

ENVIRONMENTAL PROTECTION COMMISSION[567]

Regulatory Analysis

Notice of Intended Action to be published: 567—Chapter 136
“Financial Responsibility for Underground Storage Tanks”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 455B.474

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 455B, subchapter IV, part 8, and 40 CFR Parts 280 and 281

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows. Persons who wish to attend the conference call should contact Keith Wilken via email. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to Keith Wilken prior to the hearing to facilitate an orderly hearing.

September 24, 2025
9 to 10 a.m.

6200 Park Avenue, Suite 200
Des Moines, Iowa
also via videoconference call

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at USTEO10@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.360.1671 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al USTEO10@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515. 360.1671 al menos siete días antes del evento.

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Keith Wilken
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.681.0794
Email: USTEO10@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at USTEO10@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al USTEO10@dnr.iowa.gov.

Purpose and Summary

Proposed Chapter 136 establishes financial responsibility requirements for owners and operators of petroleum underground storage tanks (USTs).

The purpose of these rules is to ensure that owners and operators of petroleum USTs can demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from operation of petroleum USTs.

Iowa's UST rules have been approved by the U.S. Environmental Protection Agency (EPA) into Iowa's required State Program Approval (SPA).

Analysis of Impact

1. Persons affected by the proposed rulemaking:

• **Classes of persons that will bear the costs of the proposed rulemaking:**

Owners and operators of petroleum USTs will bear the costs of the proposed rulemaking. These costs are unchanged from the existing financial responsibility rules in Chapter 136.

• **Classes of persons that will benefit from the proposed rulemaking:**

Citizens of Iowa, owners and operators of USTs, and related businesses and industries in Iowa will benefit from the proposed rulemaking.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

• **Quantitative description of impact:**

The impact will be neutral relative to the costs of implementing the existing UST rules in 567—Chapter 135.

• **Qualitative description of impact:**

Owners and operators of petroleum USTs must comply with the financial responsibility requirements outlined in this chapter. The costs of complying with these requirements vary by the size of the facility, the age of the facility, the tank system construction materials, the type and quantity of substance stored, the location, the compliance status of the facility, desired coverage limits and deductibles, past claims history, and the private insurance company through which an insurance premium is purchased. Regardless, the impact will be neutral relative to the costs of implementing the existing UST rules in 567—Chapter 135.

3. Costs to the State:

• **Implementation and enforcement costs borne by the agency or any other agency:**

Costs to the Department are within the confines of current funding sources and are attributed to staff time in administering and enforcing the financial responsibility requirements of this chapter.

• **Anticipated effect on State revenues:**

The proposed chapter will have a neutral impact on State revenues because the UST rules were already being implemented.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction is neutral since the financial responsibility requirements of this chapter were already being implemented. Moreover, financial responsibility rules are required by State and federal law.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

There are no less costly or intrusive methods to accomplish the benefit. UST financial responsibility regulations are required by Iowa Code section 455B.474 and the Code of Federal Regulations Parts 280 and 281.

6. Alternative methods considered by the agency:

• **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered by the agency.

• **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

UST tank financial responsibility regulations are required by State and federal law.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Based on the federal and State regulations, all financial responsibility for petroleum USTs must be regulated in a similar fashion regardless of ownership entity.

Text of Proposed Rulemaking

ITEM 1. Rescind 567—Chapter 136 and adopt the following **new** chapter in lieu thereof:

CHAPTER 136

FINANCIAL RESPONSIBILITY FOR UNDERGROUND STORAGE TANKS

567—136.1(455B) Applicability.

136.1(1) This chapter applies to owners and operators of all petroleum underground storage tank (UST) systems, except as otherwise provided in this rule.

136.1(2) State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States are exempt from the requirements of this chapter.

136.1(3) The requirements of this chapter do not apply to owners and operators of farm or residential tanks of 1,100 gallons or less capacity installed prior to July 1, 1987, or any UST system described in 567—paragraph 135.1(3) “b” or 567—subparagraph 135.1(3) “c”(1), “c”(3) or “c”(4).

567—136.2(455B) Policy; adoption by reference.

136.2(1) It is the policy of the commission to ensure consistency, equity, and efficiency in providing financial responsibility for Iowans and the businesses providing services to Iowans that owners and operators of UST systems in this state must comply with the provisions of the federal rules requiring and regulating the financial assurance of UST systems. This rule shall be interpreted in a manner consistent with this policy.

136.2(2) The commission hereby adopts by reference 40 CFR Chapter I, Subchapter I, Part 280, Subpart H (2015), subject to the following conditions:

a. All uses of “Agency,” “Environmental Protection Agency,” “EPA,” and “implementing agency,” and any reference to the regional offices of the Environmental Protection Agency, shall be replaced with “Department of Natural Resources,” except where the context of the rule requires notice or submission to both federal and state entities, in which case the replacement language shall be in addition to the original language.

b. All uses of “Administrator” and “regional administrator,” and any reference to the designee of either, are replaced with “the director of the Department of Natural Resources or their designee,” except where the context of the rule requires notice or submission to both federal and state entities, in which case the replacement language shall be in addition to the original language.

c. 40 CFR 280.100 is not adopted by reference.

d. 40 CFR 280.101 is not adopted by reference.

These rules are intended to implement Iowa Code sections 455B.424 and 455B.474.