and time of the notice to the owner and operator.~~

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~~(3)(2)~~ The inspector shall notify the owner and operator of applicable time frames to correct violations or deficiencies if established in 567—135, or within 60 days of receipt of the inspection report or another reasonable time period approved by the department.

~~(4)(3)~~ A final electronic report shall be submitted to the department and a copy provided to the owner and operator as provided in 567-134.10(3)c, 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.

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c. *Electronic inspection reporting.* The inspector shall prepare an electronic report in accordance with the following:

(1) 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.

(2) The department will develop a generally compatible electronic platform using XML language or other approved format. 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 website.

(3) 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.

d. *Evidence of violations or deficiencies.* Any evidence of violations or deficiencies observed during the inspection must be photographed using a digital photo. 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.

e. *Records.* The inspector must provide any inspection records provided by the owner and operator to the department upon request.

f. *Inspection technical requirements.* An inspector of a UST system must check for compliance with the technical standards of 567—135 following the department's guidance. The inspection of a UST system currently in operation shall include, but not be limited to, the following:

(1) The material currently stored in the UST.

(2) The type of tank and lines currently at the site as compared to the registered information on the department's database.

(3) Checking site records demonstrating operational compliance, 567—135.4(5).

(4) Checking release detection records, 567—135.5(6).

(5) 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).

(6) Current operating status of cathodic protection system, if present.

(7) Presence and operational condition of spill and overfill equipment, 567—135.3(1)c.

134.10(4) 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 onsite responsibility for the operation and maintenance of the UST system.

567-134.11(455B) UST installer certification requirements

134.11(1) Certification qualifications. An installer of an UST system shall apply for a certification as an installer. In addition to the certification requirements listed under 567—134.6, an installer must:

a. Provide documentation of at least 2 years of relevant experience;

b. Provide documentation of manufacturer certification for work including, but not limited to, tank systems, piping systems, leak detection and monitoring systems, and corrosion protection systems; and

c. Have completed a 40-hour OSHA Hazardous Waste Operations and Emergency Response (HAZWOPER) training.

134.11(2) Renewal qualifications. To be eligible for certification renewal, an installer shall:

a. Fulfill the department's continuing education requirements in 567—134.8;

b. Maintain manufacturer certification; and

c. Complete an annual 8-hour HAZWOPER refresher course.

134.11(3) Responsibilities

a. A certified 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 certified 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.

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b. Local permits and notification. The certified installer is responsible for ensuring that all local installation permits and notice requirements are satisfied.

c. Work performed. UST system installation includes all work associated with the placement of the tanks, piping, pumps, dispensers, gauging systems, monitoring systems, corrosion protection, containment sumps, spill and overfill devices, and ancillary systems which, if installed incorrectly, could cause or delay detection of a leak. 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.

d. Testing of UST equipment. Spill prevention equipment, containment sumps and UDC at new installations must be tested to ensure the equipment is liquid-tight before the UST system is placed into service. Acceptable test methods include vacuum, pressure or liquid testing used in accordance with requirements developed by the manufacturer, a code of practice such as PEI RP1200 or methods determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

134.11(4) Documentation of work performed. Installing a new UST system or upgrading a UST system requires an installer to submit the department forms and testing documents applicable to the installation, signed by the owner, to the department no later than 30 days after the final third-party inspection or 30 days after completion if no inspection is required. Each certified installer responsible for the new system installation or the upgrading of an existing system shall sign DNR Form 148 as required by 567—135.3(3)e. Secondary containment testing performed at installation or to meet periodic testing requirements shall be recorded on the department's Secondary Containment Testing form *or other department approved form*. Test results shall be dated and signed by the certified installer who performed the test.

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567-134.12(455B) UST Tester certification requirements

134.12(1) Certification and qualifications. A tester of UST systems shall apply for certification as a tester. A person engaging in testing described in 567-134.12(3)a(2) need not be certified if that person is under the supervision of an individual certified under 567-134 when conducting those tests. In addition to the certified requirements listed under 567—134.6, a tester shall provide documentation of the following:

- a.* Current manufacturer certification(s) for equipment being used for testing; and
- b.* Experience as documented by at least one of the following:
 - (1) One year of relevant experience
 - (2) Completion of a minimum of 80 onsite tests with a certified tester; or
 - (3) Other relevant experience as approved by the department.

134.12(2) Renewal qualifications. To be eligible for certification renewal, a tester shall fulfill the department's continuing education requirements in 567—134.8 and shall maintain manufacturer certification.

134.12(3) Responsibilities of testers

a. The certified tester is responsible for testing tanks, lines, leak detection systems, or monitoring systems as required by 567—135 and this chapter.

(1) 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.

(2) A certified tester may also perform periodic testing of spill prevention equipment and overfill devices, containment sumps and UDC as required by 567—135. Spill prevention equipment, containment sumps and UDC at new installations must be tested to ensure the equipment is liquid-tight before the UST system is placed into service. Acceptable methods include vacuum, pressure or liquid testing used in accordance with requirements developed by the manufacturer, a code of practice such as PEI RP1200 or methods determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

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(3) An individual does not need to be certified to conduct periodic testing of spill prevention equipment, containment sumps, and UDC as required by 567—135.4(12).

(3)–(4) A UST tester must have manufacturer training completed to test a specific manufacturer system or component, if manufacturer certification is applicable.

b. *Exception to inspection requirement.* Installation inspectors are not required for the testing of UST systems, lines, leak detection, and cathodic protection as required by 567—135 after the system has been put into service.

134.12(4) Documentation of work performed. A copy of the test results shall be attached to DNR Form 148 when testing is done in connection with an installation. The test results shall identify the tanks and piping tested, the test method employed, and the results of the test. Periodic testing shall be recorded on the department's Secondary Containment Testing form *or other department approved form*. Test results shall be dated and signed by the certified tester who performed the tests.

567-134.13(455B) UST liners certification requirements

134.13(1) Certification and qualifications. A person installing the lining for a UST system shall be certified as a liner. In addition to the certification requirements listed under 567—134.6, a liner shall provide documentation of at least two years of relevant experience, provide documentation of *current* manufacturer certification, and have completed a 40-hour OSHA Hazardous Waste Operations and Emergency Response (HAZWOPER) training.

134.13(2) Renewal qualifications. To be eligible for certification renewal, a liner shall:

- Fulfill the department's continuing education requirements in 567—134.8;
- Maintain manufacturer certification; and
- Complete an annual 8-hour HAZWOPER refresher course.

134.13(3) 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—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—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.

c. *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.

567-134.14(455B) UST installation inspector certification requirements

134.14(1) Certification and qualifications. A person inspecting the installation of any UST system shall be certified as an installation inspector. In addition to the certification requirements listed under 567—134.6, an

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installation inspector shall provide documentation of at least two years of relevant experience and documentation of current manufacturer certification.

134.14(2) *Renewal qualifications.* To be eligible for certification renewal, an installation inspector shall fulfill the department's continuing education requirements in 567—134.8 and shall maintain manufacturer certification.

134.14(3) *Installation inspector responsibilities*

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.* An installation inspector shall inspect the job site a minimum of three times during the course of the new tank installation or system upgrade.~~

e-b. 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.

~~*d-c.* *Inspections required.*~~ Inspections are 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. Inspections shall occur when the component is uncovered and replaced or repaired and during testing when required (i.e., piping replacement or repair) but before operation recommences.

(1) An inspection shall occur before the tanks or piping are installed.

(2) An inspection shall occur before the covering of tank or piping, when all tanks and piping 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.

(3) A final inspection shall occur when all components are operational and the system has been covered, but before actual operation.

(4) Whenever secondary containment (such as sumps or UDC) is installed, at least one inspection is required after the equipment is installed and before the system is backfilled.

~~*e-d.* *Inspection not required.*~~ Replacing, repairing or installing the following does not require an inspection: drop tubes, overfill 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.

f-e. *Pre-work notification requirement*

(1) A certified company/individual hired by an owner/operator to perform work shall notify the owner's/operator's certified 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.

(2) 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 certified 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.

(3) 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.

g-f. *Pre-installation and installation checklist*

(1) The certified 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.

(2) 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.

Commented [RC91]: 134.27

Commented [RC92]: 134.27(1)

Commented [RC93]: Taken out as number of inspections is specified by type below in new paragraph "c".

Commented [RC94]: 134.27(2)

Commented [RC95]: 134.27(3)

Commented [RC96]: 134.27(4)

Commented [RC97]: 134.27(5)

Commented [RC98]: 134.27(6)

134.14(4) Conflict of interest. In addition to the conflict-of-interest provisions outlined in 567—134.16, the department may require the owner/operator to seek alternative inspection services for any reason deemed prudent to ensure quality installations.

Commented [RC99]: 134.27(7)

134.14(5) Miscellaneous requirement. An installation inspector has the right to postpone work or to stop work on a job if standards as outlined in 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.

Commented [RC100]: 134.27(8)

567-134.15(455B) UST remover certification requirements

134.15(1) Certification and qualifications. A person removing any UST system shall be certified as a remover. In addition to the certification requirements listed under 567—134.6, a remover shall provide documentation of at least 2 years of removal or other relevant experience, and complete a 40-hour OSHA Hazardous Waste Operations and Emergency Response (HAZWOPER) training.

Commented [RC101]: 134.28

134.15(2) Renewal qualifications. To be eligible for certification renewal, a remover shall:

- Fulfill the department's continuing education requirements in 567—134.8;
- Comply with department-issued UST closure guidance in 567-135; and
- An annual 8-hour HAZWOPER refresher course.

Commented [RC102]: 134.28(1)

134.15(3) Responsibilities and documentation of work performed. A certified 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 OSHA safety requirements. 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—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—135.15(3)e. Removers shall ensure that all local permits and notice requirements are satisfied.

Commented [RC103]: 134.28(2)

567-134.16(455B) Conflict of interest.

134.16(1) A certified individual or a company may not conduct a UST installation inspection ~~or compliance inspection~~ at any facility at which the certificate holder is engaged in other professional services regulated under this chapter.

Commented [RC104]: Going back to language of current chapter 134

134.16(2) A person working for certified 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 certified company. If a certified individual is no longer employed by a certified company, the certified company shall notify the department within 30 days of that occurrence.

Commented [RC105]: 134.21

567-134.17(455B) Duty to report. Any UST professional certified as a compliance inspector, installer, installation inspector, tester, liner, or remover shall timely report suspected and confirmed releases within 24 hours of discovery (6 hours if a hazardous condition exists) as described in 567—135.6 to the owner and operator. 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 567—135.6. The UST professional shall report 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 567—135.6 directly to the department.

Commented [RC106]: 134.22

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 which are generally accepted within the professions which qualify a person for certification in Iowa. The department intends to investigate and enforce standards of conduct by a certificate holder which 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.

Commented [RC107]: 134.4(1), 134.15(1), 134.29(1)

b. The suspension or revocation of a certificate holder shall prevent the certificate holder from engaging in activities for which certification is required. A certificate holder shall immediately surrender their 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 567—134.18(4).

134.18(1) 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.
- d. Insufficient proof of qualifications required under 567—134.9.
- 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 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 which the person knew or should have known and which 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—131 and 567—135.6.
- 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, division IV, part 8.

m. 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:

- (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(2) 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.
- (4) Repeated failure to conduct compliance inspections and submit reports in accordance with the standards set out in 567—134.10.
- (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.

Commented [RC108]: 134.15(4)

Commented [RC109]: 134.15(6), 134.16(2), 134.29(3)c, 134.29(4)b

Commented [RC110]: 134.4(3)

Commented [RC111]: 134.4(4)

Commented [RC112]: 134.15(3), 134.15(5)

- 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—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.
 - (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 or 567—134.14.

Commented [RC113]: 134.16(1)

134.18(3) Reasons for discipline for all other UST professionals

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.

Commented [RC114]: 134.29(3)

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—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.

Commented [RC115]: 134.29(4)

134.18(4) 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.

Commented [RC116]: 134.4(5)a

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.

Commented [RC117]: 134.4(5)b

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 561—7. In accordance with 561—7.5(2), the department shall initiate pleading by the filing of a petition.

Commented [RC118]: Review references for 561-7 later – could change during EO10.

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 561—7.15(7), after issuance of a proposed decision.

Commented [RC119]: 134.4(5)c, 134.15(2), 134.29(2)

134.18(5) Noncompliance with support order procedures. Upon receipt of a certification of noncompliance with a support obligation as provided in Iowa Code 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 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 252J.8(4)c. Pursuant to Iowa Code 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 252J.9.

Commented [RC120]: 134.4(5)d

Commented [RC121]: 134.4(2), 134.4(6), 134.19

These rules are intended to implement Iowa Code section 455B.474 and chapter 252J.