

NATURAL RESOURCES COMMITTEE

Nebraska Legislature

One Hundred Ninth Legislature

First Session 2025

Review of Regulations for Underground Storage Tank Installation and Closing

Report as required by Neb. Rev. Stat. §84-948

Committee Members

Senator Tom Brandt, Chair, District 32

Senator Barry DeKay, Vice Chair, District 40

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Occupational Board Reform Act

The Legislature passed the Occupational Board Reform Act in 2018 (Neb. Rev. Stat. §§ 84-901 to 84-920) with an operative date of July 1, 2019. The act requires that:

“Beginning in 2019, each standing committee of the Legislature shall annually review and analyze approximately twenty percent of the occupational regulations within the jurisdiction of the committee and prepare and submit an annual report electronically to the Clerk of the Legislature by December 15 of each year as provided in this section. Each committee shall complete this process for all occupational regulations within its jurisdiction within five years and every five years thereafter. Each report shall include the committee's recommendations regarding whether the occupational regulations should be terminated, continued, or modified.” (Neb. Rev. Stat. § 84-948)

There were five such occupational regulations identified under the jurisdiction of the Natural Resources Committee (“Committee”).¹ This report will address the occupation of Geologists.

The Executive Board of the Legislature created an electronic survey to help each committee accomplish the task of reviewing each occupational licensing agency. Survey results for all the committees are published on the Legislature’s website under the Standing Committees-Natural Resources tab. https://nebraskalegislature.gov/reports/committeesurvey_view.php

The Nebraska State Fire Marshall oversees regulations for Underground Storage Tank Installation/Closers. The response for the Installation and closure of underground storage tanks can be found at the Natural Resource Committee Tab 2025 at https://nebraskalegislature.gov/reports/committeesurvey_view.php#collapse171

Underground Storage Tank Installers/Closers Background

Licensing for the installation and closure of underground storage tanks was established by 1993 LB 720, which was introduced by Senator Preister of Bellevue. The bill passed Final Reading with 36 yes votes, 0 no votes, and 13 not voting and was approved by the Governor. The rationale for this regulation stems from LB 217’s passage in 1986, which established the Petroleum Products and Hazardous Substances Storage and Handling Act. This law directed the State Fire Marshal to carry out measures to prevent leaking underground storage tanks, and to adopt rules governing release, detection, prevention, and correction procedures necessary to protect human health, public safety, and the environment. A licensing and certification requirement for tank installers and removers was established by the State Fire Marshal in 1989. In 1992, this licensing regulation was challenged for lack of statutory authority. LB 720 addressed this issue by specifically requiring that the State Fire Marshal implement the licensing of tank installation and removal contractors.

¹ (1) Wastewater Treatment Plant Operator, Certified; (2) Wastewater Treatment Professional, Certified Onsite; (3) Underground Storage Tank Licenses; (4) Geologist; and (5) Water Well Driller

During the February 18, 1993 hearing for LB 720, the Natural Resources Committee heard proponent testimony from Senator Preister and Charlotte Centuori, legal counsel for the State Fire Marshal; there was no opposition or neutral testimony. Ms. Centuori stated that the bill sought “both clarification and substantiation of our authority to license and certify contractors who install and remove underground storage tanks.”² She further testified that the State Fire Marshal tests installer/closers on “the state regulations, and very basic safety precautions that need to be used in tank removals. We use it as an educational tool...”³ Ms. Centuori cited two specific harms being addressed by requiring underground storage tank installers and closers to obtain a permit: one, that underground storage tanks can “explode and kill people,” and two, that there are significant contamination concerns associated with abandoned storage tanks.⁴ Requiring installers/closers to pass a minimum competency test minimizes these risks.

AGENCY RESPONSES to ELECTRONIC SURVEY

Neb. Rev. Stat. § 84-948 requires a committee’s OBRA report to include the following. The following answers were submitted by the Nebraska Board of Geologists (answers in bold):

General Information

Committee of Jurisdiction:	Natural Resources
Occupation Regulated:	Underground Storage Tank Installers/Closers
Occupational Board:	N/A There is no Board
Contact:	Regina Shields, (402) 471-9477
Purpose:	This licensure is part of the requirements for the Petroleum Products and Hazardous Substances Storage and Handling Act which was passed in 1986. The State Fire Marshal enforces requirements of this Act, which is directed and required by Federal Law, to prevent leaking underground storage tanks. The Agency has regulations governing the release, detection, prevention and correction actions to help protect human health, public safety and the environment.
Regulated Professionals:	120
Year Created:	1986
Year Active:	Current
Sunset Date:	N/A

Authorization

Statutory Authorization:	81-15,123
Parent Agency:	State Fire Marshal

² Hearing transcript. Hearing on LB 72. Natural Resources Committee of the Nebraska Legislature, February 18, 1993, pg. 45.

³ Id, pg. 48.

⁴ Id, pg. 50.

Membership

Number of Members:	N/A
Who Appoints:	N/A
Legislative Approval:	N/A
Qualifications of Members:	N/A
Per Diem:	
Expense Reimbursement:	
Term Length:	N/A
Terms Rotate or Expire at Once:	

Meetings

Required FY 2024-2023:	0
Held FY 2024-2023:	0
Required FY 2023-2022:	0
Held FY 2023-2022:	0
Required FY 2022-2021:	0
Held FY 2022-2021:	0
Required FY 2021-2020:	0
Held FY 2021-2020:	0
Required FY 2020-2019:	0
Held FY 2020-2019:	0

Operations

Support Staff:	2
Shared or Separate:	Shared
FY 2024-2023 Budget:	3800
FY 2023-2022 Budget:	3700
FY 2022-2021 Budget:	3600
FY 2021-2020 Budget:	3400
FY 2020-2019 Budget:	3250
Other Funding Sources:	The program gets an EPA Grant and collects cash funds from installations and annual registration
Spending Authority:	81-15,121

Other

Government Certificates Issued:	205
Issued Certificate Descriptions:	The applicant must take and pass a test (with a score of at least 80%) covering basic safety requirements as dictated by federal law. The test also covers requirements needed because of Nebraska's unique geographic environments. The license issued is valid for three years.

Government Certificates Revoked:	0
Revoked Certificate Descriptions:	N/A
Government Certificates Denied:	28
Denied Certificate Descriptions:	Applicants are denied if they do not score the required 80% or better on the test or submit all the required paperwork. Applicants are allowed to retest in subsequent months and if they pass the test with the needed score and all needed paperwork is on file then a license is issued.
Government Certificates Penalties Against:	0
Penalty Certificate Descriptions:	N/A
Explanation of Effectiveness:	https://nebraskalegislature.gov/pdf/SurveyDocs/explanation1747161197.pdf
Potential Harm	The potential harm if this is no longer licensed and regulated is that tanks could explode at closure because the proper procedures were not followed. Additionally, there could be major damage to the environment if the tanks leak due to improper installation. Nebraska's ground water is vital and needs to be protected from leaking tanks as the damage could be massive if a tank was not properly installed.
Regulation Comparison:	https://nebraskalegislature.gov/pdf/SurveyDocs/comparison1747161197.pdf
Subject to Regulations of Act(LB407):	No
Survey Submitted:	May 13, 2025 01:33 PM

COMMITTEE FINDINGS:

(4) Pursuant to subsection (5) of OBRA, each committee shall also analyze, and include in its report, whether the occupational regulations meet the policies stated in section 84946 considering the following recommended courses of action for meeting such policies:

(1) To protect the fundamental right of an individual to pursue a lawful occupation;

Licensure of underground storage tank installers and closers does impose a minor barrier to entry for individuals wishing to engage in this kind of work. The installation and closure of underground storage tanks, however, poses significant public health risks. Improper installation or removal could lead to soil and groundwater contamination and an increased risk of explosive hazards. This threat of contamination is especially apparent, as the Legislature has created a fund specifically to fund cleanup efforts at leaking underground storage tank sites.⁵ Additionally, of the three certifications that have been revoked, all are now in good standing. It appears this is an area of significant public health concern, that the State Fire Marshal is exercising its

⁵ See Neb. Rev. Stat. § 81-15,121

regulatory authority judiciously, and that these regulations do not damage the right of an individual to pursue a lawful occupation.

- (2) To use the least restrictive regulation which is necessary to protect consumers from undue risk of present, significant, and substantiated harms that clearly threaten or endanger the health, safety, or welfare of the public when competition alone is not sufficient and which is consistent with the public interest;

Improperly installed underground storage tanks and improper removal of underground storage tanks pose a variety of serious public health, safety, and welfare threats. Licensure helps mitigate these serious risks and protect against undue risks of harm to public health, safety, and welfare, and is appropriate.

- (3) To enforce an occupational regulation against an individual only to the extent that the individual sells goods or services that are included explicitly in the statutes that govern the occupation;

These regulations have only been applied to individuals installing or removing underground storage tanks.

- (4) To construe and apply occupational regulations to increase opportunities, promote competition, and encourage innovation;

Testing and licensure ensure competence and familiarity with safety requirements. There is a large pool of certified installers/closers, and a certification test is administered every month, which provides ample opportunity for competition.

- (5) If a lawful occupation is subject to the Nebraska Regulation of Health Professions Act, the analysis under subsection (4) of this section shall be made using the least restrictive method of regulation as set out in section 71-6222.

N/A

- (6) In developing recommendations under this section, the committee shall review any report issued to the Legislature pursuant to the Nebraska Regulation of Health Professions Act, if applicable, and consider any findings or recommendations of such report related to the occupational regulations under review.

N/A

- (7) If the committee finds that it is necessary to change occupational regulations, the committee shall recommend the least restrictive regulation consistent with the public interest and the policies in this section and section 84-946.

N/A, no changes recommended.

Conclusion & Recommendations

The Natural Resources Committee finds that the current certification and occupational regulations are consistent with the policy goals established under OBRA and recommends it be continued with no modification.

Among the policy goals established under OBRA is the goal to use the least restrictive regulation which is necessary to protect consumers from undue risk of present, significant, and substantiated harms that clearly threaten or endanger the health, safety, or welfare of the public when competition alone is not sufficient and which is consistent with the public interest.

The licenses, certifications, and registrations for underground tank installers and closers overseen by the State Fire Marshal are intended to protect the health, safety, and welfare of Nebraskans. The current testing and certification regulations for underground storage tank installers and closers is appropriate. The Committee recommends that the certification and occupational 8 regulations for underground storage tank installers and closers be continued without modification.