

SECTION 1. Comm 5.003 (9) is repealed and recreated to read:

Comm 5.003 (9) “Cathodic protection tester” means a person who demonstrates an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping systems and metal tanks.

SECTION 2. Comm 5.003 (10m) is created to read:

Comm 5.003 (10m) “Corrosion expert” means a person who is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience.

SECTION 3. Comm 5.003 (17m) and (18) are renumbered Comm 5.003 (18) and (19).

SECTION 4. Comm 5.003 (19) is repealed.

SECTION 5. Comm Table 5.02 Line 49 is amended to read:

**Table 5.02
FEES**

(Partial Table, column headings are provided for reference only.)

	License, Certification or Registration Category	Type	Application Fee	Examination Fee	License, Certification or Registration Fee
49.	<u>Tank-System</u> Site Assessor	Certification	\$20	\$15	\$50

SECTION 6. Comm Table 5.02 Lines 54g and 54r are created to read:

**Table 5.02
FEES**

(Partial Table, column headings are provided for reference only.)

	License, Certification or Registration Category	Type	Application Fee	Examination Fee	License, Certification or Registration Fee
54g.	Cathodic Protection Tester	Certification	\$20	NA	\$50
54r.	Corrosion Expert	Certification	\$20	NA	\$50

SECTION 7. Comm Table 5.06 Lines 42 and 49 to 53 are amended to read:

**Table 5.06
TERMS**

(Partial Table, column headings are provided for reference only.)

	License, Certification or Registration Category	Term	Expiration Date	Continuing Education Cycle
42.	Tank System Inspector	2 Years	Date of Issuance	3 Months Prior to Date of Expiration
49.	Tank-System Site Assessor	2 Years	Date of Issuance	3 Months Prior to Date of Expiration <u>NA</u>
50.	Aboveground Tank System Installer	2 Years	Date of Issuance	3 Months Prior to Date of Expiration
51.	Underground Tank System Installer	2 Years	Date of Issuance	3 Months Prior to Date of Expiration
52.	Tank System Liner	2 Years	Date of Issuance	3 Months Prior to Date of Expiration <u>NA</u>
53.	Tank System Remover-Cleaner	2 Years	Date of Issuance	3 Months Prior to Date of Expiration <u>NA</u>

SECTION 8. Comm Table 5.06 Lines 54g and 54r are created to read:

**Table 5.06
TERMS**

(Partial Table, column headings are provided for reference only.)

	License, Certification or Registration Category	Term	Expiration Date	Continuing Education Cycle
54g.	Cathodic Protection Tester	2 Years	Date of Issuance	NA
54r.	Corrosion Expert	2 Years	Date of Issuance	NA

SECTION 9. Comm 5.07 (2) (b) 3. is created to read:

Comm 5.07 (2) (b) 3. a. Subdivisions 1. and 2. and par. (c) do not apply to a license, certification or registration issued under s. Comm 5.68 or ss. Comm 5.82 to 5.88.

b. A person who files for renewal after the expiration date of a license, certification or registration issued under s. Comm 5.68 or ss. Comm 5.82 to 5.88 shall comply with this chapter's requirements for initially receiving that license, certification or registration.

c. A person who files for renewal of a license, certification or registration issued under s. Comm 5.68, 5.84 or 5.85, and who has not obtained all continuing education credit required for renewal shall comply with this chapter's requirements for initially receiving that license, certification or registration.

d. For a license, certification or registration issued under s. Comm 5.68, 5.84 or 5.85, the time period for obtaining continuing education credits shall extend from the beginning date to the expiration date of that license, certification or registration.

SECTION 10. Comm 5.08 (1) (e) 2. a. is amended to read:

Comm 5.08 (1) (e) 2. a. ~~The~~ Except as provided in subd. 2. c., the approval of a course, program or seminar for continuing education credit shall expire 5 years after the date of approval.

SECTION 11. Comm 5.08 (1) (e) 2. c., (g) and (h) are created to read:

Comm 5.08 (1) (e) 2. c. An approval of a course, program or seminar for continuing education credit under s. Comm 5.68 or subch. VIII shall expire either 3 years after the date of approval, or as otherwise specified in the approval.

(g) Any individual or organization that obtains a course, program, or seminar approval for continuing education credit under s. Comm 5.68 or subch. VIII shall notify the department of any material changes to the information submitted for that approval.

(h) Any individual or organization that obtains a course, program, or seminar approval for continuing education credit under s. Comm 5.68 or subch. VIII shall notify the department if the course, program, or seminar is discontinued before the end of its approval period.

SECTION 12. Comm 5.10 (1) (a) 12. h. to k. are renumbered Comm 5.10 (1) (a) 13. a. to c. and 12. h.

SECTION 13. Comm 5.10 (1) (a) 12. i. and j. and 13. (intro), d. and e. are created to read:

Comm 5.10 (1) (a) 12. i. Performed activities that result in both exceeding a cost cap established by the department, and submittal of a claim to the department for the cost in excess of that cost cap.

j. Failed to pay a financial penalty assessed under ch. Comm 47 for a grossly ineligible cost.

13. (intro.) If registered or certified under s. Comm 5.68 or subch. VIII, has performed any of the following:

d. Submitted false reports to the department.

e. Exhibited a pattern of submitting substantially inadequate reports.

SECTION 14. Comm 5.68 (1) and (3) are amended to read:

Comm 5.68 (1) GENERAL. No person may inspect a tank system ~~which has held or will hold flammable or combustible liquids~~ that is regulated under ch. Comm 10, to determine

~~compliance with~~ administer and enforce ch. Comm 10, unless the person holds a certification issued by the department as a certified tank system inspector.

(3) QUALIFICATIONS FOR EXAMINATION. A person applying to take a tank system inspector certification examination shall have completed an approved educational course or training program that included at least 3 days of field exercises, within the 2 years immediately preceding the application.

SECTION 15. Comm 5.68 (6) Note is created to read:

Comm 5.68 (6) Note: Section 19.32 (2), Stats., considers a record to be material containing written or electromagnetic information. The department will consider computer records to be equivalent to written reports.

SECTION 16. Comm 5.68 (7) (b) 1. is amended to read:

Comm 5.68 (7) (b) 1. The renewal of a certification as a certified tank system inspector ~~which has an expiration date after December 31, 1999~~ shall be contingent upon the inspector obtaining at least 12 hours of acceptable continuing education within the time period specified in s. Comm 5.08 and Table 5.06, except as provided in subd. 2.

SECTION 17. Comm 5.80 (2) (e) and (5) (c) 3. are created to read:

Comm 5.80 (2) (e) Proof of the liability coverage specified in sub. (4) (a) 3. or (b), and (c).

(5) (c) 3. Holding the liability coverage specified in sub. (4) (a) 3. or (b), and (c).

SECTION 18. Comm 5.81 (2) (d) is created to read:

Comm 5.81 (2) (d) Proof of the liability coverage specified in sub. (3).

SECTION 19. Comm 5.81 (4) (c) is repealed and recreated to read:

Comm 5.81 (4) (c) The renewal of a registration as a PECFA consultant shall be contingent upon both of the following:

1. Being registered by the department of regulation and licensing as a professional engineer, professional geologist, professional hydrologist, or professional soil scientist, or proof of being supervised by a person who is so registered.

2. Holding or being covered by the liability coverage specified in sub. (3).

SECTION 20. Comm 5.82 (1) is repealed and recreated to read:

Comm 5.82 Tank specialty firms. (1) GENERAL. A corporation, partnership, sole proprietor or independent contractor that provides or offers to provide installation, removal, testing, lining, cleaning or assessments for a tank system which is regulated under ch. Comm 10 shall hold both of the following:

(a) A registration issued by the department as a registered specialty tank firm.

(b) Contractor liability coverage, including pollution impairment liability, of no less than \$1,000,000 per claim and \$1,000,000 annual aggregate and with a deductible of no more than \$100,000 per claim.

SECTION 21. Comm 5.82 (2) (c) is created to read:

Comm 5.82 (2) (c) Proof of the liability coverage specified in sub. (1) (b).

SECTION 22. Comm 5.82 (4) is amended to read:

Comm 5.82 (4) RESPONSIBILITIES. An entity that provides storage tank system installation, removal, testing, lining, cleaning or site assessments as a registered specialty tank firm shall utilize the appropriate credentialed persons to install, remove, test, line, or clean storage tanks; to design or install a cathodic protection system for a tank system; or to provide tank-system site assessments.

SECTION 23. Comm 5.82 (5) (a) 1. and 2. are renumbered Comm 5.82 (5) (a) and (b).

SECTION 24. Comm 5.82 (5) (b) is repealed.

SECTION 25. Comm 5.82 (5) (c) is created to read:

Comm 5.82 (5) (c) An application for a renewal under this section shall include proof of the liability coverage specified in sub. (1) (b).

SECTION 26. Comm 5.83 (title), (1), (2) (intro.), (3), and (4) are amended to read:

Comm 5.83 (title) Site Tank-system site assessors. (1) GENERAL. (a) No person may conduct a tank-system site ~~closure~~ assessment required under ~~s. ch. Comm 10.734~~ ch. Comm 10 unless the person holds a certification issued by the department as a certified tank-system site assessor.

(b) Each tank-system site assessment shall be performed by a person who has no personal or monetary interest in the facility and whose employer has no personal or monetary interest in the facility.

(2) (intro.) APPLICATION FOR EXAMINATION. A person applying to take a tank-system site assessor certification examination shall submit all of the following:

(3) EXAMINATION. A person seeking to obtain a tank-system site assessor certification shall take and pass an examination in accordance with s. Comm 5.09.

(4) APPLICATION FOR CERTIFICATION. Upon notification of successfully passing the examination for a tank-system site assessor certification, a person may obtain the certification by submitting an application and the certification fee in accordance with ss. Comm 5.01 and 5.09 (7) (c).

SECTION 27. Comm 5.83 (5) (a) 1. and 2. are renumbered Comm 5.83 (5) (a) and (b) and amended to read:

Comm 5.83 (5) RENEWAL. (a) A person may renew his or her certification as a tank-system site assessor.

(b) A tank-system site assessor certification shall be renewed in accordance with s. Comm 5.07.

SECTION 28. Comm 5.83 (5) (b) is repealed.

SECTION 29. Comm 5.84 (1) (intro.) and (5) (e) and (f) are amended to read:

Comm 5.84 (1) (intro.) GENERAL. ~~No~~ Except as provided in sub. (7), no person may install an aboveground tank system ~~which that is to hold flammable or combustible liquids regulated under ch. Comm 10~~ unless:

(5) (e) Installation of monitoring or leak detection devices.

(f) Installation of pumps ~~and dispensers~~.

SECTION 30. Comm 5.84 (5) (g) and (7) are created to read:

Comm 5.84 (5) (g) Installation of any underground piping.

(7) EXCLUSION. This section does not apply to field-constructed aboveground tanks.

SECTION 31. Comm 5.85 (1) (intro.) and (5) (e) are amended to read:

Comm 5.85 (1) (intro.) GENERAL No person may install an underground tank system ~~which that is to hold flammable or combustible liquids~~ regulated under ch. Comm 10 unless:

(5) (e) Installation or activation of ~~corrosion~~ department-accepted, factory-supplied cathodic protection systems.

SECTION 32. Comm 5.85 (5) (e) Note is created to read:

Note: The Department has accepted factory-supplied cathodic protection systems that comply with the sti-P3® specifications from the Steel Tank Institute, and may accept other systems of this type without a rule change.

SECTION 33. Comm 5.85 (5) (i) is amended to read:

Comm 5.85 (1) (i) Installation of pumps ~~and dispensers~~.

SECTION 34. Comm 5.86 (title), (1) (intro.), and (5) (intro.) are amended to read:

Comm 5.86 (title) ~~Tank~~ Underground tank system liners. (1) (intro.) GENERAL. No person may line a or reline an underground tank system ~~which that~~ has held or will hold flammable or combustible liquids which are regulated under ch. Comm 10 unless:

(5) (intro.) RESPONSIBILITIES. A person who lines or supervises the lining of underground tanks as a certified tank system liner shall be present at the job site for at least all of the following activities:

SECTION 35. Comm 5.86 (5) (a) Note is created to read:

Comm 5.86 (5) (a) Note: Chapter Comm 10 requires plan submittal and approval prior to lining a tank.

SECTION 36. Comm 5.86 (5) (f) and (g) to (j) are renumbered Comm 5.86 (5) (g) and (i) to (L).

SECTION 37. Comm 5.86 (5) (f), (h) and (m) are created to read:

Comm 5.86 (5) (f) Notifying the owner if an internal tank assessment determines that a tank system assessment under ch. Comm 10 is required.

(h) Notifying and arranging for a certified tank system inspector to visit the site and authorize the lining, prior to applying the lining to the tank.

(m) Completing an API 1631 inspection form B, as required by ch. Comm 10, and submitting it to the owner, inspector and department.

SECTION 38. Comm 5.86 (6) (a) 1. and 2. are renumbered Comm 5.86 (6) (a) and (b).

SECTION 39. Comm 5.86 (6) (b) is repealed.

SECTION 40. Comm 5.87 (1) (intro.) is repealed and recreated to read:

Comm 5.87 (1) (a) GENERAL. Except as provided in sub. (7), no person may remove or clean a tank system that is regulated under ch. Comm 10 unless the conditions in either par. (b) or (c) are met, and the conditions in par. (d) are met.

SECTION 41. Comm 5.87 (1) (a) and (b) are renumbered Comm 5.87 (1) (b) and (c), and Comm 5.87 (1) (b), as renumbered, is amended to read:

Comm 5.87 (1) (b) The person holds a certification issued by the department as a certified tank system remover-cleaner;~~or~~.

SECTION 42. Comm 5.87 (1) (d) is created to read:

Comm 5.87 (1) (d) The person, or the person's supervisor under par. (c), holds contractor liability coverage, including pollution impairment liability, of no less than \$1,000,000 per claim and \$1,000,000 annual aggregate and with a deductible of no more than \$100,000 per claim.

SECTION 43. Comm 5.87 (1) (b) Note is repealed.

SECTION 44. Comm 5.87 (2) (c) is created to read:

Comm 5.87 (2) (c) Proof of the liability coverage specified in sub. (1) (d).

SECTION 45. Comm 5.87 (6) (a) 1. and 2. are renumbered Comm 5.87 (6) (a) and (b).

SECTION 46. Comm 5.87 (6) (b) is repealed.

SECTION 47. Comm 5.87 (6) (c) is created to read:

Comm 5.87 (6) (c) An application for a renewal under this section shall include proof of the liability coverage specified in sub. (1) (d).

SECTION 48. Comm 5.87 (7) is created to read:

Comm 5.87 (7) EXCLUSIONS. This section does not apply to any of the following:

(a) Field-constructed aboveground tanks.

(b) Heating fuel tanks located aboveground or in basements of 1- or 2-family dwellings.

SECTION 49. Comm 5.88 (1) is renumbered Comm 5.88 (1) (a) and amended to read:

Comm 5.88 (1) (a) No person may conduct the tightness testing of specified in ch. Comm 10 for a tank system ~~which has held or will hold flammable or combustible liquids~~ unless the person holds a certification issued by the department as a certified tank system tightness tester.

SECTION 50. Comm 5.88 (1) (b) is created to read:

Comm 5.88 (1) (b) Tank system tightness testing shall be performed by a person with no personal or monetary interest in the facility and whose employer has no personal or monetary interest in the facility.

SECTION 51. Comm 5.88 (3) and (4) (a) are amended to read:

Comm 5.88 (3) QUALIFICATIONS FOR CERTIFICATION. (a) A person applying for a tank system tightness tester certification shall have completed training in ~~one~~ 1 or more tightness test methods ~~which that~~ have been approved under ~~s. ch. Comm 40.125~~ ch. Comm 10, within the 2 years immediately preceding the application.

(b) The test methodology training qualifying for certification shall have been provided by the person or entity that obtained the approval under ~~s. ch. Comm 40.125~~ ch. Comm 10 for the methodology.

(4) (a) Conduct tightness tests in accordance with the material approval under ~~s. ch. Comm 40.125~~ ch. Comm 10 and any additional manufacturer's instructions; ~~and.~~

SECTION 52. Comm 5.89 is created to read:

Comm 5.89 Cathodic protection specialties. (1) GENERAL. (a) *Cathodic protection tester.* No person may conduct cathodic protection testing of a tank system that is regulated under ch. Comm 10 unless the person holds a certification issued by the department as a certified cathodic protection tester.

(b) *Corrosion expert.* 1. No person may design or install a cathodic protection system for a tank system that is regulated under ch. Comm 10 unless the person holds a certification issued by the department as a certified corrosion expert.

2. This paragraph does not apply to department-accepted, factory-supplied cathodic protection systems.

Note: The Department has accepted factory-supplied cathodic protection systems that comply with the sti-P3® specifications from the Steel Tank Institute, and may accept other systems of this type without a rule change.

(c) Cathodic protection activities covered under this section shall be performed by a person with no personal or monetary interest in the facility and whose employer has no personal or monetary interest in the facility.

(2) APPLICATION FOR CERTIFICATION. A person applying for certification as a cathodic protection tester or a corrosion expert shall submit all of the following:

(a) An application in accordance with s. Comm 5.01.

(b) An application fee and certification fee in accordance with s. Comm 5.02, Table 5.02.

(c) Documentation showing formal education relating to soil resistivity, stray current, structure-to-soil potential, component electrical isolation measurements of buried metal piping and tank systems, and corrosion control.

(d) Documentation from a cathodic protection certification entity recognized by the department, showing the applicant has successfully completed a certification examination that corresponds to the cathodic protection specialty addressed in the application.

Note: The department will accept the following certifications as demonstrating compliance with pars. (c) and (d), for a cathodic protection tester:

NACE certification as a CP1, CP2 or CP3 cathodic protection technician.

NACE certification as a senior corrosion technologist.

NACE certification as a corrosion technologist.

NACE certification as a corrosion technician.

STI certification in UST system cathodic protection monitoring.

Note: The department will accept the following certifications as demonstrating compliance with pars. (c) and (d), for a corrosion expert:

NACE certification as a corrosion specialist.

NACE certification as a CP4 cathodic protection specialist.

Note: NACE, formerly known as the National Association of Corrosion Engineers, can be contacted at NACE International, P.O. Box 218340, Houston, TX 77218. STI can be contacted at Steel Tank Institute, 570 Oakwood Road, Lake Zurich, IL 60047.

(3) RESPONSIBILITIES. A person who conducts cathodic protection tests or who designs or installs cathodic protection systems shall do all of the following:

(a) Conduct all cathodic protection tests in accordance with ch. Comm 10 and any manufacturer's instructions.

(b) Employ only those methodologies for which training has been obtained and documented.

Note: Although several different levels of expertise may qualify for the same certification, this section is intended to prohibit performing cathodic protection activities unless the specific expertise for that activity has been attained and documented.

(4) RENEWAL. (a) A person may renew his or her certification as a cathodic protection tester or corrosion expert.

(b) A certification for a cathodic protection tester or corrosion expert shall be renewed in accordance with s. Comm 5.07.

(End)

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro.) Stats., these rules shall become effective on the first day of the month commencing after the date of publication in the Wisconsin administrative register.

File reference: Comm 10/rules Comm 5 2006LRac