

**SUBCHAPTER E: LEAKING PETROLEUM STORAGE TANK CORRECTIVE  
ACTION**

**PROJECT MANAGERS AND SPECIALISTS**

**§§30.171, 30.177, 30.180, 30.185, 30.190, 30.192, 30.195**

**Effective September 27, 2007**

**§30.171. Purpose and Applicability.**

(a) The purpose of this section is to establish qualifications for issuing and renewing licenses to individuals who supervise leaking petroleum storage tank (LPST) corrective actions. This subchapter also establishes qualifications for issuing and renewing registrations to persons that contract to perform LPST corrective actions.

(b) An individual who performs or supervises regulated corrective action services as a project manager on LPST sites must meet the qualifications of this subchapter and be licensed according to Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations), unless exempt under §30.195 of this title (relating to Exemptions).

(c) A person that contracts or performs regulated corrective action services on LPST sites as a corrective action specialist must meet the qualifications of this subchapter and be registered according to Subchapter A of this chapter.

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**§30.177. Definitions.**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Corrective action--Any assessment (with the exception of an initial site assessment), monitoring, or remedial activities undertaken to investigate the extent of, and to remediate contamination.

(2) Corrective action services--Activities required to accomplish regulated corrective action at a leaking petroleum storage tank (LPST) site.

(3) Corrective action specialist--A person that is registered to perform regulated corrective action services on LPST sites.

(4) Leaking petroleum storage tank (LPST)--An aboveground or underground storage tank which has a confirmed release of a petroleum substance.

(5) Project manager--An individual who is licensed to perform or supervise regulated corrective action services on LPST sites.

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**§30.180. Qualifications for Initial License.**

To obtain a license as a corrective action project manager, an individual must have:

(1) met the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations);

(2) provided documentation of quality of performance including one of the following:

(A) sworn statements, on forms approved by the executive director, from at least three individuals, that are not related by blood or marriage, for whom the applicant performed corrective action services, within the previous 24 months. The statements shall attest to the applicant's job reliability and the client's satisfaction. The statements shall also include a description of the type or types of corrective action services performed by the applicant and the physical address where the services occurred. Corrective action services are not limited to experience gained at leaking petroleum storage tank sites, but may also include corrective actions conducted under any environmental program administered by a state or by the federal government under Resource Conservation and Recovery Act; Comprehensive Environmental Response, Compensation, and Liability Act; the Oil Spill Prevention and Response Act; 33 United States Code, Chapter 40, Subchapter I; and Texas Water Code, Chapter 26; or

(B) a written explanation of why the sworn statements required by subparagraph (A) of this paragraph are not available. An individual's experience, under the supervision of a licensed corrective action project manager, may be sufficient if the executive director determines that the individual had substantial involvement in the decision-making process during the project. The written explanation shall include a detailed description of three case histories of corrective action services performed by the individual during the previous 24 months;

(3) passed an approved examination;

(4) documented education and experience:

(A) an individual must have received a high school diploma or equivalent and a minimum of four years experience in corrective action services; or

(B) an individual must have received a bachelor's degree in the physical, natural, biological, or environmental sciences, engineering, applied geography, or a subject directly relevant to the environmental field, as approved by the executive director; and documented a minimum of two years' experience in corrective action services.

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**§30.185. Qualifications for License Renewal.**

(a) To renew a license, an individual must:

(1) meet the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations); and

(2) complete 32 hours of approved continuing education.

(b) With the exception of professional engineers and professional geoscientist, an application for renewal of a corrective action project manager license is complete when the executive director has received an application for renewal on a form provided by the executive director, completed in a manner acceptable to the executive director, and is accompanied with the required training certificate indicating 32 hours of continuing education; and payment of applicable fees specified in §30.30 of this title (relating to Terms and Fees for Licenses and Registrations).

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**§30.190. Qualifications for Initial Registration.**

To obtain a corrective action specialist registration, a person must have:

(1) met the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations);

(2) provided:

(A) proof of a comprehensive general liability insurance policy designating the commission as the certificate holder in an amount of not less than one million dollars (\$1,000,000) and of a type approved by the executive director; and

(B) a financial statement (balance sheet) prepared in conformity with accounting principles as defined by the American Institute of Public Accountants, documenting an applicant's current net worth of not less than

\$25,000; or a letter from a certified public accountant who is not employed by the applicant or does not receive payment from the applicant on a regular basis verifying that the applicant's current net worth is not less than \$25,000;

(3) submitted an application fee of \$232; and

(4) documented quality of performance including one of the following:

(A) sworn statements, on forms approved by the executive director, from at least three persons, not related by blood or marriage, for whom the applicant performed corrective action services, within the previous 24 months. The statements shall attest to the applicant's job reliability and the client's satisfaction. The statements shall also include description of the type of corrective action services that were performed by the applicant and the physical address where the activity occurred. Applicable corrective action experience is not limited to experience gained at leaking petroleum storage tank sites, but may also include corrective actions conducted under any environmental program administered by a state or by the federal government under Resource Conservation and Recovery Act; Comprehensive Environmental Response, Compensation, and Liability Act; the Oil Spill Prevention and Response Act; 33 United States Code, Chapter 40, Subchapter I; and Texas Water Code, Chapter 26. The executive director shall evaluate the explanation and case histories on a case-by-case basis; or

(B) a written explanation of why the applicant did not provide the sworn statements required by subparagraph (A) of this paragraph are not available. An applicant's experience, under the supervision of a licensed corrective action project manager, may be sufficient if the executive director determines that the individual had substantial involvement in the decision-making process during the project. The written explanation shall include a detailed description of three case histories of corrective action services performed by the individual during the previous 24 months. The executive director shall evaluate the explanation and case histories on a case-by-case basis.

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**§30.192. Qualifications for Registration Renewal.**

To renew a registration, a person must:

(1) meet the requirements in Subchapter A of this chapter (relating to Administration of Occupational Licenses and Registrations);

(2) complete an application for registration renewal for a corrective action specialist approved by the executive director, certifying that the company has

continued to meet the financial requirements of §30.190 of this title (relating to Qualifications for Initial Registration); and

- (3) pay a registration renewal fee of \$232.

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**§30.195. Exemptions.**

(a) An individual licensed to practice engineering by the Texas Board of Professional Engineers (TBPE), may become licensed as a corrective action project manager and is exempt from the requirements in this subchapter by submitting:

- (1) an application form provided by the executive director;
- (2) a signed written request;
- (3) a copy of the license as a professional engineer; and

(4) a written statement from the TBPE that the applicant is currently licensed to practice engineering in the State of Texas and that the TBPE is not aware of any reason that the applicant is not qualified to perform corrective action. An engineer who obtains a license as a corrective action project manager in this manner is exempt from the requirements in this subchapter.

(b) A professional geoscientist licensed to engage in the public practice of geoscience in the State of Texas may become licensed as a corrective action project manager and is exempt from the requirements in this subchapter by submitting:

- (1) an application form provided by the executive director;
- (2) a signed written request;
- (3) a copy of the license as a professional geoscientist; and

(4) a written statement from the Texas Board of Professional Geoscientists (TBPG) that the applicant is currently licensed to engage in the public practice of geoscience in the State of Texas and that the TBPG is not aware of any reason that the applicant is not qualified to perform corrective action. A geoscientist who obtains a license as a corrective action project manager in this manner is exempt from the requirements in this subchapter.

(c) The commission shall reserve the authority to pursue all appropriate enforcement actions, sanctions, and or penalties, in accordance with applicable law and rules if the TBPE or the TBPG does not pursue appropriate disciplinary or

enforcement actions due to a lack of statutory or regulatory authority or jurisdiction, or for any other reason.

(d) A person does not have to have a license to perform corrective action services if the person claiming the exemption can show the corrective action was performed or offered to be performed at leaking petroleum storage tank (LPST) sites which are:

(1) completely exempt from regulation under §334.3(a) of this title (relating to Exemptions for Underground Storage Tanks (USTs) and UST Systems) or §334.123 of this title (relating to Exemptions for Aboveground Storage Tanks (ASTs)); or

(2) completely excluded from regulation under §334.4(a) of this title (relating to Exclusions for Underground Storage Tanks (USTs) and UST Systems) or §334.124 of this title (relating to Exclusions for Aboveground Storage Tanks (ASTs)).

(e) The requirements of this subchapter do not apply to corrective action specialists when the party claiming the exemption can show that corrective action services were completed on or before October 1, 1994. Any corrective action service started by a corrective action specialist on or after October 1, 1994, is subject to the requirements of this subchapter. Any corrective action service started by a corrective action specialist before October 1, 1994, which is still being performed on or after October 1, 1994, is subject to the requirements of Chapter 334 of this title (relating to Underground and Aboveground Storage Tanks).

(f) The requirements of this subchapter do not apply to corrective action project managers when the party claiming the exemption can show that corrective action services were completed on or before January 1, 1995. Any corrective action service started by a corrective action project manager on or after January 1, 1995, is subject to the requirements of this subchapter. Any corrective action service started by a corrective action project manager before January 1, 1995, which is still being performed on or after January 1, 1995, is subject to the requirements of this subchapter.

(g) The requirements of this subchapter do not apply to:

(1) installation, repair, and removal of USTs when the work is conducted and supervised by persons or entities registered or licensed in accordance with Subchapter I of this chapter (relating to Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration); and

(2) the following activities, but only when such activities are performed as part of a UST permanent removal-from-service project conducted under the

direct supervision of an on-site supervisor licensed to remove USTs under Chapter 213 of this title (relating to Edwards Aquifer), and further subject to all appropriate requirements and standards in this subchapter, including enforcement authority:

(A) subject to prior written commission approval, excavation of contaminated soil when necessary for corrective action at the LPST site of an amount not to exceed 300 cubic yards of compacted materials (390 cubic yards of uncompacted materials) beyond the backfill unless specific prior written authorization from the commission is granted for additional excavation yardage;

(B) sampling of the excavated materials described in subparagraph (A) of this paragraph, and the floor and walls of the area excavated as necessary to determine levels of contamination as required by Chapter 334, Subchapter C or D of this title (relating to Technical Standards; and Corrective Action and Release Reporting);

(C) passive aeration and necessary routine tilling and sampling of the excavated materials described in subparagraph (A) of this paragraph according to air program regulations; and

(D) lawful disposal of the excavated materials described in subparagraph (A) of this paragraph.

(h) The requirements of this subchapter do not apply to:

- (1) providing alternate water supplies; or
- (2) analyzing samples by a laboratory.

(i) The requirements of this subchapter do not apply to emergency abatement actions in compliance with §334.454 of this title (relating to Exception for Emergency Abatement Actions).

(j) The requirements of this subchapter do not apply to facilities which are authorized to store or treat petroleum-substance waste from more than one LPST site under the provisions of Chapter 334 of this title.

(k) The requirements of this subchapter do not apply to owners or operators, their direct employees, parent companies, or subsidiaries that on behalf of the owner or operator coordinate with, manage, or supervise corrective action specialists or corrective action project managers, or coordinate with the commission, or review the corrective action reports. The tank owners or operators, their direct employees, parent companies, or subsidiaries who conduct corrective action services are subject to all provisions of this subchapter.

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