

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Adopted and Filed**

**Rulemaking related to certificate of acceptance**

The Environmental Protection Commission (Commission) hereby rescinds Chapter 27, “Certificate of Acceptance,” Iowa Administrative Code, and adopts a new chapter with the same title.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 455B.145.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Iowa Code section 17A.7(2) and Executive Order 10 (January 10, 2023).

*Purpose and Summary*

The Commission hereby rescinds and adopts a new Chapter 27. The new Chapter 27 includes updated and streamlined rules.

Chapter 27 provides political subdivisions, such as municipalities and counties, with the conditions necessary to obtain and maintain a certificate of acceptance (delegation) of a local air pollution control program. The Linn County and Polk County local air programs are currently the only two local air programs in Iowa with certificates of acceptance.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on December 27, 2023, as **ARC 7226C**. Public hearings were held on January 29 and 30, 2024, at 1 p.m. via video/conference call. Eight people attended a public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Commission on April 16, 2024.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Natural Resources for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on June 19, 2024.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 27 and adopt the following **new** chapter in lieu thereof:

CHAPTER 27  
CERTIFICATE OF ACCEPTANCE

**567—27.1(455B) General.** Political subdivisions shall meet the conditions specified in this chapter if the political subdivisions pursue acceptance of the local air pollution control program and obtain a certificate of acceptance from the director, as provided in Iowa Code section 455B.145.

**567—27.2(455B) Certificate of acceptance.** The governing body of a political subdivision may make application for a certificate of acceptance.

**27.2(1) Forms.** Each application for a certificate of acceptance shall be submitted to the director on forms available from the department.

**27.2(2) Processing of applications.** The director shall make an investigation of the program or portion of a program covered by an application for a certificate of acceptance to evaluate conformance with applicable provisions of Iowa Code section 455B.145.

*a. Granting of certificate.* A certificate of acceptance may be granted by the director if the program is consistent with Iowa Code chapter 455B, division II, and the rules established in this chapter.

*b. Review of program.* The director shall provide for a review of the program activities at intervals as the director prescribes for evaluation of the continuation of the certificate. Following the review, the director may continue the certificate in effect or suspend the certificate, in conformance with Iowa Code sections 455B.134(12) and 455B.145.

**567—27.3(455B) Ordinance or regulations.**

**27.3(1) Legal aspects.** Each local control program considered for a certificate of acceptance must be conducted under an appropriate ordinance or set of regulations, as specified in Iowa Code section 455B.145 and this rule.

**27.3(2) Legal authority.** The ordinance or regulations shall provide authority to the local control agency as follows:

*a. Scope of control.* Authority and responsibility for air pollution control within the entire area included in the jurisdiction involved.

*b. Degree of control.* Authority to prevent, abate and control air pollution from all sources within its area of jurisdiction, in accordance with requirements consistent with the provisions specified in these rules.

*c. Enforcement.* Legal authority to enforce its requirements and standards.

*d. Inspection and tests.* Legal authority to make inspections, perform emission tests and obtain data, reports or other information relating to sources of air pollution that may be necessary to prepare air contaminant emission inventories, and to evaluate control measures needed to meet specified goals.

**27.3(3) Control of air pollution.** The ordinance or regulations shall contain provisions applicable to the control or prohibition of emissions of air contaminants as listed below.

*a. Emission control.* Requirements specifying maximum concentrations, density or rates of discharge of emissions of air contaminants from specified sources.

(1) These requirements may be included in the ordinance or regulations, or in standards adopted by the local control agency under the authority granted by such ordinance or regulations.

(2) These requirements shall not establish an emission standard for any specific source that is in excess of the emission standard specified in 567—Chapter 23 for that source.

*b. Prohibition of emissions.* Provisions prohibiting the installation of equipment having a potential for air pollution without adequate control equipment. Such restriction may be included in the building code applicable to the jurisdiction covered by the local control agency.

*c. Open burning.* Provisions prohibiting open burning, including backyard burning, in urban areas within the jurisdiction of the local control agency.

(1) Provisions relating to backyard burning may consist of a program requiring the prohibition of such burning within a reasonable period of time.

(2) Provisions applicable to open burning may include a variance procedure, so long as no variance that would prevent the attainment or maintenance of ambient air quality standards for suspended particulates and carbon monoxide is issued.

*d. Requirements for permits.* Provisions requiring installation and operating permits for all new or altered equipment capable of emitting air contaminants into the atmosphere installed within the jurisdiction of the local control agency.

**27.3(4) Enforcement.** The ordinance or regulations of the local control agency shall include an effective mechanism for enforcing the provisions specified thereunder, as listed below.

*a. Procedures.* The local control ordinance or regulations shall specify that any violation of its provisions is subject to civil and criminal penalties.

*b. Penalties.* The penalties specified in such ordinance or regulations shall include fines, injunctive relief and sealing of equipment found to be not in compliance with applicable provisions of the ordinance or regulations.

*c. Procedures for granting variances or extensions of time to attain compliance status.* The local control agency shall maintain on file a record of the names, addresses, sources of emissions, types of emissions, rates of emissions, reason for granting, conditions and length of time specified, relating to all variances or extension of time granted and shall make such records available to the commission or the department upon request.

**567—27.4(455B) Administrative organization.**

**27.4(1) Administrative facilities.** Each local control program considered for a certificate of acceptance must have the administrative facilities necessary for effective operation of such program including but not limited to those listed below.

*a. Agency.* Designation of a legally constituted body within the organizational structure of the applicable political subdivision or combination of political subdivisions, as the administrative authority for the local control program.

*b. Procedures.* Adoption of definite administrative procedures for developing, promulgating and enforcing requirements and standards for air pollution control within the jurisdiction of the local control agency.

*c. Staff.* Employment of a technical and clerical staff deemed adequate to conduct the air pollution control activities in the local control program.

(1) Key technical staff personnel shall have received training or experience in air quality management program procedures.

(2) At least one member of the technical staff shall be assigned full-time duty in the operation of the local control program.

**27.4(2) Financial support.** Each local control program considered for a certificate of acceptance shall have adequate financial support for the operation of effective program activities.

**27.4(3) Physical facilities.** Each local control program considered for a certificate of acceptance must have the physical facilities necessary for the operation of effective program activities, including those listed below.

*a. Office space.* Sufficient office space and equipment to accommodate the members of the technical and clerical staff.

*b. Laboratory facilities.* The laboratory space and equipment shall be adequate for the effective exercise of the specific functions required in the operation of the local control program.

*c. Transportation facilities.* These facilities shall include provisions for transportation of personnel to service air monitoring equipment, visits to sources of emissions for investigative purposes and other appropriate program activities.

**567—27.5(455B) Program activities.** Each local control program considered for a certificate of acceptance must conduct air pollution control activities adequate to provide adequate control of air pollution within the jurisdiction of the local control program, including but not limited to those listed below. In conducting these program activities, the local control agency shall make every effort to meet the specified ambient air quality objectives applicable to the state of Iowa.

**27.5(1) Evaluation of problems.** Conduct activities to determine the actual and potential air pollution problems within the jurisdiction of the local control agency, and compare the present air quality in that jurisdiction with the air quality standards and objectives promulgated for this state. The air quality within the jurisdiction shall be determined by an air monitoring program, using sampling techniques and laboratory determinations compatible with those used in the air pollution control program of this state. The air monitoring program of the local control agency shall give attention to the air contaminants considered to be indices of pollution in this state.

**27.5(2) Control activities.** Conduct activities to abate or control emissions of air contaminants from existing equipment or from new or altered equipment located within the jurisdiction of the local control agency.

*a.* A program of plant inspections shall be conducted with respect to control of emissions from existing equipment. These activities should include the collection of data related to the types of emissions and the rate of discharge of emissions from each source involved, along with stack sampling when deemed appropriate.

*b.* Procedures for plan review and the issuing of permits relating to the installation or alteration such that the emission of air contaminants is significantly altered shall be conducted with respect to control of emissions from new or altered sources. These procedures may include provisions for permits relating to the use of the equipment involved.

These rules are intended to implement Iowa Code sections 455B.133, 455B.143, and 455B.145.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/15/24.