

Statutes and Regulations **Underground Storage Tank Systems**

September 2019

(Centralized Statutes and Regulations not included)



DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT

***DIVISION OF CORPORATIONS, BUSINESS
AND PROFESSIONAL LICENSING***

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**ARTICLE 6.
UNDERGROUND STORAGE TANK SYSTEMS.**

Section

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Secs. 46.03.360, 46.03.363. Board of storage tank assistance; Reports. [Repealed, Sec. 2 ch 102 SLA 2006.]

Sec. 46.03.365. Regulation of underground petroleum storage tank systems. (a) The department shall develop a program to abate and prevent pollution from underground petroleum storage tank systems through the adoption of regulations under AS 44.62 (Administrative Procedure Act). Consistent with other provisions in AS 46.03.360 - 46.03.450, the regulations may govern

- (1) notification and registration;
 - (2) inspection and record keeping;
 - (3) construction, installation, and performance;
 - (4) maintenance, operation, and repair;
 - (5) technical standards, including standards for spill and overfill control, corrosion prevention, and release detection and reporting;
 - (6) financial responsibility;
 - (7) certification of underground petroleum storage tank system workers;
 - (8) corrective action and cost recovery;
 - (9) closure and abandonment;
 - (10) enforcement of regulations; and
 - (11) prevention of releases to protect the public health and environment.
- (b) In the regulations adopted under (a) of this section, the department may
- (1) distinguish among the sizes, types, classes, locations, and ages of underground petroleum storage tank systems;
 - (2) provide for exemptions and deferrals determined to be necessary by the department; exemptions and deferrals under this paragraph must be consistent with those granted under federal laws and regulations.
- (c) When the regulations adopted under this section address areas governed by federal laws or regulations, the state regulations must be consistent with federal laws and regulations and may not be more stringent than the federal laws and regulations.
- (d) *[Repealed, Sec. 2 ch 102 SLA 2006.]*

Sec. 46.03.370. Educational assistance. The department shall provide

- (1) educational assistance to owners and operators of underground petroleum storage tank systems to help them comply with federal and state laws and regulations applicable to the tank systems, including the registration and notification requirements under AS 46.03.380 - 46.03.400;
- (2) the public with information to help the public understand the effects associated with the release of petroleum and chemical products into the environment, including releases from petroleum and chemical storage tank systems.

Sec. 46.03.375. Certification of storage tank workers. (a) The department shall adopt regulations governing the certification of persons who install, test, close, repair, or significantly change the configuration of underground petroleum storage tanks and tank systems. The certification program shall be administered by the Department of Commerce, Community, and Economic Development. In consultation with the Department of Environmental Conservation, the Department of Commerce, Community, and Economic Development shall make every reasonable attempt to ensure that opportunities for obtaining certification under this section are available throughout the state. The Department of Commerce, Community, and Economic Development shall organize presentation of national training courses that are available in the state and assist residents of isolated communities who request assistance in becoming certified. The Department of Commerce, Community, and Economic Development may contract with the University of Alaska, a vocational technical school, or a regional nonprofit organization to provide the education and testing necessary for certification.

(b) The Department of Commerce, Community, and Economic Development shall establish fees applicable to certification under this section in an amount necessary to cover the costs of the certification program. The fees shall be collected by the Department of Commerce, Community, and Economic Development.

(c) Except as provided in (d) of this section, a person may not install, test, close, repair, or significantly change the configuration of an underground petroleum storage tank or tank system unless that person is certified for the appropriate activity under (a) of this section. A person who violates this subsection is guilty of a class B misdemeanor.

(d) A person may install, test, close, repair, or significantly change the configuration of an underground petroleum storage tank or tank system without being certified under this section if

(1) the person performs the work under the direct supervision of another who is certified for that work under this section;

(2) the supervisor inspects the work performed; and

(3) after inspection, the supervisor approves the work in writing.

(e) AS 44.62 (Administrative Procedure Act) applies to regulations and certifications under this section.

(f) The department shall develop and maintain lists of persons certified under this section to perform the various activities related to underground petroleum storage tanks and tank systems. The department shall provide the lists on request to interested persons.

(g) In this section, "close" means to remove petroleum and sludges from the tanks in the tank system and either fill the tanks with inert solid material or remove, dismantle, and dispose of the tanks.

Sec. 46.03.380. Registration of tanks and tank systems. (a) A person, including a governmental entity or institution, or a public corporation, who intends to install, have installed, return to operation, or acquire ownership of an underground petroleum storage tank or tank system shall, before the installation or return to operation, or 30 days after acquisition, register the tank or tank system with the department on a form provided by the department and pay the tank registration fee required under AS 46.03.385.

(b) The owner or operator of an underground petroleum storage tank or tank system that was installed before and is still in use on September 5, 1990 shall register the tank or tank system with the department on a form provided by the department and pay the tank registration fee required under AS 46.03.385. For each tank or tank system registered under this subsection that was installed before December 22, 1988, the owner or operator shall provide to the department at the time of registration

(1) proof of plans for prompt site assessment or testing for tank tightness;

(2) proof of tank tightness testing or site assessment that occurred within the previous 12 months and

(A) satisfactory performance of the tank or tank system during the test, proof of noncontamination if a site assessment was performed, and proof of compliance with applicable state financial responsibility requirements; or

(B) if the tank or tank system did not perform satisfactorily during the test, or the site assessment showed evidence of contamination, a summary of the upgrading, repair, containment, or cleanup efforts that have been or will be used for the tank, tank system, or site.

Sec. 46.03.385. Registration fee. (a) At the time of registration under AS 46.03.380, and annually thereafter, the owner or operator shall pay to the department a registration fee for each tank registered unless the owner or operator has notified the department under AS 46.03.395 that the tank has been taken out of service. An underground storage tank that has leak detection, spill and overflow protection, and corrosion protection that meet requirements of the department is subject to a \$50 annual registration fee, regardless of tank capacity. An underground storage tank system that lacks any or all of these features is subject to an annual registration fee of

(1) \$150 if the underground storage tank capacity is less than 1,000 gallons;

(2) \$300 if the underground storage tank capacity is 1,000 - 5,000 gallons;

(3) \$500 if the underground storage tank capacity is over 5,000 gallons.

(b) An underground petroleum storage tank or tank system owned or operated by the federal or state government is exempt from the registration fee in (a) of this section.

(c) A registration fee that is not paid within 30 days of when it is due shall be increased by a late payment fee equal to \$10 per day until the day of payment.

(d) The first annual fee under this section must be accompanied by the information required under AS 46.03.400. Subsequent annual fees must be accompanied by the names and addresses of the owner and operator of the tank system, and the location and capacity of, and substance being stored in, the tanks for which the fee is being submitted.

(e) *[Repealed, Sec. 2 ch 102 SLA 2006.]*

Sec. 46.03.390. Notification of changes in tank systems. An owner or operator who intends to significantly change the configuration of an underground petroleum storage tank system shall notify the department before beginning work on the change by completing and returning to the department a notification form obtained from the department.

Sec. 46.03.395. Notification of tank system closure. If an underground petroleum tank or storage tank system is taken out of operation, the owner or operator of the tank or tank system, or an agent on the owner's or operator's behalf, shall provide on forms obtained from the department

(1) notification of that fact to the department at least 15 days, but not more than 60 days, before the date the tank or tank system will be taken out of operation unless the tank or tank system is taken out of operation because of an emergency; in emergency situations, the owner or operator shall provide notification as promptly as possible under the circumstances; and

(2) evidence satisfactory to the department within 30 days after the tank or tank system is taken out of operation that the owner or operator has complied with applicable state and federal laws and regulations governing temporary or permanent tank closure.

Sec. 46.03.400. Registration forms. The registration forms required under AS 46.03.380 - 46.03.395 must require information about the geographical location of a tank or tank system, the estimated age of the tanks and tank system, the total capacity, type of construction, internal and external protection, and piping of the tanks and tank system, and the substance currently or proposed to be stored in the tank system. If the tank or tank system is newly installed, the owner or operator shall certify that the owner or operator has complied with installation, release detection, corrosion protection, and financial responsibility requirements of state and federal law.

Sec. 46.03.405. Prohibitions. A person, including a governmental entity or institution or a public corporation, may not operate an underground petroleum storage tank or tank system unless

(1) the tank and tank system are registered with the department as provided in AS 46.03.365 - 46.03.450 or other law; and

(2) the person has provided to the department proof of financial responsibility to the extent required under regulations adopted under AS 46.03.365 or proof of application for arrangements that would satisfy state financial responsibility requirements.

Sec. 46.03.410. Underground storage tank revolving loan fund. [Repealed, Sec. 2 ch 102 SLA 2006.]

Sec. 46.03.415. Tank tightness and site assessment incentive program. [Repealed, Sec. 14 ch 70 SLA 1999.]

Sec. 46.03.420. Tank cleanup program. [Repealed, Sec. 21 ch 41 SLA 2002.]

Sec. 46.03.422. Tank cleanup loan program. [Repealed, Sec. 2 ch 102 SLA 2006.]

Sec. 46.03.430. Tank upgrading and closure program. [Repealed, Sec. 20 ch 41 SLA 2002.]

Sec. 46.03.440. Confidentiality of financial records. (a) Financial records submitted to the department or to the former Board of Storage Tank Assistance by the owner or operator of an underground petroleum storage tank system are confidential and not subject to inspection or copying under AS 40.25.110 - 40.25.120. The department, in consultation with the affected owner or operator, shall determine which information is confidential under this subsection.

(b) The confidentiality conferred by (a) of this section does not apply to statistical information compiled by the department about the number, capacity, and location of underground petroleum storage tank systems in the state.

Sec. 46.03.450. Definitions. In AS 46.03.365 - 46.03.450,

(1) "chemical" means any substance defined in 42 U.S.C. 9601(14) (sec. 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980), as amended, and any substance having the characteristics identified or listed under 42 U.S.C. 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of whether the substance is a solid waste;

(2) "corrective action" means action necessary to stop the migration, determine the extent, and undertake recovery of petroleum after its unpermitted release; clean up affected soil and groundwater; and stabilize the site of the release to prevent or remove hazards to public health or the environment;

(3) "farm" means a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements; "farm" includes fish hatcheries, rangelands, and nurseries with growing operations;

(4) "petroleum" means crude oil or any fraction of crude oil that is liquid at 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute; "petroleum" includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils;

(5) "release" has the meaning given in AS 46.08.900;

(6) "site assessment" means investigation of suspected underground petroleum storage tank system leaks and source identification;

(7) "tank system" means an underground petroleum storage tank system;

(8) "underground storage tank" means one or a combination of stationary devices, including underground pipes connected to the devices, that is designed to contain an accumulation of petroleum, the volume of which, including the volume of underground pipes, is 10 percent or more beneath the surface of the ground, except that the term does not include a

(A) farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(B) tank used for storing heating oil for consumptive use on the premises where stored;

(C) septic tank;

- (D) pipeline facility, including gathering lines, regulated under 49 U.S.C. 60101 et seq. or that is an intrastate pipeline facility regulated under state laws comparable to the provisions of 49 U.S.C. 60101 et seq.;
 - (E) surface impoundment, pit, pond, or lagoon;
 - (F) storm water or waste water collection system;
 - (G) flow-through process tank;
 - (H) liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;
 - (I) storage tank situated in an underground area such as a basement, cellar, mineworking, drift, shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor;
 - (J) tank with a capacity of 110 gallons or less;
 - (K) tank containing hazardous wastes regulated under 42 U.S.C. 6921 - 6939b; or
 - (L) tank system that the department has exempted by regulations adopted under AS 46.03.365;
- (9) "underground petroleum storage tank system" means an underground storage tank containing petroleum together with its underground ancillary equipment and related containment system, if any; in this paragraph, "ancillary equipment" means devices used to distribute, meter, or control the flow of petroleum to and from the system, including piping, fittings, flanges, valves, and pumps.

ARTICLE 4.
CERTIFICATION OF UNDERGROUND STORAGE TANK
WORKERS AND INSPECTORS.

Section

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18 AAC 78.400. Certification required. (a) A person may not conduct, and an owner or operator may not allow a person to conduct any part of a UST installation, repair, reconfiguration, closure, tank tightness test, cathodic protection test, or inspection unless the person

- (1) is certified under this chapter; or
- (2) meets the requirements of AS 46.03.375(d).

(b) The requirements of this section also apply to a person who is an officer or employee of the owner or operator of a UST and who performs an activity described in this section.

(c) The requirements of this section do not prohibit the employment of an uncertified person on the job site if a certified person exercises responsible supervisory control and is present onsite during the installation, repair, closure, reconfiguration, or while the tank tightness test, cathodic protection test, or inspection is conducted.

(d) Repealed 8/15/99.

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.410. Categories of certification. (a) If the certification requirements of 18 AAC 78.415 are met, the division will issue a certification for one or more of the following categories:

- (1) installation, including repairs and significant reconfiguration;
- (2) closure, including removal;
- (3) tank tightness testing;
- (4) cathodic protection testing;
- (5) inspection.

(b) Subject to 18 AAC 78.480(a), a department employee may obtain a department inspector certification in any category listed in (a)(1) - (4) of this section if the requirements of 18 AAC 78.415 are met. Department inspector certification is for compliance inspection purposes only. A department employee certified as an inspector may not conduct an activity described in 18 AAC 78.400(a).

(c) A certification issued under this chapter may not be assigned.

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.415. Certification requirements. (a) A person seeking certification under this chapter shall submit a completed application to the division assigned occupational licensing functions in the Department of Commerce, Community, and Economic Development on a form provided by the division, and shall pay the applicable fees set by 18 AAC 78.495.

- (b) An applicant must
 - (1) be an individual;
 - (2) meet the work experience or educational requirements at 18 AAC 78.425;
 - (3) pass the examination required by 18 AAC 78.420; and
 - (4) have all other licenses applicable to the profession for which certification is sought.

(c) If the application is for tank tightness testing, the applicant shall designate the type or types of tightness test for which certification is sought, and show proof that he or she is certified by the manufacturer of the particular tank

tightness test. The test method must meet the requirements of 18 AAC 78.065(d) . The manufacturer's certification must remain in effect for the duration of a certification issued under this chapter. The department will, in its discretion, recommend that the division assigned occupational licensing functions in the Department of Commerce, Community, and Economic Development revoke certification under this chapter if the requirements of this subsection are not met.

(d) If the application is for inspection, the applicant shall also obtain and maintain certification in UST installation and cathodic protection. An applicant may apply for certification in UST inspection while an application for certification in UST installation or cathodic protection is pending; however, the division will not issue or renew a certification for inspection unless the applicant is certified in UST installation and cathodic protection.

(e) A person whose UST certification is suspended or revoked under this chapter, or by another state if certification is received through reciprocity under 18 AAC 78.475, will not be certified under this chapter until the period of suspension or revocation has expired.

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.420. Examination requirements. A person who seeks certification or renewal of certification under this chapter shall take an examination approved by the department and administered by the division. The examination must test the extent of the applicant's knowledge regarding the category of certification sought, the state statutes and regulations relating to USTs, including familiarity with the nationally-recognized codes of practice listed in this chapter, and the unique environmental conditions affecting USTs in the state. A score of 75 or more is required to pass an examination.

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.425. Work experience and education requirements. (a) A person seeking certification under this chapter, other than inspector certification, must have satisfactory work performance on at least two UST projects in the category for which the certification is sought during the three years immediately before application. Satisfactory work performance must be verified by an endorsement from a person certified under this chapter or under an equivalent program established outside of the state. The division will, in its discretion, accept applicable vocational training for any or all of the work experience required by this section.

(b) A person seeking to become a certified inspector shall show proof of completion, within two years before the date of application of

(1) at least one nationally recognized training course, class, examination, or workshop dealing with UST design, installation, testing, or inspection; and

(2) an inspector orientation course provided by the department.

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.430. Display of certificate. A certificate, or a copy of a certificate, issued under this chapter must be readily available when work that requires certification is being performed.

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.435. Term of certification. (a) Except as provided in (b) of this section, a certification issued under this chapter is valid until the next certification expiration date. The certification expiration date is December 31, 1995, and reoccurs every December 31 of odd-numbered years.

(b) If a person is issued a certification within 90 days before the next certification expiration date, the person's certification is valid until the following certification expiration date.

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.440. Renewal requirements. (a) A person who seeks to renew a certification under this chapter shall renew the certification before it expires in accordance with (c) of this section. If the person's certification expires before it is renewed, the person must meet the requirements for a new certification under 18 AAC 78.415, unless renewal under (c) of this section occurs within 90 days after expiration. A person whose certification has expired may not perform work described in 18 AAC 78.455 unless the

(1) person obtains written department approval before doing the work;

(2) work is necessary to respond to an emergency that threatens human health or the environment; and

(3) work is performed in the first 90 days after certification expires.

(b) The division will mail a renewal form at least 30 days before the next certification expiration date to a person certified under this chapter. The form will be mailed to the person's last address of record with the division. Failure to receive a renewal form does not relieve a person of the responsibility to renew certification before the current certification expires. A renewal form may also be requested from the division.

(c) To qualify for a renewed certification, a person certified under this chapter shall

(1) submit a completed renewal form to the division;

(2) pay the applicable fees as set out in 18 AAC 78.495;

- (3) pass the examination required by 18 AAC 78.420, except as provided in (d) and (e) of this section; and
- (4) have all other licenses applicable to the profession for which certification is requested.
- (d) A person certified under this chapter who was examined within one year before the certification expiration date is exempt from taking an examination required by (c)(3) of this section.
- (e) Notwithstanding the exam requirement of (c)(3) of this section, a person who has maintained certification in a specific category under 18 AAC 78.410 for at least six consecutive years is only required to pass the examination required by 18 AAC 78.420 for every third renewal of that category of certification thereafter, so long as that person performs at least two UST projects in the category during the calendar year before each renewal for which an examination is not required under this subsection.
- (f) The division will renew a certification under this section effective as of
 - (1) January 1 of the first year of the new certification period, if the submittal required by (c) of this section is legibly postmarked or received by the division before that date; or
 - (2) the date the submittal is legibly postmarked or the date the division receives the submittal required by (c) of this section, whichever is earlier, if that date is after January 1 of the first year of the new certification period.
- (g) The division will prorate the first license renewal fee following initial licensure in accordance with 12 AAC 02.020.

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.450. Technical review committee. (a) The department will designate a technical review committee to review and to advise the department on examination questions for the categories of certification established by 18 AAC 78.410. The committee will meet at the request of the department.

- (b) The technical review committee is comprised of the following members, each of whom must be certified under this chapter:
 - (1) an employee of the department familiar with UST requirements, regulations, and standards of practice;
 - (2) an employee of the division familiar with the certification regulations in this chapter; and
 - (3) one to three persons per certification category to represent the category in which they are certified.
- (c) The members of the technical review committee serve at the pleasure of the commissioner of the department.

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.455. Standards of practice. (a) Except for a person certified under 18 AAC 78.480, a person certified under this chapter

- (1) for installation or reconfiguration, shall be at the job site when work requiring certification of installation or reconfiguration is being performed, including
 - (A) preparation of an excavation before receiving backfill and while the backfill is being placed;
 - (B) any movement of a tank at a job site, including a transfer of the tank from a vehicle used to transport the tank to the job site;
 - (C) placement of a tank and its associated piping into the excavation, including placement of an anchoring device, backfill, or strapping;
 - (D) placement or connection of a piping system to a tank;
 - (E) installation of cathodic protection;
 - (F) completion of a backfill and filling of an installation;
 - (G) covering a UST with concrete, asphalt, or other similar substance;
 - (H) preparation for and installation of a tank lining system; and
 - (I) installation, replacement, or repair of release detection equipment;
- (2) for closure, shall be at the job site when work requiring certification of closure is being performed, including
 - (A) excavation of a tank or piping before removal from the ground;
 - (B) emptying the contents of a tank or its piping, cleaning a tank, or filling a tank with a solid, inert material;
 - (C) removal or disposal of a tank's contents after cleaning; and
 - (D) movement of a tank on the job site, including transfer of the tank to a vehicle used to transport the tank from the job site; the requirements of this subparagraph do not apply to a tank that has been cleaned in accordance with the requirements of American Petroleum Institute Standard 2015, adopted by reference in 18 AAC 78.085(g) (2);
- (3) for tank tightness testing, shall
 - (A) be at the job site when tightness testing of the UST or associated piping is being performed; or
 - (B) verify the tightness testing results if a statistical inventory reconciliation method is being used;
- (4) for cathodic protection testing shall be at the job site when testing of cathodic protection is being performed;
- (5) for inspection, shall
 - (A) refer to the department's operations inspection report form; and
 - (B) no later than 30 days after completing the inspection, sign and submit to the owner or operator a completed inspection report on a form supplied by the department; the report must contain a description of any
 - (i) deficiencies found;
 - (ii) corrective action taken by the inspector or a person certified under this chapter; and
 - (iii) recommendations of the inspector or a person certified under this chapter for further necessary corrections;

(6) may perform only those installations, repairs, reconfigurations, closures, tightness tests, cathodic protection tests, and inspections for which the person is certified under this chapter and which

- (A) conform to accepted technical standards imposed by federal, state, and local law;
- (B) safeguard human life, health, safety, and property; and
- (C) protect the environment;

(7) shall immediately report to the owner or operator a release or suspected release of petroleum detected at a job site or the surrounding area;

(8) shall sign or affix the person's certification number only to an installation, repair, closure, reconfiguration, tightness test, cathodic protection test, or inspection that was done under the person's direct control and supervision; and

(9) shall, after completing a UST installation, reconfiguration, repair, closure, test, or inspection file with the owner or operator department a completed checklist on a form supplied by the department that

- (A) bears the person's signature and certification number;
- (B) provides the registration number of the tank; and
- (C) verifies that the items on the checklist have been completed for the tank.

(b) The requirements of this section

- (1) must be disclosed by a person certified under this chapter to the person's client or employer; and
- (2) are in addition to the certification requirements of 18 AAC 78.415.

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.470. Suspension or revocation; disciplinary action. (a) Upon written finding, the division assigned occupational licensing functions in the Department of Commerce, Community, and Economic Development will, in its discretion, suspend certification for a period recommended by the department, or revoke a certification if a certified tank worker

- (1) fraudulently obtained certification;
- (2) fails at any time to meet the requirements for certification;
- (3) fails to comply with this chapter;
- (4) fails to meet any applicable federal, state, or local law relating to the service performed under the certification;

or

(5) falsifies a document regarding work done under this chapter.

(b) If the department receives a complaint regarding the work performance of a person certified under this chapter, or if the department initiates a complaint under (a) of this section, the department will

- (1) notify the certified worker of the nature of the complaint and explain all rights and duties under the law;
- (2) keep the name of the certified worker confidential unless it finds that disciplinary action, as described in (c) of this section, is warranted;

(3) if the complainant is a third party, request from the complainant the specific nature of the alleged violation, including the statute, regulation, or industry standard that was allegedly violated by the certified worker, if known, and any other documentation the department believes is necessary to determine the validity of the complaint; and

(4) fully review the documentation obtained and determine whether disciplinary or other action is warranted.

(c) If the department finds that disciplinary action is appropriate under (a) or (b) of this section, it will notify the division assigned occupational licensing functions in the Department of Commerce, Community, and Economic Development of its recommended action, including reasons for the recommendation. The department will, in its discretion, recommend suspension of the certificate for a specific period, or revocation of the certificate. If a certificate is suspended under this subsection, the period of suspension will not exceed the remaining life of the certificate.

(d) If the department finds that the disciplinary or other action is not warranted, it will notify the certified worker and the complainant in writing that the allegations were found to be untrue or that the evidence was insufficient.

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.475. Reciprocity. (a) The division assigned occupational licensing functions in the Department of Commerce, Community, and Economic Development will, in its discretion, issue a certificate to a person who has a certificate or license as a tank worker from another state if the division finds that the program in that state is comparable to the requirements of this chapter.

(b) To obtain certification under this section, a person shall apply for certification under 18 AAC 78.415 and shall demonstrate knowledge regarding state statutes and regulations relating to USTs, including familiarity with the nationally-recognized codes of practice listed in this chapter, and the unique environmental conditions affecting USTs and their installation by passing that part of the examination described in 18 AAC 78.420.

(c) A certificate issued under this section is limited to the term set out in 18 AAC 78.435, and is subject to the renewal requirements of 18 AAC 78.440.

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.476. Conflict of interest prohibition. An inspector may not perform or supervise an inspection at a UST facility if the inspector owns or has a significant financial interest in the facility.

Authority: AS 46.03.020 AS 46.03.365 AS 46.03.375

18 AAC 78.480. Certification of department employees. (a) Within one year after employment begins, a department employee shall become certified as an underground storage tank department inspector under this chapter if the employee's assigned duties and responsibilities include

(1) investigating discharges to determine if the discharge is related to potentially faulty UST installation, closure, repair, or reconfiguration; or

(2) field enforcement of the department's regulations regarding UST installation, closure, repair, reconfiguration, or testing.

(b) A department employee will be certified as an underground storage tank inspector if the employee's duties include those listed in (a) of this section and if the employee meets the certification requirements of 18 AAC 78.415(a) - (c). A department employee need not meet the requirements of 18 AAC 78.455.

(c) The department employee's supervisor shall determine the category of certification appropriate for the employee's duties and responsibilities.

(d) A department employee certified under this chapter is subject to the renewal requirements set out in 18 AAC 78.440 other than the fee requirement.

(e) Certification issued to a department employee under this chapter expires automatically on the employee's last day of employment with the department. If the employee wishes to become certified as an underground storage tank worker after leaving department employment, he or she must meet the requirements of all applicable state laws, including 18 AAC 78.415 and 18 AAC 78.455, and pay all required fees.

(f) A state agency that owns or operates a UST may request the division assigned occupational licensing functions in the Department of Commerce, Community, and Economic Development to certify an employee of that agency under the terms of this section.

Authority: AS 46.03.020 AS 46.03.375 AS 46.03.395
AS 46.03.365

18 AAC 78.490. Administration. The division will

(1) keep a list of the names and certification numbers of all persons certified under this chapter, provide that list to the department, and make it available for public distribution;

(2) keep a file on a person certified under this chapter;

(3) notify an applicant for certification under this chapter, including a department employee applying under 18 AAC 78.480, within 60 days after taking an examination under 18 AAC 78.420, of whether the applicant qualifies for certification, or whether additional information is required; if the applicant qualifies, the notice must be accompanied by a certificate and certification number;

(4) administer, or arrange to have administered, the required examination for each category of certification as determined necessary by the division, and publish notice of the examination and the final filing date in a newspaper of general circulation at least 60 days before the examination;

(5) notify a person certified under this chapter

(A) within five days after the division

(i) receives a complaint regarding the person under 18 AAC 78.470(b); or

(ii) learns of a suspected violation of a federal, state, or local law by the person; and

(B) within 15 days after a disciplinary action decision has been made by the division regarding a complaint or suspected violation;

(6) publish notice jointly with the department in a newspaper of general circulation in the area where a continuing education course or workshop related to USTs will be offered;

(7) collect fees required for certification under this chapter; and

(8) inactivate an applicant's application or examination results if 12 months or more have elapsed since a correspondence was last received by the division from or on behalf of the applicant.

Authority: AS 44.66.010 AS 46.03.365 AS 46.03.375
AS 46.03.020

18 AAC 78.495. Fees. (a) The following fees are established for purposes of this chapter:

(1) application fee, \$100;

(2) certification fee for each category for which an applicant seeks certification, \$60;

(3) certification fee for each category for which an applicant seeks renewal, \$60;

(4) reciprocity certification fee for each category for which an applicant seeks certification through reciprocity, \$60.

(b) An applicant shall submit a fee required under this section to the division at the time of application, renewal, or request for duplicate certificate.

Authority: AS 46.03.375

18 AAC 78.499. Definitions. For purposes of 18 AAC 78.400 - 18 AAC 78.499,

- (1) "certified inspector" means a person who is certified in inspection under this chapter;
- (2) "inspect" or "inspection" means to perform a third party inspection, using standards of practice set out in 18 AAC 78.455; "inspect" does not include routine maintenance or an inspection performed by a department inspector;
- (3) "repair" means to correct or restore, after a release has occurred, a UST or any part of a UST that routinely contains petroleum, and includes repairs to the tank vessel, pipes, valves, fill pipes, or vents; "repair" does not include routine maintenance.

Authority: AS 46.03.020

AS 46.03.365

AS 46.03.375