IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)"a"]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, paragraph, subparagraph, or numbered paragraph).

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)
441 IAC 79.1(1)"a"(1)"1"	(Numbered paragraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

Note: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

The following list will be updated as changes occur.

"Umbrella" agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory "umbrellas."

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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Dec. 17 '25	Jan. 7	Jan. 27	Jan. 29	Feb. 18	Mar. 10	Mar. 25	Mar. 26	Apr. 15	May 20	Aug. 17
Dec. 31 '25	Jan. 21	Feb. 10	Feb. 12	Mar. 4	Mar. 24	Apr. 8	Apr. 9	Apr. 29	June 3	Aug. 31
Jan. 15	Feb. 4	Feb. 24	Feb. 26	Mar. 18	Apr. 7	Apr. 22	Apr. 23	May 13	June 17	Sep. 14
Jan. 29	Feb. 18	Mar. 10	Mar. 12	Apr. 1	Apr. 21	May 6	**May 6**	May 27	July 1	Sep. 28
Feb. 12	Mar. 4	Mar. 24	Mar. 26	Apr. 15	May 5	May 20	May 21	June 10	July 15	Oct. 12
Feb. 26	Mar. 18	Apr. 7	Apr. 9	Apr. 29	May 19	June 3	June 4	June 24	July 29	Oct. 26
Mar. 12	Apr. 1	Apr. 21	Apr. 23	May 13	June 2	June 17	**June 17**	July 8	Aug. 12	Nov. 9
Mar. 26	Apr. 15	May 5	**May 6**	May 27	June 16	July 1	July 2	July 22	Aug. 26	Nov. 23
Apr. 9	Apr. 29	May 19	May 21	June 10	June 30	July 15	July 16	Aug. 5	Sep. 9	Dec. 7
Apr. 23	May 13	June 2	June 4	June 24	July 14	July 29	July 30	Aug. 19	Sep. 23	Dec. 21
May 6	May 27	June 16	**June 17**	July 8	July 28	Aug. 12	Aug. 13	Sep. 2	Oct. 7	Jan. 4 '27
May 21	June 10	June 30	July 2	July 22	Aug. 11	Aug. 26	**Aug. 26**	Sep. 16	Oct. 21	Jan. 18 '27
June 4	June 24	July 14	July 16	Aug. 5	Aug. 25	Sep. 9	Sep. 10	Sep. 30	Nov. 4	Feb. 1 '27
June 17	July 8	July 28	July 30	Aug. 19	Sep. 8	Sep. 23	Sep. 24	Oct. 14	Nov. 18	Feb. 15 '27
July 2	July 22	Aug. 11	Aug. 13	Sep. 2	Sep. 22	Oct. 7	Oct. 8	Oct. 28	Dec. 2	Mar. 1 '27
July 16	Aug. 5	Aug. 25	**Aug. 26**	Sep. 16	Oct. 6	Oct. 21	**Oct. 21**	Nov. 11	Dec. 16	Mar. 15 '27
July 30	Aug. 19	Sep. 8	Sep. 10	Sep. 30	Oct. 20	Nov. 4	**Nov. 4**	Nov. 25	Dec. 30	Mar. 29 '27
Aug. 13	Sep. 2	Sep. 22	Sep. 24	Oct. 14	Nov. 3	Nov. 18	**Nov. 18**	Dec. 9	Jan. 13 '27	Apr. 12 '27
Aug. 26	Sep. 16	Oct. 6	Oct. 8	Oct. 28	Nov. 17	Dec. 2	**Dec. 2**	Dec. 23	Jan. 27 '27	Apr. 26 '27
Sep. 10	Sep. 30	Oct. 20	**Oct. 21**	Nov. 11	Dec. 1	Dec. 16	**Dec. 16**	Jan. 6 '27	Feb. 10 '27	May 10 '27
Sep. 24	Oct. 14	Nov. 3	**Nov. 4**	Nov. 25	Dec. 15	Dec. 30	**Dec. 30**	Jan. 20 '27	Feb. 24 '27	May 24 '27
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Oct. 21	Nov. 11	Dec. 1	**Dec. 2**	Dec. 23	Jan. 12 '27	Jan. 27 '27	Jan. 28 '27	Feb. 17 '27	Mar. 24 '27	June 21 '27
Nov. 4	Nov. 25	Dec. 15	**Dec. 16**	Jan. 6 '27	Jan. 26 '27	Feb. 10 '27	Feb. 11 '27	Mar. 3 '27	Apr. 7 '27	July 5 '27
Nov. 18	Dec. 9	Dec. 29	**Dec. 30**	Jan. 20 '27	Feb. 9 '27	Feb. 24 '27	Feb. 25 '27	Mar. 17 '27	Apr. 21 '27	July 19 '27
Dec. 2	Dec. 23	Jan. 12 '27	Jan. 14 '27	Feb. 3 '27	Feb. 23 '27	Mar. 10 '27	Mar. 11 '27	Mar. 31 '27	May 5 '27	Aug. 2 '27
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PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12:00 p.m. noon** on a submission deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor. If the submission deadline falls on a legal holiday, submissions made on the following business day will be accepted.

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more business days in advance of the deadline. The first possible Notice submission deadline noted above may not allow sufficient time for this. **Agencies should plan accordingly.**

****Bold and asterisks indicate change of regular submission deadline****

Regulatory Analysis

Notice of Intended Action to be published: 261—Chapter 49
"Historic Preservation Tax Credit"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 404A
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 404A

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 2:15 to 2:30 p.m.	Via Microsoft Teams Information about Teams participation can be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Economic Development Authority no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: lisa.connell@iowaeda.com

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 49 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the historic preservation tax credit available pursuant to Iowa Code chapter 404A as amended by 2025 Iowa Acts, Senate File 975. The program provides tax credits for the qualified rehabilitation expenditures for historic properties.

The new chapter will be clearer and more concise throughout and will omit language that duplicates statute. The new chapter will also incorporate content from 223—Chapter 48, which was adopted by the State Historic Preservation Office (SHPO) prior to its alignment with the Authority in 2023 Iowa Acts, Senate File 514. 223—Chapter 48 relates to the SHPO's review of projects receiving tax credits and will be rescinded as part of a concurrent rulemaking.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Entities that apply for or that participate in the program will bear the costs of the rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Entities that apply for or that participate in the program will benefit from the rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Entities applying for tax credits may require staff time to complete an application. Entities that receive tax credits may similarly incur costs to comply with reporting and monitoring requirements of the program. Some applicants and recipients may choose to rely on an external service provider to complete these tasks. The amount of the costs will vary depending on the compensation of staff or service providers involved. Application processing fees are also required.

- **Qualitative description of impact:**

The program supports qualified rehabilitation expenditures for historic properties.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Authority staff time is required to review and approve applications, issue tax credit certificates, review reports, and communicate with program applicants and recipients.

- **Anticipated effect on State revenues:**

The proposed rulemaking has no anticipated impact on State revenues. Up to $45 million total in tax credits may be awarded by the Authority for this program in each fiscal year pursuant to Iowa Code section 404A.4.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Only the entities that will potentially benefit from the program bear the costs of the proposed rulemaking. The costs to the State to administer the program are proportional to the activities supported.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Authority has not identified any less costly methods or less intrusive methods for administering the program.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Authority did not consider any other methods.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Authority did not consider any other methods.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking impacts only small businesses seeking tax credits. The rulemaking sections regarding compliance and reporting requirements are no more stringent than necessary to

implement the purposes of the program. The rulemaking does not establish schedules or deadlines. The rulemaking does not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 261—Chapter 49 and adopt the following **new** chapter in lieu thereof:

CHAPTER 49
HISTORIC PRESERVATION TAX CREDIT

261—49.1(404A) Definitions. For purposes of this chapter, unless the context otherwise requires:

"Agreement" means an agreement between an eligible taxpayer and the authority entered into pursuant to Iowa Code section 404A.3(3) and rule 261—49.12(404A).

"Applicant" means an eligible taxpayer that has submitted an application pursuant to this chapter.

"Authority" means the economic development authority established pursuant to Iowa Code section 15.105.

"Authority's website" means the information and related content found at www.opportunityiowa.gov.

"Barn" means an agricultural building or structure, in whatever shape or design, that was originally used for the storage of farm products or feed or for the housing of farm animals, poultry, or farm equipment.

"Eligible taxpayer" means the same as defined in Iowa Code section 404A.1(3).

"Federal rehabilitation credit" means the tax credit allowed under Section 47 of the Internal Revenue Code.

"Federal standards" means the U.S. Secretary of the Interior's standards for rehabilitation set forth in 36 CFR §67.7.

"Government funding" includes but is not limited to funding the applicant received from a federal, state, or local government; funding from a third party or a series of third parties where those funds originally came from a government or were derived from a government payment, grant, loan, tax credit or rebate or other government incentive; or funding from a third party or a series of third parties where those funds are derived from, secured by, or otherwise received in anticipation of a government payment, grant, loan, tax credit or rebate or other government incentive.

"Historically significant" means a property that is at least one of the following:

1. Property listed on the National Register of Historic Places or eligible for such listing.
2. Property designated as contributing to a district listed in the National Register of Historic Places or eligible for such designation.
3. Property or district designated a local landmark by a city or county ordinance.
4. A barn constructed prior to 1937.

"Large project" means a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than $750,000.

"National Register of Historic Places" means the same as described in 36 CFR §60.

"Nonprofit organization" means the same as defined in Iowa Code section 404A.1(4).

"Part 1 application" means an application submitted to SHPO to determine whether a property is historically significant.

"Part 2 application" means an application submitted to SHPO to determine whether the proposed rehabilitation work meets the federal standards.

"Part 2B application" means an application submitted to the authority, after a Part 2 application has been approved by SHPO but before a Part 3 application is submitted, to determine whether a project should be registered for a tentative tax credit award.

"Part 3 application" means an application submitted to the authority, after a Part 2B application is approved, to determine whether a project has complied with the terms of an agreement as well as

with applicable laws, rules and regulations, including federal standards, and is therefore eligible for issuance of a tax credit certificate.

"Placed in service" means placed in a condition or state of readiness and availability for a specifically assigned function.

"Program" means the historic preservation tax credit program established pursuant to Iowa Code chapter 404A and this chapter.

"Property" means the real property that is the subject of a "qualified rehabilitation project" or that is the subject of an application to become a qualified rehabilitation project.

"Qualified rehabilitation expenditures" or *"QREs"* means expenditures that meet the definition of "qualified rehabilitation expenditures" in Section 47 of the Internal Revenue Code and as described in rule 261—49.3(404A).

"Qualified rehabilitation project" or *"project"* means the same as defined in Iowa Code section 404A.1(7).

"Related entities" means any entity owned or controlled in whole or in part by the applicant; any person or entity that owns or controls in whole or in part the applicant; or any entity owned or controlled in whole or in part by any current or prospective officer, principal, director, or owner of the applicant.

"Related persons" means any current or prospective officer, principal, director, member, shareholder, partner, or owner of the applicant.

"SHPO" means the state historic preservation office established within the authority and subject to the direction of the state historic preservation officer appointed pursuant to Iowa Code section 15.121.

"Small project" means a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of $750,000 or less.

"Tax credit" means the historic preservation tax credit established in Iowa Code chapter 404A.

261—49.2(404A) Single-family dwelling units.

49.2(1) As part of the evaluation of any application submitted pursuant to this chapter, the authority, including SHPO, shall evaluate whether a property should be classified as a single-family dwelling unit and whether an applicant proposes a qualified rehabilitation project, both as described in Iowa Code section 404A.1(7).

49.2(2) To determine whether a property should be classified as a single-family dwelling unit for the purposes of Iowa Code section 404A.1(7), the authority may consider factors such as:

a. Whether a dwelling unit is separated from other dwelling units by a ground-to-roof wall;

b. Whether the dwelling unit has a separate heating system;

c. Whether the dwelling unit has an individual meter for public utilities;

d. Whether the dwelling unit has other dwelling units above or below;

e. The current use of the property; and

f. The intended future use of the property.

49.2(3) A building used for both commercial and residential purposes will be considered a single-family dwelling unit if more than 50 percent of the building is used for residential purposes as determined by the authority.

49.2(4) An applicant shall have the burden to establish that a proposed project including single-family dwelling units will result in two or more new single-family dwelling units that were not available for occupancy as residential housing during the immediately preceding consecutive six months prior to commencement of rehabilitation work on the property and the dwelling units are located in the same neighborhood.

49.2(5) The exclusion of single-family dwelling units as qualified rehabilitation projects in Iowa Code section 404A.1(7) does not apply if a Part 1 application was submitted for a property prior to July 1, 2025.

261—49.3(404A) Qualified rehabilitation expenditures. Qualified rehabilitation expenditures may include:

49.3(1) For projects registered on or after January 1, 2023, expenditures incurred within five years prior to the date an agreement is entered into under Iowa Code section 404A.3(3).

49.3(2) Reasonable developer fees. The authority may establish limits on developer fees and may adjust those limits. Any adjustment made to the established limit will take effect 24 months after the adjustment is published on the authority's website. Developer fees that are qualified rehabilitation expenditures and that meet the limits effective at the time the Part 2B application is submitted shall be deemed reasonable by the authority.

261—49.4(404A) Small projects.

49.4(1) If an applicant anticipates that the final qualified rehabilitation expenditures will exceed $750,000, the applicant shall not submit its application as a small project. The authority will not permit a small project applicant to submit additional or amended applications that would cause the final qualified rehabilitation expenditures to exceed $750,000.

49.4(2) For applicants that receive credits from the small project allocation, the cumulative total award for multiple applications for a single property shall not exceed $750,000 in qualified rehabilitation expenditures plus any allowable cost overruns as described in subrule 49.12(1) regardless of the final qualified rehabilitation expenditures.

49.4(3) Small project Part 2B applications may be accepted on a continuous basis or may be accepted during one or more application periods; however, an application must be submitted no later than 12 months after receipt of approval of a Part 2 application. Small project Part 2B applications may be evaluated on a first-come, first-served basis, subject to the availability of tax credits.

261—49.5(404A) Tax credit eligibility. Only an eligible taxpayer may submit an application pursuant to this chapter. A nonprofit organization may submit an application pursuant to this chapter if the nonprofit organization is the fee simple owner of the property.

49.5(1) In any application submitted pursuant to this chapter, an applicant that is not the fee simple owner of the property must provide the following:

a. Documentation that the property owner is aware of the application and has no objection.

b. Certification that the applicant understands that the authority will not issue a tax credit pursuant to this chapter if the applicant is not the fee simple owner or not otherwise an eligible taxpayer.

49.5(2) At the time a Part 1 application or Part 2 application is submitted, an applicant will be expected to provide preliminary documentation of the applicant's status as an eligible taxpayer.

a. An applicant that is the fee simple owner shall provide title documentation. If the title is held in the name of an entity, the applicant shall also provide documentation that indicates that the signatory is the authorized representative of the entity.

b. An applicant that is not the fee simple owner but plans to apply for the federal rehabilitation credit shall provide a copy of the approved federal Part 1 application, unless the property is individually listed on the National Register of Historic Places and certify that the applicant plans to apply and expects to qualify for the federal rehabilitation credit.

49.5(3) At the time an eligible taxpayer enters an agreement with the authority pursuant to rule 261—49.12(404A), the eligible taxpayer must provide documentation that the eligible taxpayer is a fee simple owner or has a binding qualified long-term lease that meets the requirements of the federal rehabilitation credit.

49.5(4) Governmental bodies as defined in Iowa Code section 362.2 may not apply for tax credits.

261—49.6(404A) Applications. All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the authority,

including SHPO. Information about the program, including a link to the online applications and instructions, may be obtained by visiting the authority's website. An application shall not be considered submitted for review until the application is completed and all required supporting documentation and information are provided.

261—49.7(404A) Part 1 application.

49.7(1) *Submission period.* Part 1 applications may be submitted year-round. A Part 1 application must be submitted prior to the project being completed and placed in service.

49.7(2) *Required information.* Applicants must provide a site plan, photographs of the property taken prior to any rehabilitation and any new construction, a copy of the county assessor's statement for the property, applicable documentation of the applicant's status as an eligible taxpayer as described in subrules 49.6(1) and 49.6(2), information about the current and intended future uses of the property, and such other information as SHPO may require to assess whether the property is historically significant.

49.7(3) *Review process.* Generally, the SHPO will review fully completed Part 1 applications within 90 calendar days of receipt; however, this time frame is not mandatory. If the application is incomplete when submitted or if for any other reason SHPO must request additional information, the 90-day review period will restart when the requested information is received by the SHPO. The application may be rejected if any requested information is not provided.

49.7(4) *Response from SHPO.* Upon completion of the review, SHPO shall issue a determination regarding whether the property meets the requirements to be considered historically significant.

49.7(5) *Period of validity.* A determination that the property meets the requirements to be considered historically significant shall be valid for five years from the issuance of the determination, provided that the property is maintained in a manner consistent with federal standards and that the fee simple owner of the property remains the same during such period. Changes to the property that are not approved by SHPO shall automatically invalidate the determination of historical significance and require a new Part 1 application.

49.7(6) *Amendments.* An applicant may amend an approved Part 1 application prior to submission of a Part 2 application.

261—49.8(404A) Preapplication meeting. Once the completed Part 1 application is submitted, the applicant may request a preapplication meeting following the instructions provided by SHPO. The meeting will take place no fewer than 30 days after the submission of the Part 1 application and prior to submission of the Part 2 application. SHPO may instruct applicants on information to be submitted prior to the meeting or to be provided at the meeting.

261—49.9(404A) Part 2 application.

49.9(1) *Submission period.* Part 2 applications may be submitted at any time after the project has received an approved Part 1 application and the applicant has participated in a preapplication meeting.

49.9(2) *Required information.* The applicant must provide any information requested by SHPO, including but not limited to:

a. A detailed description of the rehabilitation;

b. An estimate of the total costs related to the rehabilitation and other work to be completed on the property, regardless of whether the costs are qualified rehabilitation costs;

c. An estimate of the qualified rehabilitation expenditures;

d. Photographs;

e. Applicable documentation of the applicant's status as an eligible taxpayer as described in subrules 49.6(1) and 49.6(2);

f. Information about the current and intended future uses of the property; and

g. Whether the applicant plans to submit a Part 2B application as a small project or a large project.

49.9(3) *Review process.* Generally, SHPO will review fully completed Part 2 applications within 90 calendar days of receipt; however, this time frame is not mandatory. If the application is incomplete when submitted or if SHPO must request additional information, the 90-day review period will restart when SHPO receives the requested information. The application may be rejected if any requested information is not provided.

49.9(4) *Response from SHPO.* The review of the complete Part 2 application will result in one of three responses:

a. The project is eligible to submit a Part 2B application because the proposed rehabilitation described in the application meets the federal standards;

b. The project is eligible to submit a Part 2B application because the proposed rehabilitation described in the application will likely meet the federal standards if stipulated conditions are met; or

c. The project is ineligible to submit a Part 2B application because the proposed rehabilitation does not meet the federal standards. The project may amend its Part 2 application or submit a new Part 2 application for the property to propose a rehabilitee that meets the federal standards.

49.9(5) *Amendments.* An applicant shall amend an approved Part 2 application to request review of modifications to the previously approved description of rehabilitation, including changes to the ownership of the project. Amendments to the Part 2 application shall not result in the awarding of additional tax credits for the project and may result in a reduction in or rescission of a tax credit award if SHPO determines that the work does not meet the federal standards or does not otherwise comply with the requirements of the program.

261—49.10(404A) Part 2B application. If SHPO has approved Part 1 and Part 2 applications for a project, the applicant may submit a Part 2B application.

49.10(1) *Submission period.* The authority will accept Part 2B applications for small projects as described in subrule 49.5(3). Applications for large projects will be accepted only during application periods established on the authority's website.

49.10(2) *Required information.* The Part 2B application must include the following information as well as any additional information the authority may request: any changes in ownership since submission of the Part 2 application, information about the current and intended future uses of the property, the total project cost, an estimated schedule of qualified rehabilitation expenditures, a schedule of all funding sources, including government funding, that will be used to fund the project in its entirety and documentation of all project funding sources.

49.10(3) *Certification and release of information.* The applicant must identify and list all related persons and related entities. The applicant must release information requested by the authority regarding the applicant, related persons, and related entities. The applicant must also certify that all representations, warranties, documents, or statements made or furnished in connection with the Part 2B application are true and accurate.

a. The authority may reject an application for registration if:

(1) The applicant fails to answer the questions and provide all requested information and documents in a timely manner.

(2) The applicant provides false or inaccurate information or documents to the authority.

(3) The applicant, a related person, or a related entity is not in good standing with any local, state, or federal taxing authority. This provision shall not apply to an applicant, related person, or related entity that has timely filed an extension to file a local, state or federal tax return.

(4) The applicant, a related person, or a related entity is currently in default, has an uncured breach, or is otherwise not in compliance with any entity or instrumentality of the state of Iowa.

(5) The applicant, a related person, or a related entity has any overdue amounts owed to the state of Iowa, any agency of the state of Iowa, any other entity or instrumentality of the state of Iowa, or any person or entity that is eligible to submit claims to the state offset system.

(6) The authority determines that the applicant will not be able to provide representations, warranties, conditions, or other terms of an agreement that would be acceptable to the authority.

(7) Information is disclosed to the authority that would cause the authority to decline to enter into an agreement with the applicant.

b. The authority may ask the applicant to disclose information and documents about other entities affiliated with the applicant, a related person, or a related entity if the authority determines that the information regarding the applicant, related persons, and related entities does not adequately disclose to the authority the economic, ownership, and management structure and realities related to a project.

c. In determining whether to reject an application in accordance with this subrule, the authority will consider factors including but not limited to the nature of the information disclosed and whether the applicant has a record of violations of law over a period of time that tends to show a consistent pattern.

49.10(4) *Scoring process.* All completed applications will be reviewed and scored. Scoring of the application will consider readiness criteria, including but not limited to the following:

a. Rehabilitation planning.

b. Secured financing.

c. Ownership.

d. Local government support.

e. Rehabilitation timeline.

f. Code review.

49.10(5) *Registration.*

a. Upon reviewing and scoring all applications submitted in an application period, the authority may register qualified rehabilitation projects based on the estimated qualified rehabilitation costs identified in the Part 2B applications. Preference will be given to the projects with the highest registration score based on the criteria in subrule 49.11(4).

b. The authority will make its best effort to notify applicants of registration decisions within 60 calendar days after the close of the application period. Registration notices shall include the amount of the applicant's tentative tax credit award determined by the authority along with a notice that the amount is a preliminary, nonbinding determination only. An applicant whose project is not registered may submit future applications for future fiscal year tax credit allocations.

c. The authority shall not register more projects in a given fiscal year for tentative awards than there are tax credits available for that fiscal year under Iowa Code section 404A.4. Tax credits may be reallocated or awarded in future fiscal years to the extent permitted by Iowa Code section 404A.4.

d. If a project registered after July 1, 2025, qualifies for tax credits exceeding $10 million or more, the authority may award tax credits from the allocation for the following fiscal year, in an amount not to exceed 20 percent of the maximum aggregate tax credit award limit in Iowa Code section 404A.4.

261—49.11(404A) Agreement. Upon successful registration of the project as described in subrule 49.11(5), the eligible taxpayer shall have 90 calendar days or until the end of the fiscal year, whichever is less, to purchase or lease the property, if applicable, and enter into an agreement with the authority. The authority shall not enter an agreement until it receives proof that the eligible taxpayer is the actual fee simple owner or has a binding qualified long-term lease that meets the requirements of the federal rehabilitation credit. An eligible taxpayer shall not be eligible for tax credits unless the eligible taxpayer enters into an agreement with the authority and satisfies the terms and conditions that must be met to receive the tax credit award.

49.11(1) *Terms and conditions.* The agreement will contain all items required by Iowa Code section 404A.3(3) and other terms, conditions, representations, and warranties as the authority may determine are necessary. The budget of the qualified rehabilitation project required by Iowa Code section 404A.3(3)*"b"*(3) shall include all funding sources, including government funding, that will be used to fund the project in its entirety. The agreement may contain allowable cost overruns as described in Iowa Code section 404A.3(3)*"b"*(3).

49.11(2) *Amendments.* The authority may for good cause amend an agreement. Any amendment approved by the authority shall be signed by both parties. Agreement amendments must comply with Iowa Code chapter 404A and this chapter.

261—49.12(404A) Part 3 application. The Part 3 application must include the following information:

49.12(1) Certification that the applicant is an eligible taxpayer.

49.12(2) A schedule of total expenditures for the project that identifies the final qualified rehabilitation expenditures and those expenditures that are not qualified, in the form prescribed by the authority.

49.12(3) A schedule of all funding sources, including government funding, used to finance the project in its entirety and documentation of all project funding sources. If the funding sources include those identified in Iowa Code section 404A.1(6)*"b,"* the authority will identify the impact of the exclusion of such expenditures from qualified rehabilitation expenditures on the approved tax credit amount. Any portion of qualified rehabilitation expenditures that are financed by the redevelopment tax credit administered pursuant to Iowa Code chapter 15, subchapter II, part 9, and the workforce housing tax incentive program administered pursuant to Iowa Code chapter 15, subchapter II, part 17, will also be excluded in determining the amount of expenditures eligible for a tax credit.

49.12(4) CPA examination.

a. An eligible taxpayer shall engage a certified public accountant authorized to practice in this state to conduct an examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements. The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE No. 11, 12, and 14), AT section 101 and AT section 601 or other comparable attestation identified by the authority. Upon completion of the qualified rehabilitation project, the eligible taxpayer shall submit the examination to the authority along with a statement of the amount of final qualified rehabilitation expenditures and any other information deemed necessary by the authority in order to verify that all requirements of the agreement, Iowa Code chapter 404A, and all rules adopted pursuant to Iowa Code chapter 404A have been satisfied.

b. The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA's professional judgment, the qualified rehabilitation expenditures claimed are eligible pursuant to the agreement, Iowa Code chapter 404A, and all rules adopted pursuant to Iowa Code chapter 404A in all material respects. The documents reviewed by the CPA should be made available to the authority upon request. The applicant should generally be able to provide the requested documents within ten business days of a request from the authority.

c. If the examination requirement is waived pursuant to Iowa Code section 404A.3(5)*"b,"* the authority reserves the right to request any additional information necessary to verify the final qualified rehabilitation expenditures and, if deemed necessary by the authority, to require that an eligible taxpayer for whom the requirement was waived to engage a CPA to conduct an examination of the project pursuant to paragraphs 49.13(4)*"a"* and *"b."*

49.12(5) Photo keys and photos of the property after the rehabilitation is completed.

49.12(6) Any other information deemed necessary by the authority in order to verify that all requirements of the agreement, Iowa Code chapter 404A, and all rules adopted pursuant to Iowa Code chapter 404A have been satisfied or any other information the authority may require for program evaluation.

49.12(7) Election to receive either a refundable or a nonrefundable tax credit.

261—49.13(404A) Fees. Applicants must pay a nonrefundable fee for the processing of Parts 2 and 3 of an application. The review fee for Part 2 will be due with the filing of the Part 2 application and will equal $500 for projects with estimated qualified rehabilitation costs less than or equal to $750,000 and will equal $1,000 for projects with estimated qualified rehabilitation expenditures greater than

$750,000. The fee for review of Part 3 will be due with the filing of the Part 3 application and will be based on the final qualified rehabilitation expenditures. The fee will equal $500 for projects with final qualified rehabilitation costs less than or equal to $750,000 and will equal 0.5 percent of final qualified rehabilitation expenditures, not to exceed $50,000, for projects with final qualified rehabilitation expenditures greater than $750,000.

261—49.14(404A) Compliance.

49.14(1) *Reports.* In addition to the annual certification required by Iowa Code section 404A.3(4), the eligible taxpayer shall submit information reasonably required by the authority to make reports to the authority's board, the governor's office, or the general assembly.

49.14(2) *Declination.* An applicant shall notify the authority in writing of the applicant's decision to irrevocably decline the tax credit. The authority will acknowledge that the tax credit has been irrevocably declined in writing. The tax credit shall be reallocated to the extent permitted by Iowa Code section 404A.4. If the applicant wishes to apply for a tax credit on the same qualified rehabilitation project at a later date, the applicant must complete the application process as though the project is a new project.

49.14(3) *Revocation.* The authority may revoke a tax credit pursuant to Iowa Code section 404A.3(4)*"c."*

261—49.15(404A) Certificate issuance; claiming the tax credit. After determining whether the terms of the agreement, Iowa Code chapter 404A, and the applicable rules have been met, the authority shall issue a tax credit certificate to the eligible taxpayer stating the amount of tax credit under Iowa Code section 404A.2 the eligible taxpayer may claim, or the authority shall issue a notice that the eligible taxpayer is not eligible to receive a tax credit certificate. To receive the tax credit, an eligible taxpayer shall file a claim in accordance with any applicable administrative rules adopted by the department of revenue. Notwithstanding the foregoing, the eligibility of the tax credit remains subject to audit by the department of revenue in accordance with Iowa Code chapters 421 and 422.

261—49.16(404A) All references to the Internal Revenue Code and Code of Federal Regulations in this chapter are to the laws as in effect on [the effective date of this rulemaking].

These rules are intended to implement Iowa Code chapter 404A.

Regulatory Analysis

Notice of Intended Action to be published: 223—Chapter 48
"Historic Preservation and Cultural and Entertainment District Tax Credits"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 404A
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 404A

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 2:15 to 2:30 p.m.	Via Microsoft Teams Information about Teams participation can be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review.

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Economic Development Authority (Authority) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: lisa.connell@iowaeda.com

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 48. The chapter was adopted by the State Historic Preservation Office (SHPO) prior to its alignment with the Authority in 2023 Iowa Acts, Senate File 514, and relates to SHPO's review of projects receiving historic preservation tax credits. Relevant content from the chapter will be incorporated into 261—Chapter 49 as part of a concurrent rulemaking. 261—Chapter 49 addresses the remainder of the Authority's policies and procedures for historic preservation tax credits.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Rescission of the chapter does not impose any costs.

- **Classes of persons that will benefit from the proposed rulemaking:**

Consolidating Chapter 48 and 261—Chapter 49, which both relate to historic preservation tax credits, provides clarity about the tax credit to applicants and recipients.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Rescission of the chapter does not impose any costs.

- **Qualitative description of impact:**

Consolidating Chapter 48 and 261—Chapter 49, which both relate to historic preservation tax credits, provides clarity about the tax credit to applicants and recipients.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are none.

- **Anticipated effect on State revenues:**

Rescission of the chapter has no anticipated impact on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Consolidating Chapter 48 and 261—Chapter 49, which both relate to historic preservation tax credits, provides clarity about the tax credit to applicants and recipients.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Authority has not identified any less costly methods or less intrusive methods for administering the program.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Authority did not consider any other methods.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Authority did not consider any other methods.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Rescission of the chapter does not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **223—Chapter 48**.

Regulatory Analysis

Notice of Intended Action to be published: 481—Chapter 280
"Fire Control Administration"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 10A.511
State or federal law(s) implemented by the rulemaking: Iowa Code section 10A.511

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 9:30 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing's website prior to the hearing.

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Amy K. Oetken
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.672.4929
Email: amy.oetken@dia.iowa.gov

Purpose and Summary

This proposed rulemaking rescinds subrule 280.8(2) and adopts a new subrule 280.8(2). Iowa Code section 10A.511(3) directs the Director to promulgate fire safety rules applicable to enforcement or inspection requirements by the Department regarding fire hazards or fire safety or protection in any establishment, building or structure. Subrule 280.8(2) was mistakenly amended during the Red Tape Review of Chapter 280. This rulemaking proposes to return subrule 280.8(2) to its previous form and, by so doing, implement Iowa Code section 10A.511.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Members of the industry will bear the costs of this proposed rulemaking by operating in compliance with the proposed subrule.

- **Classes of persons that will benefit from the proposed rulemaking:**

The public will benefit because this proposed rulemaking promotes safety, health, and protection of property.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Costs are incurred by individuals or businesses by complying with the standards set out in proposed subrule 280.8(2).

- **Qualitative description of impact:**

There is a positive impact to both the public and the regulated industry in maintaining industry standards that are safe and modern. In 2022, local fire departments responded to an estimated 1.5 million fires in the United States, according to the National Fire Protection Association. Approximately 35 percent of those fires occurred in or on structures. These fires resulted in 2,790 civilian deaths, 11,720 civilian fire injuries and $15 billion of direct property damage. The overall estimate for total fire incidents was 50 percent lower than in 1980. Property loss was 20 percent lower than in 1980. Safety standards save lives and protect property.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Costs to the Department include staff ensuring compliance with the proposed subrule. Costs to the Department also include costs for staff that already exist in day-to-day operations of the agency.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

There are no specific financial costs to implement or enforce this proposed rulemaking outside of any costs associated with the Department's statutory duties identified and set forth above. The costs of this proposed rulemaking are directly associated with the Department's general functions. This proposed rulemaking does not add to the costs of the Department or public in excess of general functions. The benefits include clear and consistent implementation of applicable Iowa Code.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

There are no less restrictive alternatives to this proposed rulemaking. The purpose of this proposed rulemaking is to return the subrule to its prior form and update the International Building Code to the 2024 edition. There is no less costly or intrusive method for achieving the purpose of this proposed rulemaking.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

See response in Section 5 above.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

See response in Section 5 above.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking is meant to ensure public safety and provide for consistency and uniformity in the industry. To exempt small businesses from adhering to this proposed rulemaking would jeopardize any member of the public who sought services from that business, as well as the employees of the business. The risk to the public is greater than the potential harm or cost to the small business. Additionally, if a small business identified that the proposed rulemaking is overly burdensome and the goal of which could be achieved in a manner that would reduce the impact on the small business, the business could utilize the established variance process set forth by the Department.

Text of Proposed Rulemaking

ITEM 1. Rescind subrule 280.8(2) and adopt the following **new** subrule in lieu thereof:

280.8(2) The following chapters and sections of the International Building Code, 2024 edition, published by the International Code Council, as amended by rule 481—301.3(10A):

a. Chapter 2.
b. Chapter 3.
c. Chapter 4.
d. Chapter 5.
e. Chapter 6.
f. Chapter 7.
g. Sections 804 and 805.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Regulatory Analysis

Notice of Intended Action to be published: 481—Chapter 301
"State Building Code"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 103A.7 and 103A.8A
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 103A

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 27, 2026	6200 Park Avenue
10 to 10:30 a.m.	Des Moines, Iowa

Virtual participation information will be available on the Department of Inspections, Appeals, and Licensing's website prior to the hearing.

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Jeremiah Junker
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.672.4745
Email: jeremiah.junker@dia.iowa.gov

Purpose and Summary

Iowa Code section 103A.7(1) provides that the State Building Code Commissioner is empowered and directed to formulate and adopt and from time to time amend or revise State Building Code rules. Pursuant to Iowa Code section 103A.7(2), the rules shall include (among other things) reasonable provisions for the conservation of energy through thermal efficiency standards for buildings that are intended for human occupancy and that are heated or cooled and lighting efficiency standards for buildings intended for human occupancy that are lighted. Additionally, pursuant to Iowa Code section 103A.8A, the State Building Code Commissioner shall adopt as a part of the State Building Code a requirement that new single-family or two-family residential construction shall comply with energy conservation requirements.

The purpose of this proposed rulemaking is to amend the energy conservation provisions of the State Building Code to increase the acceptable air leakage rate when simulated energy performance analysis is utilized. For a number of years, the energy conservation rules of the State Building Code have amended the adopted International Energy Conservation Code (2012 Edition) (IECC (2012)) to increase the acceptable air leakage rate when using physical testing with a blower door from three air changes per hour to four air changes per hour (in Climate Zones 3 through 8, which encompass Iowa). This amendment can currently be found at subrule 301.24(9). Note that the physical testing of air leakage rate with a blower door is a mandatory provision that must be performed on all constructed residences.

To demonstrate compliance, the IECC (2012) provides a general prescriptive route and an alternative performance route or "simulated performance alternative." As the name suggests, this alternative is a simulated analysis using software that is conducted on proposed residential construction (i.e., before construction is completed). The simulated energy performance analysis has many fields or building components, of which air exchange rate is just one. The acceptable air leakage rate under the IECC (2012) simulated energy performance analysis is three air changes per hour, and it is not currently amended by State rules. It has come to the Department's attention that this has created confusion within the homebuilder industry and with local enforcement of these provisions, with some in the field believing that the amendment to acceptable air leakage rate for physical testing also applies to the acceptable air leakage rate that is one component of the simulated energy performance analysis. To alleviate this confusion, the Department is proposing to also amend IECC (2012) by State rule to allow for four air changes per hour during the simulated energy performance analysis.

Additionally, this proposed rulemaking would make the simulated energy performance analysis less restrictive, consistent with the directives of Executive Order 10. The Department has received preclearance for this proposed rulemaking from the Administrative Rules Coordinator pursuant to Section IV(A)(i) of Executive Order 10.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

The Department does not believe there are any costs associated with this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Homebuilders should benefit from the proposed rulemaking when utilizing simulated energy performance analysis since this proposed rulemaking increases the acceptable air leakage rate component of that alternative compliance method.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

The quantitative impact of this proposed rulemaking is that the acceptable air leakage rate for proposed residential construction when utilizing simulated energy performance analysis will increase from three to four air changes per hour.

- **Qualitative description of impact:**

The qualitative impact of the proposed rulemaking is to create equivalent acceptable air leakage rates for final physical testing using a blower door and compliance demonstration of proposed construction when utilizing simulated energy performance analysis, as well as to alleviate confusion in the homebuilding industry where some believed that both already allowed for four air changes per hour.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no enforcement costs associated with this proposed rulemaking that would be borne by the Department or any other State agency.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

As discussed in Sections 1 and 2 above, the Department does not believe there are any costs associated with this proposed rulemaking, while the benefit is to create equivalent acceptable air leakage rates for residential construction during physical testing with a blower door and compliance demonstration using the simulated energy performance analysis alternative, as well as to alleviate

confusion in the homebuilding industry and local enforcement created from the existing nonequivalent rates.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

There already are no costs associated with this proposed rulemaking, and this proposed rulemaking is not intrusive. Rather, this proposed rulemaking makes the rules less restrictive.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Other than the existing acceptable air leakage rate of three air changes per hour when utilizing simulated energy performance analysis, no other alternative methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

This proposed rulemaking was chosen over the existing rule to create equivalent acceptable air leakage rates for residential construction during physical testing with a blower door and compliance demonstration using the simulated energy performance analysis, as well as to alleviate confusion in the homebuilding industry and local enforcement created from the existing nonequivalent rates.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The Department does not believe that this proposed rulemaking will have a substantial impact on small business. To the extent small business homebuilders are impacted by this proposed rulemaking, they will benefit from a less restrictive acceptable air leakage rate when utilizing simulated energy performance analysis, as well as an alleviation of confusion in the homebuilding industry created from the existing nonequivalent rates.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** subrule 301.24(12):

301.24(12) Delete the first clause of the Standard Reference Design for Building Component "Air exchange rate" in Table R405.5.2(1) and insert in lieu thereof the following new clause: "Air leakage of 5 air changes per hour in Climate Zones 1 and 2, and 4 air changes per hour in Climate Zones 3 through 8 at a pressure of 0.2 inches w.g (50 Pa)."

Regulatory Analysis

Notice of Intended Action to be published: 481—Chapters 900 and 901
"Funeral Directors, Funeral Establishments, and Cremation Establishments—Practice, Licensure"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 147, 156 and 272C
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A, 147, 156 and 272C

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 11 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa

Information on virtual attendance option will be available on the Department of Inspections, Appeals, and Licensing's website prior to the hearing.

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Emily DeRonde
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.249.7038
Email: emily.deronde@dia.iowa.gov

Purpose and Summary

This proposed rulemaking sets minimum standards for licensure as a funeral director or establishment in Iowa, as well as standards for registration as a removal technician. The purpose of this proposed rulemaking is to correct citations within the rules and to change procedures for removal technicians. The current removal technician rules have been in place for the past year, and now that they have been utilized, the Mortuary Science Board acknowledges necessary changes to assist in allowing removal technicians to assist funeral directors in Iowa.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Licensees bear the costs of application fees, including initial and renewal fees, as well as costs related to educational requirements and examination requirements. The costs were reviewed during the Executive Order 10 Red Tape Review in the fall of 2023. The Board found that these costs are comparable to surrounding states' licensing fees.

- **Classes of persons that will benefit from the proposed rulemaking:**

The general public and licensees will benefit from this proposed rulemaking because it provides standards of practice for the licensees to ensure the public is receiving quality services. The public and

licensees also benefit from this proposed rulemaking because it allows more opportunity for the use of removal technicians to help the funeral directors and the industry as a whole.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Educational institutions provide the academic training for funeral directors to obtain a license in the State of Iowa. Additional private industries and educational institutions provide examinations and materials for preparation for the examination. Because the cost of education is so variable depending on the institution the person attends, the Board is unable to determine an exact cost of education or examination preparation.

Licensing fees for a funeral director are $120 for an initial license and $120 for each biannual renewal period. Licensing fees for a funeral or cremation establishment are $90 for an initial license and $90 for each triennial renewal period.

- **Qualitative description of impact:**

Establishing minimum requirements for licensure ensures safety for the licensee and consumer. The cost of inaction would increase the potential for injury to the public by a licensee who is not qualified to perform the work in the field.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Costs to the agency are for the staff time needed to manage Board activities, which include managing applications for initial licenses, renewals, and reinstatements. Staff salaries to support the work of the Board are covered by the Licensing and Regulation Fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

- **Anticipated effect on State revenues:**

Costs associated with implementing this proposed rulemaking are paid by individual licensees or establishments, not the State. There is no anticipated impact from this proposed rulemaking on State revenues.

Staff salaries to support the work of the board are covered by the Licensing and Regulation Fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Establishing minimum licensing requirements ensures that practitioners are competent to practice. Almost every person, at some point, will purchase or consume a funeral-related product or service. Without having an established threshold for entry into the profession, individuals who are not appropriately trained could have adverse effects on consumers who are making expensive decisions in stressful circumstances. The Board believes the cost to license this profession justifies the benefits achieved because it ensures Iowa consumers are protected.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

On a national level, there is a wide variety of alternatives to licensure. The state of Colorado registers the establishment as opposed to the individual. Arkansas does not require a funeral director to obtain college credits as long as the funeral director completes an apprenticeship and passes the national examination. The Board is committed to the idea that licensure of funeral directors and establishments is required to ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession; however, the Board would be concerned about the public safety of Iowans in that scenario.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Board believes all current requirements ensure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession; however, the Board would be concerned about the public safety of Iowans in that scenario.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Board believes all current requirements ensure public safety and ensure a minimum competency of care is provided to Iowans. Licensure requirements could be reduced or eliminated for the purpose of lowering the bar of entry into the profession; however, the Board would be concerned about the public safety of Iowans in that scenario.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking relates to high-stakes public safety concerns that are present whether the business is a small business or a large organization. This proposed rulemaking is meant to ensure public safety in terms of licensing requirements for funeral directors and establishments. While some funeral directors may be operating a funeral or cremation establishment of their own, others will be working for a firm that owns multiple establishments. To exempt small businesses from adhering to this proposed rulemaking would jeopardize any member of the public who sought services from that small business. The risk to the public is greater than the potential harm or cost to the small business.

Text of Proposed Rulemaking

ITEM 1. Rescind subrule **900.4(4)**.

ITEM 2. Amend rule **481—901.1(156)**, definition of "Reactivate," as follows:

"Reactivate" or *"reactivation"* means the process as outlined in rule ~~481—901.11(17A,147,272C)~~ 481—901.10(17A,147,272C) by which an inactive license is restored to active status.

ITEM 3. Amend subrule 901.3(1) as follows:

901.3(1) *Internship.*

a. to *j.* No change.

~~*k.* The intern will complete on a form provided by the board a confidential evaluation of the preceptorship program at the end of the internship. This form will be submitted before a funeral director license is issued to the intern.~~

~~*l.*~~ *k.* The intern must be approved and licensed following a successful internship before the intern may practice mortuary science.

ITEM 4. Amend paragraph **901.5(1)"k"** as follows:

k. Failure to comply with any of these rules will constitute grounds for discipline pursuant to 481—Chapter 904 and 481—Chapter 504 or civil penalties for unlicensed practice pursuant to 481—Chapter 905.

ITEM 5. Amend rule 481—901.9(17A,147,272C) as follows:

481—901.9(17A,147,272C) Reinstatement of a funeral establishment license or a cremation establishment license. For a funeral or cremation establishment license that has been revoked, suspended, or voluntarily surrendered, the owner must apply for and receive reinstatement of the license in accordance with rule ~~481—506.31(272C)~~ 481—506.32(272C) and must apply for and be granted reactivation of the license in accordance with rule ~~481—901.9(272C)~~ 481—901.10(17A,147,272C) prior to offering mortuary science services from that establishment in this state.

ITEM 6. Amend subparagraph **901.10(2)"a"(3)** as follows:

(3) Verification of completion of two hours of continuing education in current Iowa law and rules covering mortuary science content areas including, but not limited to, Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. These 2 hours will be included as a part of the 24 hours required in ~~subparagraph 901.11(3)*"a"*(2).~~ 481—paragraph 902.3(2)*"f."*

ITEM 7. Amend subparagraph **901.10(2)"b"(2)** as follows:

(2) Verification of completion of 48 hours of continuing education that meet continuing education standards defined in 481—subrule 902.3(1) and 481—paragraphs 902.3(2)*"a," "b," "c,"* and *"e,"* within two years prior to filing the application for reactivation. Independent study identified in ~~481—paragraph 902.3(2)*"f"*~~ 481—paragraph 902.3(2)*"d"* will not exceed 24 hours of the 48 hours; and

ITEM 8. Amend rule 481—901.11(17A,147,272C) as follows:

481—901.11(17A,147,272C) Reinstatement of a funeral director license. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule ~~481—506.31(272C)~~ 481—506.32(272C) and must apply for and be granted reactivation of the license in accordance with rule ~~481—901.11(17A,147,272C)~~ 481—901.10(17A,147,272C) prior to practicing as a funeral director in this state. The owner of a funeral home establishment whose establishment license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the establishment license and must apply for and be granted reactivation of the establishment license prior to reopening the funeral home establishment.

ITEM 9. Amend subrule 901.13(1) as follows:

901.13(1) A removal technician will serve under the direct supervision of an Iowa licensed funeral director, will only perform removals at the direction of the supervising funeral director, and may act in place of a funeral director only in performing a removal. Another funeral director, who is authorized by the supervising funeral director, may direct the removal technician in the temporary absence of the supervising funeral director.

ITEM 10. Amend paragraph **901.13(2)"c"** as follows:

c. Is ~~affiliated with~~ employed by a funeral establishment that has not had any formal disciplinary action within the past five years.

ITEM 11. Amend subrule 901.13(4) as follows:

901.13(4) The supervising funeral director will:

a. and *b.* No change.

c. Ensure the removal technician performs its duties as outlined in subrule ~~901.13(2)~~ 901.13(5);

d. No change.

e. Not have more than ~~four~~ six registered removal technicians employed by the same funeral establishment, or any funeral establishment owned, operated, or affiliated with that funeral establishment.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 15
"General License Regulations"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 483A.1(1)
State or federal law(s) implemented by the rulemaking: Iowa Code section 483A.1

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 27, 2026	6200 Park Avenue, Suite 200
1 to 2 p.m.	Des Moines, Iowa

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at joe.larscheid@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.782.0358 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al joe.larscheid@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.782.0358 al menos siete días antes del evento.

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Joe Larscheid
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: joe.larscheid@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at joe.larscheid@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al joe.larscheid@dnr.iowa.gov.

Purpose and Summary

Chapter 15 governs hunting, fishing, and trapping license sales, fees, and general administration and a framework for license revocation and suspension. This proposed rulemaking seeks to increase hunting, fishing, and trapping resident and nonresident license fees by 5 percent, consistent with the statutory cap. These fees are only paid by persons who choose to participate in these recreational activities. License fees are deposited into the State Fish and Game Protection Fund (commonly known as the Fish and Wildlife Trust Fund), which also receives certain federal funds generated by excise taxes on outdoor sporting equipment. The Trust Fund is dedicated to Iowa's natural resources by and protected by the Iowa Constitution. The Department is charged by law to use the Trust Fund dollars to fund its natural resource protection, management, research, and enhancement activities.

While funded by a specific user group, the Trust Fund pays significant dividends to all Iowans. The Department's three Trust Fund-managing bureaus (Wildlife, Fisheries, and Law Enforcement)

ensure the health and abundance of Iowa's natural heritage, which underpins substantial economic activity. Simply put, the fees paid by sportsmen and sportswomen support the conservation infrastructure that benefits the State's economy, the environment, and Iowans' quality of life.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Sportsmen and sportswomen who purchase hunting, trapping, or fishing licenses will bear the costs.

- **Classes of persons that will benefit from the proposed rulemaking:**

Iowans and all visitors to this State will benefit. Iowa's protected and enhanced natural resources benefit the State's economy, the environment, and residents' quality of life.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Economic impacts of this proposed rulemaking are constrained by the Iowa Code to a 5 percent increase. This is a modest increase; for example, current resident fishing licenses will change from $20 to $21. However, every cent is important: license fees are a vital source of revenue for the Department's active promotion, management, research, and protection of Iowa's natural resources.

- **Qualitative description of impact:**

There is no qualitative impact beyond what is anticipated in the Iowa Code.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

No costs are borne by the agency or any other agency. Raising license fees will not result in increased costs to the Department. Rather, the license fees are a vital revenue source for the Department's natural resource management and protection activities.

- **Anticipated effect on State revenues:**

The proposed rulemaking will increase hunting, trapping, and fishing license fees by 5 percent, generating more revenue for the Trust Fund. These fees are only paid by persons who choose to participate in these recreational activities. License revenue along with federal funds generated by excise taxes on outdoor sporting equipment are deposited into the Trust Fund, which is dedicated to Iowa's natural resources by and protected by the Iowa Constitution.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The public will benefit from the Department's continued management of Iowa's natural resources. A two-prong approach is essential to maintaining status quo services: license fees need to be modestly increased, but the Department also needs to strategically reduce operational expenses. Both are necessary to bridge the growing gap between revenues and expenses and ensure the long-term viability of the Trust Fund. More information can be found in the 2025 Trust Fund Report found here (beneath the "Recreation" header): www.iowadnr.gov/about/grants-funding.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

No less costly or less intrusive methods exist. Importantly, the Department is, simultaneously with this proposed rulemaking, developing comprehensive spending adjustments to reduce operational expenditures and maximize efficiency. The two-pronged approach of raising license fees by a modest 5 percent paired with cost-containment measures is essential to bridging the revenue/expense gap and ensuring the long-term viability of the Trust Fund.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Department is actively working to reduce costs and improve efficiencies.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable. The Department is mandated by law to protect and manage Iowa's wildlife and natural resources, and funding for this important work comes from the constitutionally protected Trust Fund, which is populated with license fees and dedicated federal dollars.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking does not have any impact on small business.

Text of Proposed Rulemaking

ITEM 1. Amend rule 571—15.10(483A) as follows:

571—15.10(483A) Licenses—fees. Except as otherwise provided by law, a person shall not fish, trap, hunt, harvest, pursue, catch, kill, take in any manner, use, have possession of, sell, or transport all or a part of any wild animal, bird, game, turtle, or fish, the protection and regulation of which is desirable for the conservation of resources of the state, without first obtaining a license for that purpose and paying a fee as follows:

15.10(1) *Residents.*

a. Fishing license, annual — ~~$20~~ $21.

b. Fishing license, three-year — ~~$60~~ $63.

c. Fishing license, seven-day — ~~$13.50~~ $14.

d. Fishing license, one-day — ~~$8.50~~ $8.75.

e. Third-line fishing permit, annual — ~~$12~~ $12.50.

f. Fishing license, lifetime, 65 years of age or older — ~~$59.50~~ $62.

g. Fishing license, lifetime, disabled veteran or POW — $5.

h. Paddlefish fishing license, annual — ~~$23.50~~ $24.50.

i. Trout fishing fee — ~~$12.50~~ $13.

j. Boundary waters sport trotline license, annual — ~~$24~~ $25.

k. Hunting license, annual — ~~$20~~ $21.

l. Hunting license, annual, including the wildlife habitat fee — ~~$33~~ $34.50.

m. Hunting license, three-year, including the wildlife habitat fee — ~~$99~~ $103.75.

n. Hunting license, lifetime, 65 years of age or older — ~~$59.50~~ $62.

o. Combination hunting and fishing license, annual, including the wildlife habitat fee — ~~$53~~ $55.50.

p. Combination hunting and fishing license, lifetime, disabled veteran or POW — $5.

q. Deer hunting license — ~~$30~~ $31.50.
r. First antlerless deer license — ~~$25.50~~ $26.75.
s. Additional antlerless deer license — ~~$12~~ $12.50.
t. Wildlife habitat fee — ~~$13~~ $13.50.
u. Migratory game bird fee — ~~$10~~ $10.50.
v. Wild turkey hunting license — ~~$26.50~~ $27.75.
w. Fur harvester license, annual — ~~$24~~ $25.
x. Fur harvester license, annual, including the wildlife habitat fee — ~~$37~~ $38.75.
y. Fur harvester license, annual, under 16 years of age — ~~$5.50~~ $5.75.
z. Fur harvester license, lifetime, 65 years of age or older — ~~$59.50~~ $62.
aa. Fur dealer license, annual — ~~$264~~ $277.
bb. Aquaculture unit license, annual — ~~$30~~ $31.50.
cc. Retail bait dealer license, annual — ~~$36~~ $37.75.
dd. Wholesale bait dealer license, annual — ~~$146.50~~ $153.75.
ee. Game breeder license, annual — ~~$18~~ $18.75.
ff. Taxidermy license, annual — ~~$18~~ $18.75.
gg. Trout fishing license, lifetime, 65 years of age or older — ~~$63~~ $66.
hh. Trout fishing license, lifetime, disabled veteran — ~~$63~~ $66.
ii. Fishing license, annual, veteran — $5.
jj. Combination hunting and fishing license, annual, veteran — $5.

15.10(2) *Nonresidents.*

a. Fishing license, annual — ~~$46~~ $48.
b. Fishing license, seven-day — ~~$35.50~~ $37.
c. Fishing license, three-day — ~~$18.50~~ $19.
d. Fishing license, one-day — ~~$10~~ $10.50.
e. Third-line fishing permit, annual — ~~$12~~ $12.50.
f. Paddlefish fishing license, annual — ~~$47~~ $49.
g. Trout fishing fee — ~~$15.50~~ $16.
h. Boundary waters sport trotline license, annual — ~~$47.50~~ $49.75.
i. Hunting license, annual — ~~$129~~ $135.
j. Hunting license, annual, including the wildlife habitat fee — ~~$142~~ $149.
k. Hunting license, annual, under 18 years of age — ~~$30~~ $31.50.
l. Hunting license, annual, under 18 years of age, including the wildlife habitat fee — ~~$43~~ $45.
m. Hunting license, five-day (not applicable to deer or wild turkey seasons) — ~~$75~~ $78.50.
n. Hunting license, five-day, including the wildlife habitat fee (not applicable to deer or wild turkey seasons) — ~~$88~~ $92.
o. Deer hunting license, antlered or any-sex deer — ~~$345.50~~ $362.75.
p. Deer hunting license, antlerless-deer-only, required with the purchase of an antlered or any-sex deer hunting license — ~~$146.50~~ $153.75.
q. Deer hunting license, antlerless-deer-only — ~~$263.50~~ $276.50.
r. Preference point issued under Iowa Code section 483A.7(3)*"b"* or 483A.8(3)*"e"* — ~~$58.50~~ $61.
s. Holiday deer hunting license issued under Iowa Code section 483A.8(6), antlerless-deer-only — ~~$88~~ $92.
t. Wildlife habitat fee — ~~$13~~ $13.50.
u. Migratory game bird fee — ~~$10~~ $10.50.
v. Wild turkey hunting license, annual — ~~$117~~ $122.75.
w. Fur harvester license, annual — ~~$232~~ $243.50.
x. Fur harvester license, annual, including the wildlife habitat fee — ~~$245~~ $257.
y. Fur dealer license, annual — ~~$586.50~~ $615.75.
z. Fur dealer license, one-day, one location — ~~$292.50~~ $307.

aa. Location permit for fur dealer — ~~$66~~ $69.
bb. Aquaculture unit license, annual — ~~$66~~ $69.
cc. Retail bait dealer license, annual — ~~$146.50~~ $153.75.
dd. Wholesale bait dealer license, annual — ~~$292.50~~ $307.
ee. Game breeder license, annual — ~~$30.50~~ $32.
ff. Taxidermy license, annual — ~~$30.50~~ $32.

Regulatory Analysis

Notice of Intended Action to be published: 199—Chapter 19
"Service Supplied by Rate-Regulated Gas Utilities"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 476.1, 476.2, and 476.20

State or federal law(s) implemented by the rulemaking: Iowa Code sections 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 476.86, and 476.87

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

February 12, 2026 9 a.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Utilities Commission no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Commission
Phone: 515.725.7300
Email: ITsupport@iuc.iowa.gov

Purpose and Summary

The intended benefits of the proposed chapter are to promote safe and adequate gas service from rate-regulated utilities to the public, to provide standards for uniform and reasonable practices, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

The class of persons that will bear the costs of the proposed rulemaking are rate-regulated gas utilities located and serving customers in Iowa. Additionally, although minimal, any interested stakeholders that choose to participate in the rulemaking would bear the inherent costs of participating in a rulemaking, although the Commission does not charge for participation in dockets.

- **Classes of persons that will benefit from the proposed rulemaking:**

The class of persons that will benefit from the proposed rulemaking are all Iowa consumers of natural gas services because the promotion of safe and adequate gas services will reduce costs and ensure reliable and safe services, which benefits everyone. Providers of rate-regulated natural gas will also benefit since the providers will know what is expected of them as providers.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Chapter 19 benefits the public by ensuring the natural gas market is regulated effectively.

- **Qualitative description of impact:**

Chapter 19 provides the standards for service for utilities providing gas services, and it is important for utilities and customers to understand the standards.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no additional costs to any agency other than the normal everyday costs of operation of the Commission.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Proposed Chapter 19 does not reference municipal gas utilities and no longer includes outdated, redundant, inconsistent language or language that is incompatible with statute, the Commission's own rules, or the rules of other agencies. Moving rules for municipal utilities into their own chapter reduces complexity and the regulatory burden of compliance for utilities, compared to inaction.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The proposed rulemaking is the least costly and least intrusive method for achieving the purpose of the chapter.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Inaction was considered by the Commission.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

A rulemaking is necessary in order to separate the rate-regulated and municipal gas service rules.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no anticipated impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 19 and adopt the following **new** chapter in lieu thereof:

CHAPTER 19
SERVICE SUPPLIED BY RATE-REGULATED GAS UTILITIES

199—19.1(476) General information.

19.1(1) *Purpose and application of rules.* The rules shall apply to any rate-regulated gas utility operating within the state of Iowa as defined in Iowa Code chapter 476 and shall supersede any tariff on file with this commission that is in conflict with these rules. These rules are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

19.1(2) *Definitions.* The following words and terms shall have the meaning indicated below:

"Appliance" means any device that utilizes gas fuel to produce light, heat, or power.

"CFR" means the Code of Federal Regulations in effect as of [the effective date of this chapter] unless a separate effective date is identified in a specific rule.

"Complaint," as used in these rules, means a statement or question by anyone, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility failure to fulfill an obligation.

"Cubic foot" of gas means:

1. Where gas is supplied and metered to customers at the pressure (as defined in subrule 19.7(2)) normally used for domestic customers' appliances, a cubic foot of gas shall be that quantity of gas which, at the temperature and pressure existing in the meter, occupies one cubic foot, except that where a temperature compensated meter is used, the temperature base shall be 60°F.

2. When gas is supplied to customers at other than the pressure in "1" above, the utility shall specify in its rules the base for measurement of a cubic foot of gas (subparagraph 19.2(3)*"c"*(1)). Unless otherwise stated by the utility, such cubic foot of gas shall be that quantity of gas which, at a temperature of 60°F and a pressure of 14.73 pounds per square inch absolute, occupies one cubic foot.

3. The standard cubic foot of gas for testing the gas itself for heating value shall be that quantity of gas, saturated with water vapor, which, at a temperature of 60°F and a pressure of 30 inches of mercury, occupies one cubic foot. (Temperature of mercury = 32°F acceleration due to gravity = 32.17 ft. per second per second density = 13.595 grams per cubic centimeter.)

"Customer" means any person, firm, association, or corporation; any agency of the federal, state or local government; or any legal entity responsible by law for payment for the gas service or heat from the gas utility.

"Delinquent" or *"delinquency"* means an account for which a service bill or service payment agreement has not been paid in full on or before the last day for timely payment.

"Gas," unless otherwise specifically designated, means manufactured gas, natural gas, other hydrocarbon gases, or any mixture of gases produced, transmitted, distributed or furnished by any gas utility.

"Gas plant" means all facilities including all real estate, fixtures and property owned, controlled, operated or managed by a gas utility for the production, storage, transmission or distribution of gas and heat.

"Interruption of service" means any disturbance of the gas supply whereby gas service to a customer cannot be maintained.

"Main" means a gas pipe, excluding a service line, that is owned, operated, or maintained by a utility and is used for the purpose of distribution of gas.

"Major event" means an event that may result in extensive damage to pipeline facilities within a utility's operating area due to unusually severe and abnormal weather or event.

"Master meter" means a single meter used in determining the amount of gas provided to a multitenant building or to multiple buildings.

"Meter," without other qualification, means any device or instrument used by a utility in measuring a quantity of gas.

"Meter shop" means a shop where meters are inspected, repaired and tested, and may be at a fixed location or may be mobile.

"Plant addition" means any additional plant, other than a distribution main or service line, required to be constructed to provide service to a customer.

"Pressure," unless otherwise stated, is expressed in pounds per square inch above atmospheric pressure, i.e., gauge pressure (abbreviation-psig).

"Rate-regulated utility" means any utility that is subject to rate regulation as provided in Iowa Code chapter 476.

"Rates" means the same as defined in Iowa Code section 384.80 and includes all charges or fees imposed or collected for the provision of, or incidental to, utility service.

"Service line" means a distribution gas pipe that transports gas from a main or source of supply to a customer meter or the connection to a customer's piping, whichever is farther downstream, or the connection to a customer's piping if there is not a customer meter. A customer meter is the meter that measures the transfer of gas from a utility to a customer.

"Tap" or *"town border station"* means the delivery point or measuring station at which a gas utility receives gas from a natural gas transmission company.

"Tariff" means the entire body of rates, tolls, rentals, charges, classifications, rules, procedures, policies, etc., adopted and filed with the commission by a gas utility in fulfilling its role of furnishing gas service.

"Therm" means 100,000 British thermal units.

"Timely payment" means a payment on a customer's account made on or before the date shown on a current bill for service or on a form that records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date that determines application of a late payment charge.

"Utility" means any person, partnership, business association, or corporation, domestic or foreign, owning or operating any gas plant for furnishing gas or heat to the public for compensation, and is a rate-regulated utility subject to this chapter.

19.1(3) *Abbreviations.* The abbreviations used, and their meanings, are as follows:

"Btu"—British thermal unit

"LP gas"—liquefied petroleum gas

199—19.2(476) Records, reports, and tariffs.

19.2(1) *Tariffs to be filed with the commission.* The schedules of rates and rules of gas utilities shall be filed with the commission in accordance with this chapter. Tariff provisions will be definite and clear.

19.2(2) *Form and identification.* All tariffs shall conform to the following rules:

a. The tariff shall conform to the following requirements:

(1) Be on 8½ by 11-inch pages so as to result in a clear and permanent record.

(2) Be filed electronically in compliance with 199—Chapter 14.

(3) The first page is the title page, which will show the name of the utility, the type of utility service being provided, the words "Filed with Iowa Utilities Commission" and the date.

(4) When a tariff is to be superseded or replaced in its entirety, the replacing tariff will show on the upper right corner of its title page that it is a revision of a tariff on file and the number being superseded or replaced.

(5) When a tariff sheet in a tariff is revised, amended, or eliminated, the tariff sheet will indicate in the upper right corner the number of the revision to that tariff sheet.

(6) Any tariff sheet modifications will be marked in the right margin with symbols as described below to indicate the place, nature, and extent of the change in text. The marked version will show all added language marked with underlined text and all deleted language with strike-through.

1. (C)—Change in regulation.
2. (D)—Discontinued rate or regulation.
3. (I)—Increase in rate or new treatment resulting in increased rate.
4. (L)—Changed text location.

5. (N)—New rate, treatment, or regulation.

6. (R)—Reduction in rate or new treatment resulting in reduction in rate.

7. (T)—Change in text only.

(7) All sheets except the title page will have the following information located at the upper left corner of the tariff sheet:

1. Company name.

2. Type of utility tariff.

3. The words "Filed with commission."

(8) All sheets except the title page will have the following information located at the upper right corner of the tariff sheet:

1. Tariff part identification, if any.

2. Tariff sheet number, original or revised.

3. Canceled tariff sheet number, original or revised.

(9) All sheets except the title page will have the following information located at the lower left corner of the tariff sheet:

1. The issued date.

2. The name of the person responsible for the issuance.

(10) All sheets except the title page will have the following information located at the lower right corner of the tariff sheet:

1. An effective date field.

2. Proposed effective date.

b. The issued date is the date the tariff or the revised sheet content was filed by the utility in the commission's electronic filing system.

c. The effective date is to be left blank by the utility and will be determined by the commission.

19.2(3) *Content of tariffs.* A tariff filed with the commission shall contain:

a. A table of contents containing a list of rate schedules and other sections in the order in which they appear that indicates the first page of each section.

b. All rates for each type of gas as they apply to each class of customer. Tariffs will also include the prices per unit of service, the number of units per billing period to which the prices apply, the period of billing, the minimum bill, the method of measuring demands and consumptions, including the method of calculating or estimating loads or minimums, delivery pressure, and any special terms or conditions applicable. All rates, books, and records should be separated into "gas" and "nongas" components. Books and records shall be available to the commission for audits upon request. The gas components will be the result of the utility's periodic review of gas procurement practices (rule 199—19.10(476)) and PGA (rule 199—19.9(476)) proceeding. The nongas components will be established through rate case proceedings under Iowa Code section 476.3 or 476.6. The period during which the net amount may be paid before the account becomes delinquent shall be specified. In any case where net and gross amounts are billed, the difference between net and gross is a late payment charge and shall be so specified.

Customer charges for all special services relating to providing the basic utility service, including disconnection, reconnection, and service or trip charges, shall be specified.

c. A copy of the utility's rules, or terms and conditions, describing the utility's policies and practices in providing service shall include:

(1) A statement as to the equivalent total heating value of the gas in Btus per cubic foot on which the customers are billed. If necessary, this may be listed by district, division or community.

(2) A list of the items that the utility furnishes, owns, and maintains on the customer's premises, such as service pipe, meters, regulators, vents, and shut-off valves.

(3) A general statement indicating the extent to which the utility will provide service in the adjustment of customer appliances at no additional customer charge.

(4) A general statement of the utility's policy in making adjustments for wastage of gas when such wastage occurs without the knowledge of the customer.

(5) A statement indicating the minimum number of days allowed for payment after the due date of the customer's bill before service will be discontinued for nonpayment.

(6) A statement indicating the volumetric measurement base to which all sales of gas at other than standard delivery pressure are corrected.

(7) Forms of standard contracts required of customers for the various types of service available.

(8) A statement indicating that all rates and charges contained in this tariff or contract with reference thereto may be modified at any time by a subsequent filing made pursuant to the provisions of Iowa Code chapter 476.

(9) A copy of each type of customer bill.

(10) Definitions of classes of customers.

(11) Rules for extending service in accordance with subrule 19.3(7).

(12) Rules with which prospective customers must comply as a condition of receiving service, and the terms of contracts required.

(13) Rules governing the establishment and maintenance of credit by customers for payment of service bills.

(14) Rules governing disconnecting and reconnecting service.

(15) Notice required from customer for having service discontinued.

(16) Rules covering temporary, emergency, auxiliary, and stand-by service.

(17) Rules that address any limitations on loads or the type of equipment that may or may not be connected.

(18) A list of service areas and the applicable rates in such form as to facilitate ready determination of the rates available in each municipality and in such unincorporated communities as have service.

(19) Rules on meter reading, billing periods, bill issuance, timely customer payment, notice of delinquency and service disconnection for nonpayment of bill.

(20) Rules on how a customer or prospective customer should file a complaint with the utility, and how the complaint will be processed.

(21) Rules on how a customer, disconnected customer or potential customer for residential service may negotiate for a payment agreement on amount due, determination of even payment amounts, and time allowed for payments.

(22) If a sliding scale or automatic adjustment is applicable to regulated rates or charges of billed customers, the manner and method of such adjustment calculation through a detailed explanation.

19.2(4) *Annual, periodic and other reports to be filed with the commission.*

a. System map verification. A utility shall file annually with the commission a verification that it has a correct set of utility system maps for each operating or distribution area. The maps are to be available to commission personnel upon request. The maps shall show:

(1) Peak shaving facility location(s).

(2) Feeder and distribution mains indicating size and pressure.

(3) System metering (town border stations and other supply points).

(4) Regulator stations in system indicating inlet and outlet pressures.

(5) Calorimeter location.

(6) State boundary crossing.

(7) Franchise area.

(8) Names of all communities (post offices) served.

b. Reports of gas service. Each utility shall compile a monthly record of gas service, which will be available to the commission upon request. The record shall be completed within 30 days after the end of the month covered. Such record shall contain:

(1) The daily and monthly average of total heating values of gas in accordance with subrule 19.7(6).

(2) The monthly acquisition and disposition of gas.

(3) Interruptions of service occurring during the month in accordance with subrule 19.7(7). If there were no interruptions, then it should be so stated.

(4) The number of customer pressure investigations made and the results.

(5) The number of customer meters tested and test results tabulated as follows: The number that falls into limits 0 to + 2%, + 2 to + 4%, 0 to - 2%, - 2 to - 4%, over + 4%, under - 4%, and "Does Not Register" in accuracy.

(6) Progress on leak survey programs including the number of leaks found classified as to hazard and nature, and if known, the cause and type of pipe involved.

(7) Number of district regulators checked and nature of repairs required.

(8) Number of house regulators checked and nature of repairs required.

(9) Description of any unusual operating difficulties.

(10) Type of odorant and monthly average pounds per million cubic feet used in each individual distribution system.

c. Filing published meter and service installation rules. A copy of the utility's current rules, if any, published or furnished by the utility for use by engineers, architects, plumbing contractors, etc., covering meter and service installation shall be filed with the commission.

d. Filing customer bill forms. A copy of each type of customer bill form in current use shall be filed with the commission.

e. Reports to federal agencies. Copies of reports submitted to the U.S. Department of Transportation pursuant to 49 CFR Part 191, 192, 193, or 199 shall be filed with the commission no later than ten days following the submission. Utilities operating in other states shall provide data to the commission for Iowa only.

f. Change in rate. A notification to the commission shall be made of any planned change in rate of service by a utility. This information shall reflect the amount of increase or decrease and the effective date of application. An up-to-date tariff sheet shall be supplied to the commission showing the current rates.

g. Reserved.

h. Residential customer statistics. Each utility shall file with the commission on or before the fifteenth day of each month one copy of the following residential customer statistics for the preceding month:

(1) Number of accounts;

(2) Number of accounts certified as eligible for energy assistance since the preceding October 1;

(3) Number of accounts past due;

(4) Number of accounts eligible for energy assistance and past due;

(5) Total revenue owed on accounts past due;

(6) Total revenue owed on accounts eligible for energy assistance and past due;

(7) Number of disconnection notices issued;

(8) Number of disconnection notices issued on accounts eligible for energy assistance;

(9) Number of disconnections for nonpayment;

(10) Number of reconnections;

(11) Number of accounts deemed uncollectible; and

(12) Number of accounts eligible for energy assistance and deemed uncollectible.

i. Monthly, periodic and annual reports. Each utility shall file such other monthly, periodic and annual reports as are requested by the commission. Monthly and periodic reports shall be due in the commission's office within 30 days after the end of the reporting period. All annual reports shall be filed with the commission by April 1 of each year for the preceding calendar year.

This rule is intended to implement Iowa Code section 476.2.

199—19.3(476) General service requirements.

19.3(1) *Disposition of gas.* The meter and any service line pressure regulator shall be owned by the utility. The utility shall place a visible seal on all meters and service line regulators in customer use, such that the seal must be broken to gain entry.

a. All gas sold by a utility shall be on the basis of meter measurement except:

(1) Where the consumption of gas may be readily computed without metering; or

(2) For temporary service installations.

b. The amount of all gas delivered to multitenant buildings shall be measured on the basis of individual meter measurement for each unit, except in the following instances:

(1) Where gas is used in centralized heating, cooling, or water-heating systems;

(2) Where a facility is designated for elderly or handicapped persons;

(3) Where submetering or resale of service was permitted prior to 1966; or

(4) Where individual metering is impractical. "Impractical" means:

1. Where conditions or structural barriers exist that would make individual meters unsafe or physically impossible to install; or

2. Where the cost of providing individual metering exceeds the long-term benefits of individual metering.

(5) Where the benefits of individual metering (reduced or controlled energy consumption) are more effectively accomplished through a master meter arrangement.

1. A new multitenant building qualifies for master metering under this subparagraph if the predicted annual gas use would result in at least a 30 percent savings compared to the predicted annual gas use of a new building meeting the requirements of the state of Iowa energy code and operating with equipment, fixtures, and appliances meeting federal gas standards for manufactured devices for a new building.

2. An existing multitenant building qualifies for master metering under this subparagraph when the predicted annual gas use would result in at least a 20 percent gas savings compared to the building's current annual gas usage levels.

3. In determining whether a building's predicted annual gas use would result in at least a 20 or 30 percent savings, all relevant factors that decrease the building's gas usage may be considered, so long as each factor is relevant to why master metering more effectively reduces or controls the building's gas consumption. This includes but is not limited to new or more efficient equipment, materials, or appliances; improved operating practices; changes in fuel type; or structural improvements. This does not affect the determination made for buildings approved prior to July 16, 2025.

4. A report from a qualified independent third party stating that the proposed building or renovation will meet the gas savings requirements of this subparagraph shall establish a rebuttable presumption of eligibility for master metering. "Qualified, independent third party" means a licensed architect or engineer, a certified residential energy services network home energy rating system (RESNET HERS) rater, or any other professional deemed qualified by the commission.

c. If a multitenant building is master metered, the end user occupants may be charged for natural gas as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other method of allocating the cost of the gas service is used, the total charge for gas service shall not exceed the total gas bill charged by the utility for the same period.

d. Master metering to multiple buildings is prohibited, except for multiple buildings owned by the same person or entity. Multitenant premises within a multiple building complex may be master-metered pursuant to this paragraph only if the requirements of paragraph 19.3(1)*"b"* have been met.

e. All gas consumed by the utility shall be on the basis of meter measurement except where consumption may be readily computed without metering or where metering is impractical.

19.3(2) *Meter reading records.* The meter reading records shall show:

a. Customer's name, address, rate schedule, or identification of rate schedule.

b. Identifying number or description of the meter(s).

c. Meter readings.

d. Whether the reading has been estimated.

e. Any applicable multiplier or constant.

19.3(3) *Meter register.* If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in weather-resistant paint upon the front cover of the meter. Customers shall have continuous visual access to meter registers as a means of verifying the accuracy of bills presented to them and for implementing energy conservation initiatives as they desire. Where remote meter reading is used, whether outdoor on premises or off-premises-automated, the customers shall have a readable meter register at the meter as a means of verifying the accuracy of bills presented to them. A utility may comply with the requirements of this subrule by making the required information available via the internet or other equivalent means.

19.3(4) *Prepayment meters.* Prepayment meters shall not be geared or set so as to result in the charge of a rate or amount higher than would be paid if a standard type meter were used, except under tariffs approved by the commission.

19.3(5) *Meter reading and billing interval.*

a. Readings of all meters used for determining charges and billings to customers shall be scheduled at least monthly and for the beginning and termination of service. Bills to larger customers may, for good cause, be provided weekly or daily for a period not to exceed one month. Intervals other than monthly shall not be applied to smaller customers, or to larger customers after the initial month provided above, without a waiver from the commission. If the commission denies a waiver, or if a waiver is not sought with respect to a large-volume customer after the initial month, that customer's bill shall be provided monthly for the next 12 months. The group of larger customers to which shorter billing intervals may be applied shall be specified in the utility's tariff sheets, but shall not include residential customers.

b. Utilities should obtain readings of the meters on corresponding days of each meter reading period when possible. Unless the utility has a plan to test check meter readings, a utility representative shall physically read the meter at least once each 12 months and when the utility is notified there is a change of customer.

19.3(6) *Readings and estimates.*

a. When a customer is connected or disconnected or the meter reading date causes a given billing period to deviate by more than 10 percent (counting only business days) from the normal meter reading period, such bill shall be prorated on a daily basis.

b. When access to a meter cannot be gained, the utility may, at its discretion, leave with the customer a meter reading form. The customer may provide the meter reading by telephone, email (if it is allowed by the utility), or mail. If the meter reading information is not obtained in time for the billing operation, an estimated bill may be provided. If an actual meter reading cannot be obtained, the utility may provide an estimated bill without reading the meter or supplying a meter reading form to the customer. Only in unusual cases or when approval is obtained from the customer shall more than three consecutive estimated bills be provided.

c. Utilities will file with the commission procedures for calculating bill estimates, which incorporate normalized weather data, as well as procedures for determining the reasonable heating degree day data to use in the calculations. Utilities shall inform the commission when changes are made to the procedures for calculating estimated bills.

19.3(7) *Plant additions, distribution main extensions, and service lines.*

a. Definitions. The following definitions apply to the terms in this subrule:

"Advance for construction" means cash payments or equivalent surety made to the utility by an applicant for an extensive plant addition or a distribution main extension, portions of which may be refunded depending on any subsequent service line attached to the extensive plant addition or distribution main extension. Cash payments or equivalent surety shall include a grossed-up amount for

the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Agreed-upon attachment period" means a period of no less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period shall be deemed to be 30 days.

"Contribution in aid of construction" means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of a service line that are in excess of costs paid by the utility. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Distribution main extension" means a segment of pipeline installed to convey gas to individual service lines or other distribution mains.

"Estimated base revenues" means an amount calculated by subtracting the cost of purchased gas and energy efficiency charges from estimated annual revenues.

"Estimated construction costs" means an amount calculated using average current costs in accordance with good engineering practices and upon the following factors: amount of service required or desired by the customer requesting the distribution main extension or service line; size, location, and characteristics of the distribution main extension or service line, including appurtenances; and whether the ground is frozen or whether other adverse conditions exist. Estimated construction costs shall not include costs associated with facilities built for the convenience of the utility. The customer shall be charged actual permit fees in addition to estimated construction costs. Permit fees are to be paid regardless of whether the customer is required to pay an advance for construction or a nonrefundable contribution in aid of construction, and the cost of any permit fee is not refundable.

"Similarly situated customer" means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

b. Plant additions. The utility shall provide all gas plant at its cost and expense without requiring an advance for construction from customers or developers, except in those unusual circumstances where extensive plant additions are required before the customer can be served. A written contract between the utility and the customer that requires an advance for construction by the customer to make plant additions shall be available for commission inspection.

c. Distribution main extensions. Where the customer will attach to the distribution main extension within the agreed-upon attachment period after completion of the distribution main extension, the following shall apply:

(1) The utility shall finance and make the distribution main extension for a customer without requiring an advance for construction if the estimated construction costs to provide a distribution main extension are less than or equal to six times estimated base revenue calculated on the basis of similarly situated customers. If the utility uses a feasibility model to determine an advance for construction, the utility will file a summary explaining the model's inputs and a description of the model as part of the utility's tariff. The utility may charge customers for actual permit fees and additional costs associated with construction during adverse conditions, which are not refundable.

(2) If the estimated construction cost to provide a distribution main extension is greater than six times estimated base revenue calculated on the basis of similarly situated customers, the applicant for a distribution main extension shall contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction based upon the following formula:

(estimated construction cost – 6 x estimated base revenues)

If a utility uses a feasibility model to determine if an advance for construction is necessary, it will file a summary explaining the model's inputs and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for commission inspection upon request. The utility will provide the customer with a cost estimate that details the

costs and credits, by category. The utility may charge customers for actual permit fees, which are not refundable.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the applicant for the distribution main extension shall contract with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost. The utility may use a feasibility model to determine the amount of the advance for construction. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for commission inspection upon request. Whether or not the construction of the distribution main extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees and additional costs associated with construction during adverse conditions, and the permit fees are not refundable.

(4) Advances for construction may be paid by cash or equivalent surety, unless the customer has failed to comply with the conditions of surety in the past, and shall be refundable for ten years.

(5) When the customer is required to make an advance for construction, the utility shall refund the advance in aid of construction to the depositor for a period of ten years from the date of the original advance a pro rata share for each service line attached to the distribution main extension no less than four times per year.

1. The utility will provide the customer receiving the refund with a statement detailing the refund calculation.

2. Any amounts subject to refund shall be paid by the utility without interest.

(6) The utility shall keep a record of each work order under which the distribution main extension was installed, to include the estimated revenues, the estimated construction costs, the amount of any payment received, and any refunds paid.

d. Service lines.

(1) The utility shall finance and construct a service line without requiring a contribution in aid of construction or any payment by the applicant where the length of the service line to the riser is up to 50 feet on private property or 100 feet on private property if polyethylene plastic pipe is used.

(2) Where the length of the service line exceeds 50 feet on private property or 100 feet if polyethylene plastic pipe is used, the applicant shall provide a nonrefundable contribution in aid of construction for that portion of the service line on private property in excess of 50 feet or in excess of 100 feet if polyethylene plastic pipe is used, exclusive of the riser, within 30 days after completion. The contribution in aid of construction for that portion of the service line shall be computed as follows:

(Estimated Construction Costs) ×

$$\frac{\text{(Total Length in Excess of 50 Feet) or (Total Length in Excess of 100 Feet)}}{\text{(Total Length of Service Line)}}$$

(3) A utility may adopt a tariff or rule that allows the utility to finance and construct a service line of more than 50 feet, or 100 feet if polyethylene plastic pipe is used, without requiring a contribution in aid of construction from the customer if the tariff or rule applies equally to all customers.

(4) Whether or not the construction of the service line would otherwise require a payment from the customer, the utility may charge the customer for actual permit fees and additional costs associated with construction during adverse conditions.

e. Extensions. Utilities are not required to make distribution main extensions or attach service lines as described in this subrule unless the distribution main extension or service line shall be of a permanent nature. When the utility provides a temporary service to a customer, the utility may require that the customer bear all of the cost of installing and removing the service in excess of any salvage realized.

f. Different payment arrangement. Utilities may make a contract with a customer using a different payment arrangement than provided in this subrule, if the contract provides a more favorable payment arrangement to the customer, so long as no discrimination is practiced among similarly situated customers.

g. Areas without service or with constrained service.

(1) A utility may finance and expand natural gas service into an area of the state with no natural gas service or where capacity constraints limit the expansion of service. A utility expanding service under this paragraph may do so without requiring an advance for construction from a customer or group of customers if a standard feasibility model approved by the commission shows the expansion is economically justified over a period not to exceed 20 years. The approved model will be adopted following a commission proceeding in which interested parties will have the opportunity to review and comment on a model jointly proposed by the regulated gas utilities. The approved model will be made available on the commission's website. The utility shall charge the customer or customers for actual permit fees, and the permit fees are not refundable.

(2) If the feasibility model does not show the expansion is economically justified without an advance for construction, a customer or group of customers may contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction in an amount that would make the expansion economically justified.

(3) Upon making a determination that it intends to move forward with an expansion pursuant to this paragraph, the utility shall notify the commission by filing the inputs and results of the feasibility model and any associated contract or contracts with the commission. The utility shall maintain separate books and records for any expansion made pursuant to this paragraph until the utility's next general rate case proceeding.

19.3(8) *Cooperation and advance notice.* In order that full benefit may be derived from this chapter and in order to facilitate its proper application, all utilities shall observe the following cooperative practices:

a. A utility will provide all other public utilities in the same general territory advance notice of any construction or change in construction or in operating conditions of its facilities concerned or likely to be concerned in situations of proximity.

b. All utilities will assist in promoting conformity with this chapter. An arrangement should be set up among all utilities whose facilities may occupy the same general territory, providing for the interchange of pertinent data and information including that relative to proposed and existing construction and changes in operating conditions concerned or likely to be concerned in situations of proximity.

This rule is intended to implement Iowa Code section 476.8.

199—19.4(476) Customer relations.

19.4(1) *Customer information.* Each utility shall:

a. Maintain up-to-date maps, plans or records of its entire transmission and distribution systems, with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers in its service area.

b. Assist customers or prospective customers in selecting the most economical rate schedule available for the proposed type of service.

c. Notify customers affected by a change in rates or schedule classification in the manner provided in the rules of practice and procedure before the commission (rule 199—26.4(17A,476)).

d. Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the utility, as filed with the commission, are available for public inspection. If the utility provides access to its rate schedules and rules for service on its website, the notice shall include the website address.

e. Upon request, inform its customers as to the method of reading meters.

f. State, on the bill form, that tariff and rate schedule information is available upon request at the utility's local business office. If the utility provides access to its tariff and rate schedules on its website, the statement shall include the website address.

g. Upon request, transmit a statement of either the customer's actual consumption, or degree day adjusted consumption, at the company's option, of natural gas for each billing period during the prior 12 months.

h. Furnish such additional information as the customer may reasonably request.

19.4(2) *Customer contact employee qualifications.* Utilities will promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls, emails, and office visits shall be qualified and trained in screening and resolving complaints to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer that will enable the customer to reach that employee again if needed.

Each utility will notify their customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Commission by calling 515.725.7300 or toll-free 877.565.4450, or by writing to 1375 E. Court Ave., Des Moines, IA 50319-0069, or by email to customer@iuc.iowa.gov."

The bill insert or notice on the bill form shall be provided monthly. Any utility that does not use the standard statement described in this subrule will file its proposed statement in its tariff for approval.

19.4(3) *Customer deposits.*

a. Each utility may require from any customer or prospective customer a deposit intended to guarantee partial payment of bills for service. Each utility will allow a person other than the customer to pay the customer's deposit. In lieu of a cash deposit, the utility may accept the written guarantee of a surety or other responsible party as surety for an account. Upon termination of a guarantee contract, or whenever the utility deems the contract insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable written notice.

b. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer will have no less than 12 days from the date of mailing to comply. The new or additional deposit shall be payable at any of the utility's business offices or local authorized agents. An appropriate receipt shall be provided. The utility does not need to provide written notice of a deposit required as a prerequisite for commencing initial service.

c. No deposit shall be required as a condition for service other than determined by application of either credit rating or deposit calculation criteria, or both, of the filed tariff.

d. The total deposit for any residential or commercial customer for a place that has previously received service shall not be greater than the highest billing of service for one month for the place in the previous 12-month period. The deposit for any residential or commercial customer for a place that has not previously received service or for an industrial customer shall be the customer's projected one-month usage for the place to be served as determined by the utility or as may be reasonably required by the utility in cases involving service for short periods or special occasions.

19.4(4) *Interest on customer deposits.* Interest will be paid by each utility to each customer required to make a deposit. Utilities will compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest is to be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date

a customer's bill becomes permanently delinquent, relative to an account treated as an uncollectible account, is the most recent date the account became delinquent.

19.4(5) *Customer deposit records.* Each utility shall keep records to show:

a. The name and address of each depositor.

b. The amount and date of the deposit.

c. Each transaction concerning the deposit.

19.4(6) *Customer's receipt for a deposit.* Utilities will issue a receipt of deposit to each customer from whom a deposit is received and provide means whereby a depositor may establish claim if the receipt is lost.

19.4(7) *Deposit refund.* A deposit shall be refunded after 12 consecutive months of prompt payment (which may be 11 timely payments and one automatic forgiveness of late payment) unless the utility is entitled to require a new or additional deposit. For refund purposes, accounts will be reviewed after 12 months of service following the making of the deposit and for each 12-month interval terminating on the anniversary of the deposit. However, deposits received from customers subject to the waiver provided by subrule 19.3(5), including surety deposits, may be retained by the utility until final billing. Upon termination of service, the deposit plus accumulated interest, less any unpaid utility bill of the customer, shall be reimbursed to the person who made the deposit.

19.4(8) *Unclaimed deposits.* Utilities will make reasonable efforts to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest less any lawful deductions, will be sent to the state treasurer pursuant to Iowa Code section 556.11.

19.4(9) *Customer bill forms.* Each customer shall be informed as promptly as possible following the reading of the customer's meter, on bill form or otherwise, of the following:

a. The reading of the meter at the beginning and at the end of the period for which the bill is provided.

b. The dates on which the meter was read at the beginning and end of the billing period.

c. The number and kind of units metered.

d. The applicable rate schedule with the identification of the applicable rate classification.

e. The account balance brought forward and the amount of each net charge for rate-schedule-priced utility service, sales tax, other taxes, late payment charge, and total amount currently due. In the case of prepayment meters, the amount of money collected shall be shown.

f. The last date for timely payment, which will not be less than 20 days after the bill is provided.

g. A distinct marking to identify an estimated bill, when applicable.

h. A distinct marking to identify a minimum bill.

i. Any conversions from meter reading units to billing units, or any calculations to determine billing units from recording or other devices, or any other factors, such as sliding scale or automatic adjustment and amount of sales tax adjustments used in determining the bill.

19.4(10) *Payment agreements.*

a. Availability of a first payment agreement. When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to a utility for residential utility service and is not in default of a payment agreement with the utility, the utility shall offer the customer an opportunity to enter into a reasonable payment agreement. The offer of a payment agreement is to be made prior to disconnection.

b. Reasonableness. Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household.

The utility may require the person to confirm financial difficulty with an acknowledgment from the department of health and human services or another agency.

c. Terms of payment agreements.

(1) First payment agreement. The utility shall offer the following conditions to customers who have received a disconnection notice or who have been previously disconnected and are not in default of a payment agreement:

1. For customers who received a disconnection notice or who have been disconnected less than 120 days and are not in default of a payment agreement, the utility shall offer an agreement with at least 12 even monthly payments. For customers who have been disconnected more than 120 days and are not in default of a payment agreement, the utility shall offer an agreement with at least six even monthly payments. Utilities will inform customers they may pay off the delinquency early without incurring any prepayment penalties.

2. The agreement shall also include provision for payment of the current account.

3. The utility may also require the customer to enter into a budget billing plan to pay the current bill.

4. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

5. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission.

6. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall provide to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement.

7. The document will be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document is considered provided to the customer when delivered to the last-known address of the customer or sent via electronic delivery with customer consent.

8. The document shall state that unless the customer notifies the utility otherwise within ten days from the date the document is provided, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached.

9. Once the first payment required by the agreement is made by the customer or on behalf of the customer, the oral or electronic agreement is deemed accepted by the customer.

10. Each customer entering into a first payment agreement shall be granted at least one late payment that is four days or less beyond the due date for payment, and the first payment agreement shall remain in effect.

11. The initial payment is due on the due date for the next regular bill.

12. A customer shall not be charged interest, or a late payment charge, on a payment agreement where the customer is making payments consistent with the terms of the payment agreement.

(2) Second payment agreement. The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement.

1. The second payment agreement shall be for a term at least as long as the term of the first payment agreement.

2. The customer shall pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement.

3. The utility may also require the customer to enter into a budget billing plan to pay the current bill.

(3) Additional payment agreements. The utility may offer additional payment agreements to the customer.

d. Refusal by utility. A customer may offer the utility a proposed payment agreement. If the utility and the customer do not reach an agreement, the utility may refuse the offer orally, but the utility must provide a written refusal of the customer's final offer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered provided to the customer when handed to the customer, delivered to the last-known address of the customer, or sent via electronic delivery with customer consent.

A customer may ask the commission for assistance in working out a reasonable payment agreement within ten days after the written refusal is provided. During the review of this request, the utility shall not disconnect the service.

19.4(11) *Bill payment terms.* The bill is considered provided to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill is considered provided when delivered to the last-known address of the customer or sent via electronic delivery with customer consent. There shall not be less than 20 days between the providing of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 19.3(5) will not be considered delinquent less than five days from the date the bill is provided. However, a late payment charge will not be assessed if payment is received within 20 days of the date the bill is provided.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 250 ccf per month shall be changeable for cause, such as but not limited to 15 days from the approximate date each month upon which income is received by the person responsible for payment. Utilities are not required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

b. In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This rule does not prohibit cost-justified charges for disconnection and reconnection of service.

c. If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall be credited pro rata between the bill for utility services and related taxes.

d. Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used. Complete forgiveness means no effect upon the credit rating of the customer and no collection of late payment charge.

e. Budget billing plan. Utilities shall offer a budget billing plan to all residential customers or other customers whose consumption is less than 250 ccf per month. A budget billing plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances and will include at least the following:

(1) Be offered to each eligible customer when the customer initially requests service. The plan may be estimated if there is insufficient usage history to create a budget billing plan based on actual use.

(2) Allow for entry into the budget billing plan anytime during the calendar year.

(3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer may obtain a refund or apply the credit to future charges. A utility is not required to offer a new budget billing plan to a customer for six months after the customer has terminated from a budget billing plan.

(4) Use a computation method that produces a reasonable monthly budget billing amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in this subrule. The computation method used by the utility shall be described in the utility's tariff. The utility shall give notice to customers when it changes the type of computation method in the budget billing plan.

1. The amount to be paid at each billing interval by a customer on a budget billing plan shall be computed at the time of entry into the plan and be recomputed at least annually. The budget billing amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

2. When the budget billing amount is recomputed, the utility shall divide the budget billing plan account balance by 12, and add the resulting amount to the estimated monthly budget billing amount. Except when a utility has a budget billing plan that recomputes the budget billing amount monthly, the customer may apply any credit to payments of subsequent months' budget billing amounts due or obtain a refund of any credit in excess of $25.

3. Except when a utility has a budget billing plan that recomputes the budget billing amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing cycle prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

4. Irrespective of the account balance, a delinquency in payment is subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the budget billing amount. If the account balance is a credit, the budget billing plan may be terminated by the utility after 30 days of delinquency.

19.4(12) *Customer records.* The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with subrule 19.4(13) but not less than five years. Customer billing records shall show, where applicable:

a. Therm consumption.

b. Meter reading.

c. Total amount of bill.

19.4(13) *Adjustment of bills.* Bills that are incorrect due to billing errors or faulty metering installation are to be adjusted as follows:

a. Fast metering. Whenever a metering installation is tested and found to have overregistered more than 2 percent, the utility shall recalculate the bills for service.

(1) The bills for service shall be recalculated from the time at which the error first developed or occurred if that time can be definitely determined.

(2) If the time at which the error first developed or occurred cannot be definitely determined, it shall be assumed that the overregistration has existed for the shortest time period calculated as one-half the time since the meter was installed or one-half the time elapsed since the last meter test unless otherwise ordered by the commission.

(3) If the recalculated bills indicate that $5 or more is due an existing customer or $10 or more is due a person no longer a customer of the utility, the tariff shall provide for refunding of the full amount of the calculated difference between the amount paid and the recalculated amount. Refunds shall be made to the two most recent customers who received service through the metering installation during the time the error existed. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount subject to refund shall be mailed to such previous customer at the last-known address, and the utility shall, upon demand made within three months thereafter, refund the same.

Refunds shall be completed within six months following the date of the metering installation test.

b. Slow metering. Whenever a meter is found to be more than 2 percent slow, the tariff may provide for back billing the customer for the amount the test indicates has been undercharged for the period of inaccuracy.

When the average error cannot be determined by test because of failure of part or all of the metering equipment, the tariff may provide for use of the registration of check metering installation, if any, or for estimating the quantity consumed based on available data. The utility will advise the customer of the failure and of the basis for the estimate of quantity billed.

(1) The utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than $5 for an existing customer or $10 for a former customer. All recalculations resulting in an amount due equal to or greater than the tariff specified minimum shall result in issuance of a back bill.

(2) The period for back billing shall not exceed the last six months the meter was in service unless otherwise ordered by the commission.

(3) Back billings shall be provided no later than six months following the date of the metering installation test.

c. Billing adjustments due to fast or slow meters shall be calculated on the basis that the meter should be 100 percent accurate. For the purpose of billing adjustment, the meter error shall be one-half of the algebraic sum of the error at full-rated flow plus the error at check flow.

d. Overcharges. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The utility shall not be required to adjust, refund, or credit the customer's bill for a period of more than five years unless a different time period is ordered by the commission.

e. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the undercharge may be billed to the customer. The period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the commission. The maximum back bill will not exceed the dollar amount equivalent to the tariffed rate for like charges (e.g., usage-based, fixed, or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the commission.

f. Credits and explanations. Credits due to a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be separately identified.

19.4(14) *Refusal or disconnection of service.* A customer, as defined in subrule 19.1(2), may be refused or disconnected from service in accordance with tariffs that are consistent with these rules.

a. The utility shall give written notice of pending disconnection except as specified in paragraph 19.4(14)*"b."* The notice shall set forth the reason for the notice and final date by which the account is to be settled or specific action taken. The notice is considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice is considered provided when delivered to the last-known address of the customer. The date for disconnection of service shall be not less than 12 days after the notice is provided. The date for disconnection of service for customers on shorter billing intervals under subrule 19.3(5) shall not be less than 24 hours after the notice is posted at the service premises.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for disconnection of service. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes shall be concurrent.

b. Service may be disconnected without notice:

(1) In the event of a condition determined by the utility to be hazardous.

(2) In the event of customer use of equipment in a manner that adversely affects the utility's equipment or the utility's service to others.

(3) In the event of tampering with the equipment furnished and owned by the utility. For the purposes of this subrule, a broken or absent meter seal alone shall not constitute tampering.

(4) In the event of unauthorized use.

c. Service may be disconnected or refused after proper notice:

(1) For violation of or noncompliance with the utility's rules on file with the commission.

(2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way that are specified to be furnished, in the utility's rules filed with the commission, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the commission.

(3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

d. Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 19.4(15) and 19.4(16), provided that the utility has complied with the following provisions when applicable:

(1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal;

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities available. Customers billed more frequently than monthly pursuant to subrule 19.3(5) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) The summary of the rights and responsibilities must be approved by the commission. Any utility that does not use the standard form set forth below for customers billed monthly shall submit to the commission electronically its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word "gas" with the words "gas and electric" in all instances.

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF GAS SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my gas service will be shut off because I have a past due bill?

a. Pay the bill in full;

b. Enter into a reasonable payment plan with the utility (see #2 below);

c. Apply for and become eligible for low-income energy assistance (see #3 below);

d. Give the utility a written statement from a doctor or public health official stating that shutting off your gas service would pose an especial health danger for a person living at the residence (see #4 below); or

e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.

b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid or you enter into another payment agreement.

3. How do I apply for low income energy assistance? (Residential customers only)

a. Applications are taken at your local community action agency. If you are unsure where to apply, call 211 or 800.244.7431, or visit hhs.iowa.gov/programs/programs-and-services/liheap. To prevent disconnection, contact the utility prior to disconnection of your service.

b. To avoid disconnection, you must apply for energy assistance or weatherization before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

c. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1. Between November 1 and April 1, the utility will delay disconnection of your service for 30 days once you notify the utility that you are applying for energy assistance or weatherization assistance, to allow you time to obtain assistance. Only one 30-day delay is required during the moratorium period.

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within five days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if full payment or a payment agreement has not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for up to 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Commission for assistance in resolving the dispute. (See #9 below.)

6. When can the utility shut off my utility service because I have not paid my bill?

a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.

b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the utility cannot shut off your service from November 1 through April 1. However, you will still owe the utility for the service used during this time.

f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

g. If one of the heads of household is a service member deployed for military service, utility service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the utility must be informed of the deployment prior to disconnection. However, you will still owe the utility for service used during this time.

7. How will I be told the utility is going to shut off my gas service?

a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door or another conspicuous place of your residence to tell you that your utility service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan. The service shall be restored for 30 days if the customer provides the utility with medical verification from a doctor or public health official of an especial danger to health within 14 days of a shut off for nonpayment.

b. If you make your payment during the utility's regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The utility may charge you a fee to turn your service back on. The fee may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Commission toll-free at 877.565.4450. You may also write the Iowa Utilities Commission at 1375 E. Court Avenue, Des Moines, Iowa 50319-0069, or by email at customer@iuc.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 800.532.1275.

(4) When disconnecting service to a residence, the utility has made a diligent attempt to contact, by telephone or in person, the customer to inform the customer of the pending disconnection and the customer's rights and responsibilities. During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the utility shall make a diligent attempt to contact the landlord of the rental unit, if known, to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected, which will be provided at least 48 hours prior to disconnection of service to a tenant.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

(5) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for natural gas service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. A utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the providing of the bill if the customer pays the undisputed amount. The 45 days may be extended if requested of the utility by the commission in the event the customer files a written complaint with the commission in compliance with 199—Chapter 6.

(6) Reconnection. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during the utility's normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts shall be made to reconnect the customer that day. If a disconnected customer makes payment

or other arrangements after 7 p.m., all reasonable efforts shall be made to reconnect the customer not later than 11 a.m. the next day.

(7) Severe cold weather. A disconnection may not take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at a residence when the actual temperature or the 24-hour forecast of the National Weather Service for the residence's area is predicted to be 20 degrees Fahrenheit or colder. If the utility has properly posted a disconnect notice but is precluded from disconnecting service because of severe cold weather, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the residence's area rises above 20 degrees Fahrenheit and is forecasted to remain above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is otherwise entitled to postponement of disconnection.

(8) Medical stay. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances that indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 19.4(14)*"f."*

(9) Winter energy assistance. If between November 1 through April 1 the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program. A utility may develop an incentive program to delay disconnection on April 1 for customers who make payments throughout the November 1 through April 1 period. All such incentive programs shall be set forth in tariffs approved by the commission.

(10) Deployment. If the utility is informed that one of the heads of household, as defined in Iowa Code section 476.20, is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

e. Abnormal gas consumption. A customer who is subject to disconnection for nonpayment of bill, and who has gas consumption that appears to the customer to be abnormally high, may request the utility to provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. The utility shall provide assistance by discussing patterns of gas usage that may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance that may be available to the customer.

f. A utility may disconnect gas service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement.

g. Prior to November 1, utilities will mail customers a notice describing the availability of winter energy assistance funds and the application process. The notice must be of a type size that is easily legible and conspicuous and contain the information set out by the state agency administering the assistance program.

19.4(15) *Insufficient reasons for denying service.* The following do not constitute sufficient cause for refusal of service to a customer:

a. Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay for merchandise purchased from the utility.

c. Failure to pay for a different type or class of public utility service.

d. Failure to pay the bill of another customer as guarantor thereof.

e. Failure to pay the back bill provided in accordance with paragraph 19.4(13)*"b"* (slow meters).

f. Failure to pay adjusted bills based on the undercharges set forth in paragraph 19.4(13)*"e."*

g. Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which the customer has been receiving service in the customer's name.

h. Delinquency in payment for service by an occupant, if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

i. Delinquency in payment for service arising more than ten years prior, as measured from the most recent of:

(1) The last date of service for the account giving rise to the delinquency,

(2) Physical disconnection of service for the account giving rise to the delinquency, or

(3) The last voluntary payment or voluntary written promise of payment made by the customer, if made before the ten-year period described in this paragraph has otherwise lapsed.

19.4(16) *When disconnection prohibited.*

a. No disconnection may take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

19.4(17) *Change in character of service.* The following shall apply to a material change in the character of gas service:

a. Changes under the control of the utility. The utility shall make such changes only with the approval of the commission and after adequate notice to the customers (paragraph 19.7(6)*"a"*).

b. Changes not under control of the utility or customer. Utilities will adjust appliances to attain the proper combustion of the gas supplied. Due consideration shall be given to the gas heating value and specific gravity (paragraph 19.7(6)*"b"*).

c. Appliance adjustment charge. Utilities will make any necessary adjustments to the customer's appliances without charge and shall conduct the adjustment program with a minimum of inconvenience to the customers.

19.4(18) *Customer complaints.* Utilities will investigate promptly and thoroughly and keep a record of written complaints and all other reasonable complaints received by it from its customers in regard to safety, service, or rates, and the operation of its system that will enable it to review and analyze its procedures and actions. The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date thereof. All complaints caused by a major outage or interruption shall be summarized in a single report.

a. Tariffs will include a concise, fully informative procedure for the resolution of customer complaints.

b. Reasonable steps will be taken to ensure that customers unable to travel are not denied the right to be heard.

c. The final step in a complaint hearing and review procedure shall be a filing for commission resolution of the issues.

This rule is intended to implement Iowa Code sections 476.2, 476.6, 476.8, 476.20 and 476.54.

199—19.5(476) Engineering practice.

19.5(1) *Requirement for good engineering practice.* The gas plant of the utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practice in the gas industry to ensure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

19.5(2) *Standards incorporated by reference.*

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports."

(2) 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards."

(3) 49 CFR Part 193, "Liquefied Natural Gas Facilities: Federal Safety Standards."

(4) 49 CFR Part 199, "Drug and Alcohol Testing."

(5) At railroad crossings, the engineering standards for pipelines rule in 199—Chapter 42.

b. The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54 - 2024, "National Fuel Gas Code," published January 26, 2024.

(2) NFPA 501A - 2021, "Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities," 2025.

19.5(3) *Adequacy of gas supply.* The natural gas regularly available from supply sources supplemented by production or storage capacity must be sufficiently large to meet all reasonable demands for firm gas service.

19.5(4) *Gas transmission and distribution facilities.* The utility's gas transmission and distribution facilities shall be designed, constructed and maintained as required to reliably perform the gas delivery burden placed upon them. Utilities will be capable of emergency repair work on a scale consistent with its scope of operation and with the physical conditions of its transmission and distribution facilities.

In appraising the reliability of the utility's transmission and distribution system, the commission will consider, as principal factors, the condition of the physical property and the size, training, supervision, availability, equipment and mobility of the maintenance forces.

19.5(5) *Inspection of gas plant.* Utilities will adopt and follow a program of inspection of its gas plant in order to determine the necessity for replacement and repair. The frequency of the various inspections shall be based on the utility's experience and accepted good practice. Utilities will keep sufficient records to give evidence of compliance with its inspection program.

199—19.6(476) Metering.

19.6(1) *Inspection and testing program.* Each utility shall adopt a written program for the inspection and testing of its meters to determine the necessity for adjustment, replacement or repair. The frequency of inspection and methods of testing shall be based on the utility's experience, manufacturer's recommendations, and accepted good practice. The commission considers the publications listed in subrule 19.6(3) to be representative of accepted good practice. Each utility

shall maintain inspection and testing records for each meter and associated device until three years after its retirement.

19.6(2) *Program content.* The written program shall, at minimum, address the following subject areas:

a. Classification of meters by capacity, type, and any other factor considered pertinent.

b. Checking of new meters for acceptable accuracy before being placed in service.

c. Testing of in-service meters, including any associated instruments or corrective devices, for accuracy, adjustments, or repairs, and including meters removed from service for any reason.

d. Periodic calibration or testing of devices or instruments used by the utility to test meters.

e. Leak testing of meters before return to service.

f. The limits of meter accuracy considered acceptable by the utility.

g. The nature of meter and meter test records maintained by the utility.

19.6(3) *Accepted good practice.* The following publications are considered to be representative of accepted good practice in matters of metering and meter testing:

a. American National Standard for Gas Displacement Meters (500 Cubic Feet Per Hour Capacity and Under), ANSI B109.1-2000, published January 12, 2013.

b. American National Standard for Diaphragm Type Gas Displacement Meters (Over 500 Cubic Feet Per Hour Capacity), ANSI B109.2-2000, published January 12, 2013.

c. American National Standard for Rotary Type Gas Displacement Meters, ANSI B109.3-2000, published January 12, 2013.

d. Measurement of Gas Flow by Turbine Meters, ANSI/ASME MFC-4M-1986 (Reaffirmed 2016), issued July 15, 1986.

e. Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids, API MPMS Chapter 14.3, Parts 1-4.

19.6(4) *Meter adjustment.* All meters and associated metering devices, when tested, will be adjusted as closely as practicable to the condition of zero error.

19.6(5) *Request tests.* Upon request by a customer, a utility shall test the meter servicing for that customer but need not test more frequently than once in 18 months.

A written report of the test results shall be mailed to the customer within ten days of the completed test, and a record of each test shall be kept on file at the utility's office. The utility shall give the customer or a representative of the customer the opportunity to be present while the test is conducted.

If the test finds the meter is accurate within the limits accepted by the utility in its meter inspection and testing program, the utility may charge the customer $25 or the cost of conducting the test, whichever is less. The customer shall be advised of any potential charge before the meter is removed for testing.

19.6(6) *Referee tests.* Upon written request by a customer or utility, the commission will conduct a referee test of a meter but need not test more frequently than once in 18 months. The customer request shall be accompanied by a $30 deposit made payable to the utility.

Within five days of receipt of the written request and payment, the commission shall forward the deposit to the utility and notify the utility of the requirement for a test. The utility shall, within 30 days after notification of the request, schedule the date, time, and place of the test with the commission and customer. The meter shall not be removed or adjusted before the test. The utility shall furnish all testing equipment and facilities for the test. If the tested meter is found to be more than 2 percent fast or 2 percent slow, the deposit will be returned to the party requesting the test and billing adjustments made pursuant to subrule 19.4(13). The commission will issue its report within 15 days after the test is conducted, with a copy to the customer and the utility.

19.6(7) *Condition of meter.* No meter that is known to be mechanically defective, has an incorrect correction factor, or has not been tested and adjusted, if necessary, in accordance with paragraphs 19.6(2)*"b," "c,"* and *"e,"* shall be installed or continued in service. The capacity of the meter and the index mechanism shall be consistent with the gas requirements of the customer.

199—19.7(476) Standards of quality of service.

19.7(1) *Purity.* All gas supplied to customers shall be substantially free of impurities that may cause corrosion of mains or piping or from corrosive or harmful fumes when burned in a properly designed and adjusted burner. If the utility receives gas from a source other than an interstate transmission pipeline, or a pipeline that is subject to gas quality specifications defined by a tariff, the utility must take additional steps to ensure gas purity in the system.

19.7(2) *Pressure limits.* The maximum allowable operating pressure for a low-pressure distribution system shall not be so high as to cause the unsafe operation of any connected and properly adjusted low-pressure gas-burning equipment.

19.7(3) *Adequacy for pressure.* Each utility shall have a substantially accurate knowledge of the pressures inside its piping. Periodic pressure measurements shall be taken during periods of high demand at remote locations in distribution systems to determine the adequacy of service. Records of such measurements including the date, time, and location of the measurement shall be maintained not less than two years.

19.7(4) *Standards for pressure measurements.*

a. Secondary standards. Each utility shall own or have access to a dead weight tester that is maintained in an accurate condition.

b. Working standards. Each utility must have or have access to manometers, laboratory quality indicating pressure gauges, and field-type dead weight pressure gauges as necessary for the proper testing of the indicating and recording pressure gauges used in determining the pressure on the utility's system. Working standards must be checked periodically by comparison with a secondary standard.

19.7(5) *Handling of standards.* Extreme care must be exercised in the handling of standards to ensure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

19.7(6) *Heating value.*

a. Awareness. Each utility shall have a substantially accurate knowledge of the heating value of the gas being delivered to customers at all times.

b. Natural and LP gas. The heating value of natural gas and undiluted, commercially pure LP gas is not considered to be under the control of the utility. Utilities will determine the allowable range of monthly average heating values within which its customers' appliances may be expected to function properly without repeated readjustment of the burners. If the monthly average heating value is above or below the limits of the allowable range for three successive months, the customers' appliances must be readjusted in accordance with paragraph 19.4(17)*"c."*

c. Renewable natural gas (RNG). The heating value of gas supplied from an RNG facility is considered within the control of the RNG supplier. The average daily heating value of mixed gas in a distribution system shall be at least 95 percent of that normally delivered by the pipeline supplier. RNG producers are responsible for ensuring the gas produced from the RNG facility is compatible to meet these heating requirements.

d. Peak shaving or other mixed gas. The heating value of gas in a distribution system that includes gas from LP or LNG peak shaving facilities, or gas from a source other than a pipeline supplier, is considered within the control of the utility. The average daily heating value of mixed gas shall be at least 95 percent of that normally delivered by the pipeline supplier. All mixed gas shall have a specific gravity of less than 1.000, and heating value shall not be so high as to cause improper operation of properly adjusted customer equipment.

e. Heating value determination and records. Unless acceptable heating value information is available for all periods from other sources, including the pipeline supplier, utilities will have a method by which the heating value of the gas in a distribution system can be accurately determined. The type, accuracy, operation, and location of equipment, and the accuracy of computation methods, shall be in accordance with accepted industry practices and equipment manufacturer's recommendations, subject to review by the commission.

19.7(7) *Interruptions of service.*

a. Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety. Records will be maintained for not less than two years of interruptions of service required to be reported pursuant to subrule 19.16(1). Utilities will periodically review these records to determine steps to be taken to prevent recurrence.

b. Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers. Interruptions shall be preceded by adequate notice to those who will be affected.

199—19.8(476) Safety.

19.8(1) *Acceptable standards.* As criteria of accepted good safety practice, the commission will use the applicable provisions of the standards incorporated by reference in subrule 19.5(2).

19.8(2) *Protective measures.* Utilities will exercise reasonable care to reduce hazards inherent in connection with utility service to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public, fitted to the size and type of its operations. Utilities will give reasonable assistance to the commission in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents and will maintain a summary of all reportable accidents arising from its operations.

19.8(3) *Accident investigation and prevention.* Utilities are to give reasonable assistance to the commission in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

19.8(4) *Turning on gas.* Each utility upon the installation of a meter and turning on gas or the act of turning on gas alone shall take the necessary steps to assure itself that there exists no flow of gas through the meter, which is a warning that the customer's piping or appliances are not safe for gas turn on (Ref: Sec. 8.2.3 and Annex D, ANSI Z223.1/NFPA 54-2018).

19.8(5) *Gas leaks.* A report of a gas leak shall be considered an emergency requiring immediate attention.

19.8(6) *Odorization.* Any gas distributed to customers through gas mains or gas services or used for domestic purposes in compressor plants, which does not naturally possess a distinctive odor to the extent that its presence in the atmosphere is readily detectable at all gas concentrations of one-fifth of the lower explosive limit and above, shall have an odorant added to it to make it so detectable. Odorization is not necessary, however, for such gas as is delivered for further processing or use where the odorant would serve no useful purpose as a warning agent. Utilities will test the gas to ensure the odor meets the standards of subrule 19.5(2). Prompt remedial action shall be taken if odorization levels do not meet the prescribed limits for detectability.

19.8(7) *Burial near electric lines.* Each pipeline will be protected from damage or introduction of current from an electrical fault by installing it with at least 12 inches of clearance from buried electrical conductors or by other means if the clearance is not possible.

19.8(8) *Compliance.* All compliance issues identified during a commission inspection are to be corrected by the utility within 12 months of the notification. If such corrective actions cannot be taken within that time frame, the utility shall notify the commission and provide a reasoning as to why such actions will take longer and the additional steps, if any, the utility is undertaking to maintain public health and safety in the meantime.

199—19.9(476) Purchased gas adjustment (PGA).

19.9(1) *PGA clause.* Pursuant to Iowa Code section 476.6(11), PGAs shall be computed separately for each customer classification or grouping previously approved by the commission and will use the same unit of measure as the utility's tariffed rates. PGAs shall be calculated using factors filed in annual or periodic filings according to the following formula:

$$PGA = \frac{(C \times Rc) + (D \times Rd) + (Z \times Rz)}{S} + Rb + E$$

PGA is the purchased gas adjustment per unit.

S is the anticipated yearly gas commodity sales volume for each customer classification or grouping.

C is the volume of applicable commodity purchased for each customer classification or grouping required to meet sales, S, plus the expected lost and unaccounted for volumes.

Rc is the weighted average of applicable commodity prices or rates, including appropriate hedging tools costs, to be in effect September 1 corresponding to purchases C.

D is the total volume of applicable entitlement reservation purchases required to meet sales, S, for each customer classification or grouping.

Rd is the weighted average of applicable entitlement reservation charges to be in effect September 1 corresponding to purchases D.

Z is the total quantity of applicable storage service purchases required to meet sales, S, for each customer classification or grouping.

Rz is the weighted average of applicable storage service rates to be in effect September 1 corresponding to purchases Z.

Rb is the adjusted amount necessary to obtain the anticipated balance for the remaining PGA year calculated by taking the anticipated PGA balance divided by the forecasted volumes, including storage, for one or more months of the remaining PGA year.

E is the per unit overcollection or undercollection adjustment as calculated under subrule 19.9(6).

The components of the formula shall be determined as follows for each customer classification or grouping:

a. The actual sales volumes S for the prior 12-month period ending May 31, with the necessary degree-day adjustments, and further adjustments approved by the commission. Unless a utility receives prior commission approval to use another methodology, a utility shall use the same weather normalization methodology used in its prior approved PGA. The source of the heating degree days (HDDs) used in the utility's weather normalization calculation shall be the state climatologist of Iowa.

b. The annual expected lost and unaccounted for factors shall be calculated by determining the actual difference between sales and purchase volumes for the 12 months ending May 31 or from the current annual IG-1 filing, but in no case will this factor be less than 0.

c. The purchases C, D, and Z as necessary to comply with subrule 19.9(1).

d. The PGAs shall be adjusted prospectively to reflect the final decision issued by the commission in a periodic review proceeding.

19.9(2) *Annual PGA filing.* Each utility shall file on or before August 1 of each year, for the commission's approval, a PGA for the 12-month period beginning September 1 of that year.

The annual filing shall restate each factor of the formula stated in subrule 19.9(1).

The annual filing shall be based on customer classifications and groupings previously approved by the commission unless new classifications or groupings are proposed.

The annual filing shall include all worksheets and detailed supporting data used to determine the PGA volumes and factors, along with an explanation of the calculations for each factor. Information already on file with the commission may be incorporated by reference in the filing.

19.9(3) *Periodic changes to PGA clause.* Periodic PGA filings shall be based on the PGA customer classifications and groupings previously approved by the commission. Changes in the customer classification and grouping on file are not automatic and require prior approval by the commission.

Periodic filings shall include all worksheets and detailed supporting data used to determine the amount of the adjustment.

Changes in factor S or C may not be made in periodic purchased gas filings. A change in factor D or Z may be made in periodic filings and will be deemed approved if it conforms to the annual purchased gas filing or if it conforms to the principles set out in subrule 19.9(5).

Utilities shall automatically implement all PGA changes that result from changes in Rc, Rd, or Rz and will concurrently notify the commission with adequate information to calculate and support the change. The PGA shall be calculated separately for each customer classification or grouping.

Unless otherwise ordered by the commission, a utility's PGA rate factors shall be adjusted as purchased gas costs change and shall recover from the customers only the actual costs of purchased gas and other currently incurred charges associated with the delivery, inventory, or reservation of natural gas. Such periodic changes shall become effective with usage on or after the date of change.

19.9(4) *Factor Rb.* Each utility has the option of filing an Rb calculation with its October-January PGA filings but shall file an Rb calculation with its February filing and subsequent monthly filings in the PGA year. If the anticipated PGA balance represents costs in excess of revenues, factor Rb shall be assigned a positive value; if the anticipated balance represents revenues in excess of costs, factor Rb shall be assigned a negative value.

19.9(5) *Allocations of changes in contract pipeline transportation capacity obligations.* Any change in contractual pipeline transportation capacity obligations to transportation or storage service providers serving Iowa shall be reported to the commission within 30 days of receipt. The change must be applied on a pro-rata basis to all customer classifications or groupings, unless another method has been approved by the commission. Where a change has been granted as a result of the utility's request based on the needs of specified customers, that change may be allocated to the specified customers. Where the commission has approved anticipated sales levels for one or more customer classifications or groupings, those levels may limit the pro-rata reduction for those classifications or groupings.

19.9(6) *Reconciliation of underbillings and overbillings.* The utility shall file with the commission on or before October 1 of each year a PGA reconciliation for the 12-month period that began on September 1 of the previous year. This reconciliation will be the actual net invoiced costs of purchased gas and appropriate financial hedging tools costs less the actual revenue billed through its PGA clause net of the prior year's reconciliation dollars for each customer classification or grouping. Actual net costs for purchased gas shall be the applicable invoice costs from all appropriate sources associated with the time period of usage.

Negative differences in the reconciliation are considered overbilling by the utility, and positive differences are considered underbilling. This reconciliation shall be filed with all worksheets and detailed supporting data for each particular PGA clause. Penalty purchases shall only be includable where the utility clearly demonstrates a net savings.

a. Annual reconciliation filings will include the following information concerning the hedging tools used by the utility:

(1) The volume of physical gas being hedged by the utility and the strategies used by the utility for hedging.

(2) The reason each hedging strategy was undertaken (e.g., to hedge storage gas, a floating price contract).

(3) A statement as to how each hedging strategy was consistent with the utility's natural gas procurement plan.

(4) An explanation as to why the utility believes each hedging strategy was in the best interest of general system customers.

(5) A detailed explanation of the instruments used to implement each hedging strategy (e.g., fixed-price purchases, future contracts, basis swaps, fixed-price swaps, call options, put options, option collars).

(6) The amount of all commissions paid and to whom those payments were made.

(7) The amount of money or other collateral held in margin accounts or provided to counterparties as credit support for hedging transactions.

(8) The amount of all other third-party administrative or contracting costs paid and to whom those costs were paid.

(9) The name of each hedging counterparty and the amount of money paid to or received from each counterparty with respect to hedging (e.g., option premiums, financial settlement of gains or losses).

(10) Detailed reports or schedules of each hedging strategy, including the following information for each hedging instrument entered into by the utility:

1. The type of hedging instrument.
2. The date on which the hedging instrument was entered into by the utility.
3. The name of the counterparty with whom the hedging instrument was entered into.
4. The notional quantity of natural gas associated with the hedging instrument.
5. The notional delivery period associated with the hedging instrument.
6. The total amount of gains or losses realized by the utility on the hedging instrument.
7. For each futures contract or fixed-price purchase or sale, the fixed price paid or received by the utility and the final settlement price for the futures contract.
8. For each swap contract, the fixed price or index price paid by the utility, the index price or fixed price received by the utility, and the final settlement price of each applicable index referenced in the swap contract.
9. For each option contract, the underlying futures contract or index price referenced in the option contract, the strike price for the option, the premium paid or received by the utility for the option, and the final settlement price for the futures contract or index price referenced in the option.
10. For any other hedging instruments, relevant economic terms, conditions, reference prices, and other factors to support calculations of gains or losses associated with such instruments.
11. For the total natural gas volumes hedged during the PGA year, the fully hedged price of gas and the price if the gas had not been hedged.

b. Underbillings will be collected through ten-month adjustments to the appropriate PGA. The underbilling generated from each PGA clause shall be divided by the anticipated sales volumes for the prospective ten-month period beginning November 1 (based upon the sales determination in subrule 19.9(1)).

The quotient, determined on the same basis as the utility's tariff rates, shall be added to the PGA for the prospective ten-month period beginning November 1.

c. Overbillings will be refunded to the customer classification or grouping from which they were generated. Overbillings will be divided by the annual cost of purchased gas subject to recovery for the 12-month period that began the prior September 1 for each PGA clause and applied as follows:

(1) If the net overbilling from the PGA reconciliation exceeds the applicable percentage of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility will file a proposed refund plan that includes its interest calculations, its plan for refunding the overbilling either by bill credit or check, and the date it proposes to implement the refund. The minimum amount to be refunded by check is $10. Interest shall be calculated on amounts exceeding the applicable percentage from the PGA year midpoint to the date of refunding. The interest rate shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the last working day of August of the current year.

(2) If the net overbilling from the PGA reconciliation does not exceed the applicable percentage of the annual cost of purchased gas subject to recovery for a specific customer classification or grouping, the utility may refund the overbilling by bill credit or check starting on the first day of billing in the November billing cycle of the current year, or the utility may refund the overbilling through ten-month adjustments to the particular PGA from which they were generated. The minimum amount to be refunded by check is $10. This adjustment shall be determined by dividing the overcollection by the anticipated sales volume for the prospective ten-month period beginning November 1 as determined in subrule 19.9(1) for the applicable PGA clause. The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular PGA for the prospective ten-month period beginning November 1.

(3) The overbilling percentage applicable to utilities serving fewer than 10,000 customers is 5 percent. For utilities serving 10,000 or more customers, the applicable percentage is 3 percent.

d. When a customer has reduced or terminated system supply service and is receiving transportation service, any liability for overcollections and undercollections shall be determined in accordance with the utility's gas transportation tariff.

19.9(7) *Refunds related to gas costs charged through the PGA.* The utility shall file a refund plan with the commission within 30 days of the receipt of any refund related to gas costs charged through the PGA.

a. Refunds will be provided to customers by bill credit or check in an amount equal to any refund, plus accrued interest, if the refund exceeds $20 per average residential customer under the applicable customer classification or grouping. The utility may refund lesser amounts through the applicable customer classification or grouping or retain undistributed refund amounts in special refund retention accounts for each customer classification or grouping under the applicable PGA clause until such time as additional refund obligations or interest cause the average residential customer refund to exceed $20. Any obligations remaining in the retention accounts on September 1 shall become a part of the annual PGA reconciliation.

b. The utility shall file with the refund plan the following information:

(1) A statement of reason for the refund.

(2) The amount of the refund with support for the amount.

(3) The balance of the appropriate refund retention accounts.

(4) The amount due under each customer classification or grouping.

(5) The intended period of the refund distribution.

(6) The estimated interest accrued for each refund through the proposed refund period, with complete interest calculations and supporting data as determined in paragraph 19.9(7)*"d."*

(7) The total amount to be refunded, the amount to be refunded per customer classification or grouping, and the refund per ccf or therm.

(8) The estimated interest accrued for each refund received and for each amount in the refund retention accounts through the date of the filing with the complete interest calculation and support as determined in paragraph 19.9(7)*"d."*

(9) The total amount to be retained, the amount to be retained per customer classification or grouping, and the level per ccf or therm.

(10) The calculations demonstrating that the retained balance is less than $20 per average residential customer with supporting schedules for all factors used.

c. The refund to each customer will be determined by dividing the amount in the appropriate refund retention account, including interest, by the total ccf or therm of system gas consumed by affected customers during the period for which the refundable amounts are applicable and multiplying the quotient by the ccf or therms of system supply gas actually consumed by the customer during the appropriate period. The utility may use the last available 12-month period if the use of the actual period generating the refund is impractical. The utility shall file complete support documentation for all figures used.

d. The interest rate on refunds distributed under this subrule, compounded annually, shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the day the refund obligation vests. Interest shall accrue from the date the utility receives the refund or billing from the supplier or the midpoint of the first month of overcollection to the date the refund is distributed to customers.

e. The utility shall make a reasonable effort to forward refunds, by check, to eligible recipients who are no longer customers.

f. The minimum amount to be refunded by check is $10.

This rule is intended to implement Iowa Code section 476.6(11).

199—19.10(476) Periodic review of gas procurement practices.

19.10(1) *Procurement plan.* Pursuant to Iowa Code section 476.6(11), the commission shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a public utility's natural gas procurement and contracting practices. In the years in which the commission does not conduct a contested case proceeding, the commission may require the utilities to file certain information for the commission's review. In years in which the commission conducts a full proceeding, a utility shall file prepared direct testimony and exhibits in support of a detailed 12-month plan and a three-year natural gas procurement plan. A utility's procurement plan shall be organized as follows and include:

a. An index of all documents and information filed in the plan and identification of the commission files in which documents incorporated by reference are located.

b. All contracts and gas supply arrangements executed or in effect for obtaining gas and all supply arrangements planned for the future 12-month and three-year periods.

c. A description of the utility's natural gas forecasting, procurement, and contracting practices; available supply options; and other available services (e.g., storage services, balancing services).

d. An exhibit detailing the utility's current, 12-month, and three-year forecasts of total annual throughput by customer class, peak day demand, and anticipated reserve margin on a PGA-year basis.

e. An organizational description of the officer or division responsible for gas procurement and a summary of operating procedures and policies for procuring and evaluating gas contracts.

f. A summary of the legal, regulatory, and commercial actions taken to minimize purchased gas costs.

g. Copies of all studies or investigation reports supporting the utility's testimony or materially considered by the utility in contracting decisions during the plan periods.

h. A complete list of all contracts in effect at the time of the procurement plan filing. The list shall include the contract term, the applicable service, and the contracted quantities.

i. A description of the supply options selected by the utility and an evaluation of the reasonableness and prudence of its contracting and procurement decisions. This evaluation should explain the relationship between forecast and procurement.

19.10(2) *Burden on the utility.* The utility has the burden to prove it is taking all reasonable actions to minimize its purchased gas costs.

19.10(3) *Disallowance of costs.* Purchased gas costs in excess of costs incurred under responsible and prudent policies and practices are disallowed. The PGA factor will be adjusted prospectively to reflect the disallowance.

19.10(4) *Executive summary.* On or before August 1 of each year, each natural gas utility shall file an executive summary and index of all standard and special contracts in effect for the purchase, sale or interchange of gas. The executive summary shall include the following information:

a. The contract number;

b. The start and end date;

c. The parties to the contract;

d. The total estimated dollar value of the contract;

e. A description of the type of service offered (including volumes and price).

This rule is intended to implement Iowa Code section 476.6(11).

199—19.11(476) Flexible rates.

19.11(1) *Purpose.* This rule is intended to allow gas utility companies to offer, at their option, incentive or discount rates to their sales and transportation customers.

19.11(2) *General criteria.*

a. Natural gas utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of customers. However, discounted rates must be offered to all directly competing customers in the same service territory. Customers are direct competitors if they make the same end product (or offer the same service) for the same general group of customers.

Customers that only produce component parts of the same end product are not directly competing customers.

b. In deciding whether to offer a specific discount, the utility shall evaluate the individual customer's, group's, or class's situation and perform a cost-benefit analysis before offering the discount.

c. Any discount offered should be such as to significantly affect the customer's or customers' decision to stay on the system or to increase consumption.

d. The consequences of offering the discount should be beneficial to all customers and to the utility. Other customers should not be at risk of loss as a result of these discounts; in addition, the offering of discounts shall in no way lead to subsidization of the discounted rates by other customers in the same or different classes.

19.11(3) *Tariffs.* If a company elects to offer flexible rates, the utility shall file for review and approval of tariff sheets specifying the general conditions for offering discounted rates. The tariff sheets shall include, at a minimum, the following criteria:

a. A cost-benefit analysis demonstrating that offering the discount will be more beneficial than not offering the discount.

b. The ceiling for all discounted rates shall be the approved rate on file for the customer's rate class.

c. The floor for the discount sales rates shall be equal to the cost of gas. Therefore, the maximum discount allowed under the sales or transportation tariffs is equal to the nongas costs of serving the customer.

d. No discount shall be offered for a period longer than five years unless the commission determines upon good cause shown that a longer period is warranted.

e. Discounts should not be offered if they will encourage deterioration in the load characteristics of the customer receiving the discount.

f. Customer charges may be discounted.

19.11(4) *Reporting.* Each natural gas utility electing to offer flexible rates shall file annual reports with the commission within 30 days of the end of each 12 months. Reports shall include the following information:

a. Section 1 of the report concerns discounts initiated in the last 12 months, which shall include:

(1) The identity of the new customers (by account number, if necessary);

(2) The value of the discount offered;

(3) The cost-benefit analysis results;

(4) The cost of alternate fuels available to the customer, if relevant;

(5) The volume of gas sold to or transported for the customer in the preceding 12 months; and

(6) A copy of all new or revised flexible-rate contracts executed between the utility and its customers.

b. Section 2 of the report relates to overall program evaluation. For all discounts currently being offered, the report shall include:

(1) The identity of each customer (by account number, if necessary);

(2) The total volume of gas sold or transported in the last 12 months to each customer at discounted rates, by month;

(3) The volume of gas sold or transported to each customer in the same 12 months of the preceding year, by month;

(4) The dollar value of the discount in the last 12 months to each customer, by month;

(5) The dollar value of volumes sold or transported to each customer for each of the previous 12 months; and

(6) If customer charges are discounted, the dollar value of the discount shall be reported separately.

c. Section 3 of the report concerns discounts denied or discounts terminated. For all customers specifically evaluated and denied or having a discount terminated in the last 12 months, the report shall include:

(1) Customer identification (by account number, if necessary);

(2) The volume of gas sold or transported in the last 12 months to each customer, by month;

(3) The volume of gas sold or transported to each customer in the same 12 months of the preceding year, by month; and

(4) The dollar value of volumes sold or transported to each customer for each of the past 12 months.

d. No report is required if the utility had no customers receiving a discount during the relevant period and had no customers that were evaluated for the discount and rejected during the relevant period.

19.11(5) *Rate case treatment.* In a rate case, 50 percent of any identifiable increase in net revenues will be used to reduce rates for all customers; the remaining 50 percent of the identifiable increase in net revenues may be kept by the utility. If there is a decrease in revenues due to the discount, the utility's test year revenues will be adjusted to remove the effects of the discount by assuming that all sales or transportation services or customer charges were made at full tariffed rates for the customer class. Determining the actual amount will be a factual determination to be made in the rate case.

199—19.12(476) Transportation service.

19.12(1) *Purpose.* This subrule requires gas distribution utility companies to transport natural gas owned by an end user on a nondiscriminatory basis, subject to the capacity limitations of the specific system. "System capacity" means the maximum flow of gas the relevant portion of the system is capable of handling. Capacity availability is determined using the total current firm gas flow, including both system and transportation gas.

19.12(2) *End user rights.* The end user purchasing transportation services from the utility shall have the following rights and be subject to the following conditions:

a. The end user has the right to receive, pursuant to agreement, 100 percent of the gas delivered by it or on its behalf to the transporting utility (adjusted for a reasonable volume of lost, unaccounted-for, and company-used gas).

b. The volumes that the end user is entitled to receive are subject to curtailment or interruption due to limitations in the system capacity of the transporting utility. Curtailment of the transportation volumes will take place according to the priority class, subdivision, or category that the end user would have been assigned if it were purchasing gas from the transporting utility.

c. During periods of curtailment or interruption, the end user is entitled to a credit equal to the difference between the volumes delivered to the utility and those received by the end user, adjusted for lost, unaccounted-for, and company-used gas.

d. The end user is responsible for all costs associated with any additional plant required for providing transportation services to the end user.

19.12(3) *Transportation service charges.* Transportation service shall be offered to at least the following classes:

a. Interruptible distribution service with system supply reserve.

b. Interruptible distribution service without system supply reserve.

c. Firm distribution service with system supply reserve.

d. Firm distribution service without system supply reserve.

19.12(4) *Transportation service charges and rates.* All rates and charges for transportation shall be based on the cost of providing the service.

a. "System supply reserve" service entitles the end user to return to the system service to the extent of the interstate pipeline capacity purchased. The charge will be at least equal to the administrative costs of monitoring the service, plus any other costs.

b. End users without system supply reserve service may only return to system service by paying an additional charge and are subject to the availability of adequate interstate pipeline capacity. An end user wishing to receive transportation service without system supply reserve must pay the utility for the discounted value of any contract between the utility and the end user remaining in effect at the time of beginning transportation service. The discounted values shall include all directly assignable and identifiable costs.

c. The utility may require a reconnection charge when an end user receiving transportation service without system supply reserve service requests to return to the system supply. The end user shall return to the system and receive service under the appropriate classification as determined by the utility.

d. The end user electing to receive transportation service shall pay reasonable rates for any use of the facilities, equipment, or services of the transporting utility.

19.12(5) *Reporting requirements.* A natural gas utility will provide a copy of information concerning transportation contracts upon request of the commission, commission staff, or the office of consumer advocate.

19.12(6) *Written notice of risks.* The utility must notify its large-volume users as defined in 19.13(1) contracting for transportation service in writing that unless the customer buys system supply reserve service from the utility, the utility is not obligated to supply gas to the customer. The notice must also advise the large-volume user of the nature of any identifiable penalties, any administrative or reconnection costs associated with purchasing available firm or interruptible gas, and how any available gas would be priced by the utility. The notice may be provided through a contract provision or separate written instrument. The large-volume user must acknowledge in writing that it has been made aware of the risks and accepts the risks.

199—19.13(476) Certification of competitive natural gas providers and aggregators.

19.13(1) *Definitions.* The following words and terms, when used in this rule, shall have the meanings indicated below:

"Large-volume user" means any end user whose usage exceeds 25,000 therms in any month or 100,000 therms in any consecutive 12-month period.

"Small-volume user" means any end user whose usage does not exceed 25,000 therms in any month and does not exceed 100,000 therms in any consecutive 12-month period.

"Vehicle fuel provider" or *"VFP"* means a competitive natural gas provider or aggregator as defined in Iowa Code section 476.86 that owns or operates facilities to sell natural gas as vehicle fuel to a retail end user.

19.13(2) *General requirement to obtain certificate.* A competitive natural gas provider (CNGP) shall not provide competitive natural gas services to an Iowa retail end user without a certificate approved by the commission pursuant to Iowa Code section 476.87.

19.13(3) *Filing requirements and application process.*

a. Applications to provide service as a CNGP pursuant to Iowa Code sections 476.86 and 476.87 shall contain information to reasonably demonstrate that the applicant possesses the managerial, technical, and financial capability sufficient to obtain and deliver the services the CNGP or aggregator proposes to offer. Applications shall be filed pursuant to 199—Chapter 14. Application forms to provide competitive natural gas service to large-volume, small-volume, and VFPs can be accessed on the commission's website, iuc.iowa.gov. All applications shall include, at a minimum, the following information:

(1) The legal name and all trade names under which the applicant will operate, a description of the business structure of the applicant, evidence of authority to do business in Iowa, and the applicant's state of incorporation.

(2) Names, addresses, and telephone numbers of corporate officers responsible for the applicant's operations in Iowa and a telephone number where the applicant can be contacted 24 hours a day.

(3) Identification of the states and jurisdictions in which the applicant or an affiliate is providing natural gas service.

(4) A commitment to comply with all the applicable conditions of certification contained in subrules 19.13(5) and 19.13(6) and acknowledgment that failure to comply with all the applicable conditions of certification may result in the revocation of the CNGP's certificate.

b. A request for confidential treatment of the information required to obtain a CNGP certificate may be filed with the commission pursuant to rule 199—1.7(22).

c. An applicant shall notify the commission during the pendency of the certification request and after certification of any material change in the representations and commitments made in the application within 14 days of such change. Any new legal actions or formal complaints are considered material changes in the request.

19.13(4) *Deficiencies and commission determination.* Applications will be considered complete when all required items are submitted. Applicants will be notified of deficiencies and given 30 days to complete applications. Applications with deficiencies that are not cured within the 30-day period will be denied.

19.13(5) *Conditions of certification.* CNGPs shall comply with the conditions set out in this subrule. Failure to comply with the conditions of certification may result in revocation of the certificate.

a. Unauthorized charges. A CNGP shall not charge or attempt to collect any charges from end users for any competitive natural gas services or equipment used in providing competitive natural gas services not contracted for or otherwise agreed to by the end user.

b. Notification of emergencies. Upon receipt of information from an end user of the existence of an emergency situation with respect to delivery service, a CNGP shall immediately contact the appropriate public utility whose facilities may be involved. The CNGP shall also provide the end user with the emergency telephone number of the public utility.

c. Reports to the commission. Each CNGP shall file a report with the commission on April 1 of each year for the 12-month period ending December 31 of the previous year. The report shall be filed on forms provided by the commission, which can be accessed on the commission's website, iuc.iowa.gov. This information may be filed with a request for confidentiality, pursuant to rule 199—1.7(22). For each utility distribution system, the report shall include, at a minimum, total monthly and annual sales volumes, total monthly revenues, and total number of customers served each month as of December 31 of the applicable year.

19.13(6) *Additional conditions applicable to CNGPs providing service to small-volume end users.* All CNGPs when providing service to small-volume natural gas end users shall be subject to the following conditions in addition to those listed under subrule 19.13(5):

a. Customer deposits. Compliance with the following provisions shall apply to customers whose usage does not exceed 2,500 therms in any month or 10,000 therms in any consecutive 12-month period.

Customer deposits – subrule 19.4(3).

Interest on customer deposits – subrule 19.4(4).

Customer deposit records – subrule 19.4(5).

Customer's receipt for a deposit – subrule 19.4(6).

Deposit refund – subrule 19.4(7).

Unclaimed deposits – subrule 19.4(8).

b. Bills to end users. A CNGP shall include on bills to end users all the information listed in this paragraph. The bill may be sent to the customer electronically at the customer's option.

(1) The period of time for which the billing is applicable.

(2) The amount owed for current service, including an itemization of all charges.

(3) Any past-due amount owed.

(4) The last date for timely payment.

(5) The amount of penalty for any late payment.

(6) The location for or method of remitting payment.

(7) A toll-free telephone number for the end user to call for information and to make complaints regarding the CNGP.

(8) A toll-free telephone number for the end user to contact the CNGP in the event of an emergency.

(9) A toll-free telephone number for the end user to notify the public utility of an emergency regarding delivery service.

(10) The tariffed transportation charges and supplier refunds, where a combined bill is provided to the customer.

c. Disclosure. Each prospective end user must receive in writing, prior to initiation of service, all terms and conditions of service and all rights and responsibilities of the end user associated with the offered service. The information may be provided electronically, at the customer's option.

d. Notice of service termination. Notice shall be provided to the end user, the commission, and the public utility at least 12 calendar days prior to service termination. If the notice of service termination is rescinded, the CNGP must notify the public utility. CNGPs are prohibited from physically disconnecting the end user or threatening physical disconnection for any reason.

e. Transfer of accounts. CNGPs will not transfer the account of any end user to another supplier except with the consent of the end user and notice to the commission. This provision does not preclude a CNGP from transferring all or a portion of its accounts pursuant to a sale or transfer of all or a substantial portion of a CNGP's business in Iowa, provided that the transfer satisfies all of the following conditions:

(1) The transferee will serve the affected end users through a certified CNGP;

(2) The transferee will honor the transferor's contracts with the affected end users;

(3) The transferor provides written notice of the transfer to each affected end user prior to the transfer;

(4) Any affected end user is given 30 days to change supplier without penalty; and

(5) The transferor provides notice to the public utility of the effective date of the transfer.

f. Bond. The commission may require the applicant to file a bond or other demonstration of its financial capability to satisfy claims and expenses that can reasonably be anticipated to occur as part of operations under its certificate, including the failure to honor contractual commitments. In determining the adequacy of the bond or demonstration, the commission shall consider the extent of the services to be offered, the size of the provider, and the size of the load to be served.

g. Replacement cost for supply failure. Each public utility shall file for the commission's review tariffs establishing replacement cost for supply failure. Replacement cost revenue will be credited to the public utility's system PGA.

199—19.14(476) Customer contribution fund.

19.14(1) *Applicability and purpose.* This rule applies to each gas public utility as defined in Iowa Code section 476.1. Pursuant to Iowa Code section 476.66, each utility shall maintain a program plan to assist the utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

19.14(2) *Notification.* Each utility shall notify all customers of the customer contribution fund at least twice a year. Upon commencement of service and at least once a year, the notice will be mailed or personally delivered to all customers or provided by electronic means to those customers who have consented to receiving electronic notices. The other notice may be published in a local newspaper(s) of general circulation within the utility's service territory.

a. At a minimum, the notice shall include:

(1) A description of the availability and the purpose of the fund;

(2) A customer authorization form that includes a monthly billing option and any other methods of contribution.

b. A CNGP that has no residential customers is not required to provide the notice established in this subrule.

19.14(3) *Methods of contribution.* Contributions will be provided as monthly pledges, as well as one-time or periodic contributions. A pledge will not be construed to be a binding contract between the utility and the pledger. The pledge amount shall not be subject to delayed payment charges by the utility. Each utility may allow persons or organizations to contribute matching funds.

19.14(4) *Annual report.* On or before September 30 of each year, each utility shall file with the commission a report of all the customer contribution fund activity for the previous fiscal year, beginning July 1 and ending June 30, on a form provided by the commission that contains an accounting of the total revenues collected and all distributions of the fund.

199—19.15(476) Reserve margin.

19.15(1) *Applicability.* All gas utility companies may maintain a reserve of contract services in excess of their maximum daily system demand requirement and recover the cost of the reserve from their customers through the PGA.

19.15(2) *Definitions.* The following definitions apply to the terms as used in this rule:

"Contract services" refers to the amount of firm gas delivery capacity or delivery services contracted for use by a utility to satisfy its maximum daily system demand requirement, including the planned delivery capacity of the utility-owned liquefied natural gas facilities but excluding the delivery capacity of propane storage facilities.

"Design day" means reasonably anticipated colder-than-normal weather conditions during a 24-hour period beginning at 9 a.m.

"Maximum daily system demand requirements" means the maximum daily gas demand requirement that the utility forecasts to occur on behalf of its system firm sales customers under design day weather conditions. The maximum daily gas demand requirement forecast will be determined based upon an evaluation of historic usage levels of firm sales customers, adjusted for reasonably anticipated colder-than-normal weather conditions and other clearly identifiable factors that may contribute to the demand for gas by firm sales customers. The maximum daily system demand requirements shall be submitted for approval by the commission with the Annual PGA filing required by subrule 19.9(2).

19.15(3) *Maximum daily system demand requirements of less than 25,000 Dth per day.* A reserve margin of 9 percent or less in excess of the maximum daily system demand requirements will be presumed reasonable.

19.15(4) *Maximum daily system demand requirements of more than 25,000 Dth per day.* A reserve margin of 5 percent or less in excess of the maximum daily system demand requirements will be presumed reasonable.

19.15(5) *Rebuttable presumption.* All contract services in excess of an amount needed to meet the maximum daily system demand requirements plus the reserve are presumed to be unjust and unreasonable unless a factual showing to the contrary is made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing. All contract services less than an amount of the maximum daily system demand requirements plus the reserve are presumed to be just and reasonable unless a factual showing to the contrary can be made during the periodic review of gas proceeding or in a proceeding specifically addressing the issue with an opportunity for an evidentiary hearing.

19.15(6) *Allocation of cost of the reserve.* Fifty percent of the reserve cost shall be collected as a demand charge allocation to noncontractual firm customers. The remaining 50 percent shall be collected as a throughput charge on customers excluding transportation customers who have elected no system supply reserve.

199—19.16(476) Incident notification and reports.

19.16(1) *Notification.* Utilities will notify the commission immediately, or as soon as practical, of any incident involving the release of gas, failure of equipment, or interruption of facility operations, which results in any of the following:

a. Any reportable incidents as defined in 49 CFR 191.3.

b. An unplanned interruption of service to 50 or more customers.

c. Evacuation of a school, hospital, health care facility, or event totaling 100 or more people.

d. Rerouting of traffic or closing of a primary interstate highway by public emergency responders.

e. National media attention.

f. Unintentional fire or explosion.

g. The release of gas due to excavation damage.

h. A major event as defined in this chapter, except for notifications of emergency alerts from regional transmission organizations or independent system operators.

i. Any other incident considered significant by the utility.

19.16(2) *Reporting information.* The utility shall notify the commission by email, as soon as practical, of any reportable incident at dutyofficer@iuc.iowa.gov or, when email is not available, by calling the commission duty officer at 515.745.2332. The person sending the email or the caller shall leave a call-back number for a person who can provide the following information:

a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries and the extent of those injuries, if any.

e. An initial estimate of damages.

f. The number of services interrupted.

g. A summary of the significant information available to the utility regarding the probable cause of the incident and extent of damages.

h. Any oral or written report required by the U.S. Department of Transportation, the name of the person who made the oral report or prepared the written report, and when such a report was made.

19.16(3) *Written incident reports.* Within 30 days of the date of the incident, the utility shall file a written report with the commission that includes the information listed in subrule 19.16(2), the probable cause as determined by the utility, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, the utility will timely file the information in a supplemental report. The utility will also provide the commission with copies of any written reports concerning an incident or safety-related condition filed with or submitted to the U.S. Department of Transportation or the National Transportation Safety Board.

199—19.17(476) Capital infrastructure investment automatic adjustment mechanism.

19.17(1) *Eligible capital infrastructure investment.* A natural gas utility may file for commission approval of a capital infrastructure investment automatic adjustment mechanism to allow recovery of certain costs from customers. To be eligible for recovery through the capital infrastructure investment automatic adjustment mechanism, the costs shall either:

a. Meet the following criteria:

(1) The costs are beyond the direct control of management;

(2) The costs are subject to sudden, important change in level;

(3) The costs are an important factor in determining the total cost of capital infrastructure investment to serve customers; and

(4) The costs are readily, precisely, and continuously segregated in the accounts of the utility; or

b. Be for a capital infrastructure investment that:

(1) Does not serve to increase revenues by directly connecting the infrastructure replacement to new customers;

(2) Is in service but was not included in the gas utility's rate base in its most recent general rate case; and

(3) Replaces or modifies existing infrastructure required by state or local government action, to meet state or federal natural gas pipeline safety regulations, or to otherwise enhance safety as approved in advance by the commission. The utility shall make an annual filing with the commission to seek advance determination of projects that meet this criterion.

19.17(2) *Determination of recovery factor.* The utility may recover a rate of return and depreciation expense associated with eligible capital infrastructure investments described in subrule 19.17(1). The allowed rate of return will be the approved average cost of debt from the utility's most recent general gas rate review proceeding before the commission. Depreciation expense shall be based upon the depreciation rates allowed by the commission in the utility's most recent general gas rate review proceeding before the commission.

19.17(3) *Recovery procedures.*

a. To recover capital infrastructure investment costs that meet the criteria in paragraph 19.17(1)*"a"* through an automatic adjustment mechanism, the utility will first obtain prior commission approval of the automatic adjustment mechanism. The utility will file the following information in support of the proposed automatic adjustment mechanism:

(1) A description of the capital infrastructure investment and the costs that are proposed to be recovered through the automatic adjustment mechanism;

(2) An explanation of why the costs of the capital infrastructure investment are beyond the control of the utility's management;

(3) An exhibit that shows the changes in level of the costs of the capital infrastructure investment that are proposed to be recovered, both historical and projected;

(4) An explanation of why these particular capital infrastructure investment costs are an important factor in determining the total cost of capital infrastructure investment to serve customers;

(5) A description of proposed recovery procedures, if different from the procedures described in paragraph 19.17(3)*"c"*; and

(6) The length of time that the automatic adjustment mechanism will be in place.

b. Recovery of capital infrastructure investment costs pursuant to paragraph 19.17(1)*"b"* may be made by the utility by filing a proposed tariff no later than April 1 of each year. Only one tariff filing to recover capital infrastructure investment costs shall be made in a 12-month period. The filing will include the following information in support of the proposed automatic adjustment rates:

(1) Proof that the capital infrastructure investment is a project that was approved in advance by the commission as specified in subparagraph 19.17(1)*"b"*(3).

(2) The location, description, and costs associated with the project.

(3) The cost of debt from the utility's most recent general gas rate review proceeding before the commission and the applicable depreciation rates from the utility's most recent general gas rate review proceeding before the commission.

(4) The calculations showing the total costs that are eligible for recovery and the rates that are proposed to be implemented.

(5) Supporting documentation, including but not limited to work orders and journal entries, to the commission staff or the office of consumer advocate upon request.

c. The utility shall calculate the rates for the recovery of the capital infrastructure investment through the automatic adjustment mechanism over the 12-month period beginning from the effective date of the tariff unless otherwise ordered by the commission. The calculated rate shall include a reconciliation that reconciles the actual revenue recovered through the automatic adjustment mechanism with the costs of the eligible capital infrastructure investments proposed to be recovered over the previous collection period. Unless otherwise specified in an approved tariff, the capital infrastructure investment factor shall be recovered by a fixed monthly surcharge to customers, to

be determined by totaling eligible investment costs for the prior calendar year, adjusted for the reconciliation amount, then dividing the total recovery amount among customer classes based upon the utility's most recent approved cost of service study, dividing the class recovery amounts by the number of months in the recovery period, and then dividing the assigned costs by the number of customers in each respective class. The recovery amount will be limited to annual depreciation plus a return on the undepreciated balance based on the cost of debt.

d. Recovery of a return on and return of capital infrastructure investment that is eligible for recovery pursuant to an automatic adjustment mechanism will continue until the effective date of temporary rates in a subsequent general rate proceeding or, if temporary rates are not implemented, until final rates approved by the commission in the utility's next general rate proceeding. To continue recovery, a utility shall file a proposed tariff each year. Once temporary or final rates are effective, the automatic adjustment mechanism will reset to zero. No more than five years of capital investment recovery will be allowed between general rate proceedings unless otherwise approved by the commission. A utility may continue recoveries allowed under this rule until the investments are fully depreciated or until the utility's next general rate proceeding.

These rules are intended to implement Iowa Code sections 476.1, 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 476.86, and 476.87.

Regulatory Analysis

Notice of Intended Action to be published: 199—Chapter 27
"Regulation of Electric Cooperatives and Municipal
Electric Utilities Under Iowa Code Chapter 476"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 476.2, 476.1A, and 476.1B

State or federal law(s) implemented by the rulemaking: Iowa Code sections 476.2, 476.20, 476.1A and 476.1B

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

February 12, 2026 9 a.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Utilities Commission no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Commission
Phone: 515.725.7300
Email: ITsupport@iuc.iowa.gov

Purpose and Summary

This proposed rulemaking implements the jurisdiction of the Commission over electric cooperatives and municipal electric utilities. The rules establish definitions of standards for safety and engineering, filing requirements for modifications to exclusive service territories, customer disconnection requirements, contribution fund requirements, electric vehicle rules, and exterior lighting requirements. Each rule is specifically included in the Commission's jurisdiction.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Electric cooperatives and municipal electric utilities will bear any costs associated with compliance with the rules in Chapter 27. The actions that are required by the rules are mandated by statute, and the rules describe the actions that need to be taken to comply with the statutory requirements. There may be some costs associated with requesting Commission approval or with addressing complaints from electric cooperative or municipal electric utility customers. Most of the actions required by the rules are actions the utilities would need to take in the ordinary course of providing service to customers.

- **Classes of persons that will benefit from the proposed rulemaking:**

Electric cooperatives and municipal electric utilities will benefit, as will their customers, from standard requirements with which each utility will need to comply. Customers will know how the utilities are meeting the requirements for providing service, and there are minimum standards to ensure the safety and reliability of electric service and customer protections.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

This rulemaking does not impose any significant costs on electric cooperatives or municipal electric utilities that are inconsistent with national standards or statutory requirements. Costs of complying with the engineering and safety standards and customer protections from improper disconnections are required for the utility to provide safe and adequate electric service. The quantitative impact of the rules will be consistent with the utility providing electric service.

- **Qualitative description of impact:**

The qualitative impact of the rules is ensuring that the electric cooperative and municipal electric utility provide electric service consistent with national standards and Iowa statutes.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no additional costs to the Commission from implementation or enforcement by the Commission. The primary cost occurs in responding to informal complaints from electric cooperative and municipal electric utility customers, and those costs are part of the duties of Commission staff.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues. Costs of the Commission are paid by utility ratepayers, and any actions required of the Commission are directly billed to the utility causing the cost.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The costs associated with the requirements in the rules are the same costs that each utility should undertake to provide safe and adequate electric service and to comply with Iowa's statutory requirements. The benefits are that electric service to customers will be in compliance with national standards and customers will know what rights and remedies they have with regard to disconnection of electric service.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Commission has not found a less costly method of establishing requirements for electric service as required by Iowa Code sections 476.1A and 476.1B. Revisions to these sections have recently been enacted, and those revisions establish the provisions in Iowa Code chapter 476 with which each electric cooperative and municipal electric utility is required to comply.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Commission has not considered any alternative methods because the recently enacted provisions of Iowa Code sections 476.1A and 476.1B establish what areas need to be addressed by the Commission.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

There were not any alternatives to reject.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

These rules only affect electric cooperatives and municipal electric utilities.

Text of Proposed Rulemaking

ITEM 1. Rescind 199—Chapter 27 and adopt the following **new** chapter in lieu thereof:

CHAPTER 27
REGULATION OF ELECTRIC COOPERATIVES AND MUNICIPAL ELECTRIC UTILITIES UNDER IOWA CODE CHAPTER 476

199—27.1(476) General information. Iowa Code section 476.2(1) provides that the Iowa utilities commission has authority to establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties; the practice and procedure before it; and to the form, content and filing of reports, documents and other papers provided for in Iowa Code chapter 476 or in the commission's rules.

27.1(1) *Application of rules.* The rules apply to electric cooperatives and municipal electric utilities operating within the state of Iowa subject to Iowa Code sections 476.1A and 476.1B, and to the construction, operation, and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and supersede all tariffs on file with the commission that are in conflict with these rules.

27.1(2) *Regulation of electric cooperatives.* Iowa Code section 476.1A provides that electric cooperatives are not subject to the regulation of the commission, except for regulatory action pertaining to the following:

a. Assessment of fees for the support of the commission and the office of consumer advocate pursuant to Iowa Code section 476.10.

b. Safety standards and engineering standards.

c. Assigned service areas, as set forth in Iowa Code sections 476.22 through 476.25.

d. Public utility railroad crossings, as set forth in Iowa Code section 476.27.

e. Filing of alternate energy purchase program plans with the commission, and offering such programs to customers, pursuant to Iowa Code section 476.47.

f. Iowa Code sections 476.20(1) through 476.20(4), 476.21, 476.51, 476.56, 476.58, 476.62, and 476.66 and chapters 476A and 478, to the extent applicable.

27.1(3) *Regulation of municipal electric utilities.* Iowa Code section 476.1B provides that municipal electric utilities are not subject to regulation by the commission under Iowa Code chapter 476, except for regulatory action pertaining to the following:

a. Assessment of fees for the support of the commission and the office of consumer advocate.

b. Safety standards.

c. Assigned areas of service as set forth in Iowa Code sections 476.22 through 476.26.

d. Public utility railroad crossings, as set forth in Iowa Code section 476.27.

e. An electric power agency as defined in Iowa Code chapter 28F and section 390.9 that includes as a member a city- or municipality-owned utility that builds transmission facilities after July 1, 2001, is subject to applicable transmission reliability rules or standards adopted by the commission for these facilities.

f. Filing of alternate energy purchase program plans with the commission, and offering such programs to customers, pursuant to Iowa Code section 476.47.

g. Iowa Code sections 476.20(1) through 476.20(4), 476.51, 476.56, 476.58, 476.62, and 476.66, as applicable.

h. An electric utility subject to regulatory action pursuant to Iowa Code section 476.1A or 476.1B is subject to complaints and investigations as set forth in Iowa Code section 476.3, but only with regard to matters within the regulatory authority of the commission as set forth in Iowa Code sections 476.1A and 476.1B.

27.1(4) *Abbreviations.* The following abbreviations are used in this chapter where appropriate:

ANSI—American National Standards Institute, www.ansi.org.

IEEE—Institute of Electrical and Electronics Engineers, www.ieee.org.

NESC—National Electrical Safety Code.

NFPA—National Fire Protection Association, www.nfpa.org.

RUS—United States Department of Agriculture Rural Utilities Service, www.rd.usda.gov/about-rd/agencies/rural-utilities-service.

27.1(5) *Definitions.* The following words and terms, when used in these rules, have the meanings indicated below:

"Capacity" means the instantaneous rate at which energy can be delivered, received, or transferred, measured in kilowatts.

"Complaint" means a statement or question by any person, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or obligation of an electric cooperative or municipal electric utility.

"Customer" means any person, firm, association, or corporation; any agency of the federal, state, or local government; or any legal entity responsible by law for payment for the electric service or heat from the electric cooperative or municipal electric utility.

"Delinquent" or *"delinquency"* means an account for which a service bill or service payment agreement bill has not been paid in full on or before the last day for timely payment.

"Distribution line" means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 36,225 volts between ungrounded conductors or 1,155 to 20,914 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Electric plant" includes all real estate, fixtures, and property owned, controlled, operated, or managed in connection with or to facilitate production, generation, transmission, or distribution in providing electric service or heat by an electric utility.

"Electric service" means furnishing electricity to the public for compensation for use as heat, light, power, or energy.

"Energy" means electric energy measured in kilowatt hours.

"Engineering standards" means standards adopted by ANSI, IEEE, RUS, or comparable engineering organization or engineering standards adopted by the commission.

"Major event" means when an event results in extensive physical damage to transmission or distribution facilities within an electric cooperative or municipal electric utility's operating area due to unusually severe and abnormal weather or event and:

1. Wind speed exceeds 90 mph for the affected area, or
2. One-half inch of ice is present and wind speed exceeds 40 mph for the affected area, or
3. 10 percent of the affected area total customer count is incurring a loss of service for a length of time to exceed five hours, or
4. 20,000 customers in a metropolitan area are incurring a loss of service for a length of time to exceed five hours, or
5. A regional transmission organization or independent system operator declares an energy emergency alert that the organization can no longer provide expected energy requirements or has lower than established reserves, implements procedures up to shedding load, or declares an Energy

Emergency Alert Level 3 in compliance with North American Electric Reliability Corporation requirements.

"Meter" means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

"Power" means electric power measured in kilowatts.

"Rates" means the same as defined in Iowa Code section 384.80 and includes all charges or fees imposed or collected for the provision of or incidental to utility service.

"Safety standard" means applicable regulations promulgated by the United States Occupational Safety and Health Administration. Safety standards for electric utilities subject to Iowa Code section 476.1A also include outage notifications, safety standards contained in the National Electrical Safety Code, as published by IEEE, and electric safety standards approved by ANSI.

"Secondary line" means any single or multiphase electric power line operating at nominal voltage less than either 2,000 volts between ungrounded conductors or 1,155 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Service limitation" means the establishment of a limit on the amount of power that may be consumed by a residential customer through the installation of a service limiter device on the customer's meter.

"Tariff" means the service classifications, rules, procedures, and policies filed with and approved by the commission.

"Timely payment" means a payment on a customer's account made on or before the date shown on a current bill for service, or on a form that records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection efforts.

"Transmission line" means any single or multiphase electric power line operating at nominal voltages at or in excess of either 69,000 volts between ungrounded conductors or 40,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Utility" means any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for furnishing gas or heat to the public for compensation.

27.1(6) *Electric cooperative service rules tariffs.* Electric cooperatives subject to the commission's jurisdiction under Iowa Code section 476.1A shall maintain tariffs in the commission's electronic filing system that are consistent with the rules in this chapter and that are approved by the commission.

a. Those portions of their tariff or tariff pages regarding matters over which the commission has jurisdiction are to be filed with strikethroughs for the language deleted and underlining of the language that is added.

b. Portions of electric cooperative tariffs that are nonjurisdictional are to be identified in the tariff.

c. An electric cooperative association may file a model tariff for commission approval that may be adopted by an electric cooperative with any revisions the electric cooperative proposes to the model tariff.

d. Any electric cooperative may concur with an approved model tariff on file with the commission. For any electric cooperative that chooses to concur, the commission shall acknowledge the electric cooperative's tariff as being in compliance.

e. Tariffs approved by the commission are to be made available to all customers.

27.1(7) *Municipal electric utilities service rules.* Municipal utilities service rules or other legally enforceable provisions are to be consistent with the provisions in this chapter and must be available to all customers.

199—27.2(476) Assigned area of service and maps.

27.2(1) *Service areas.* Service areas are defined by the boundaries on service area maps. Electronic maps are available for viewing on the commission's website or at the commission's offices during regular business hours. These service area maps are the official electric service territory maps pursuant to Iowa Code section 476.24.

27.2(2) *Modification of service area and answers.*

a. An exclusive service area is subject to modification through a contested case proceeding that may be commenced by filing a petition for modification of service area with the commission. The commission may commence a service area modification proceeding on its own motion. The commission may grant a modification if the modification promotes the public interest. In determining whether the modification is in the public interest, the commission will consider the factors described in Iowa Code section 476.25(1) and any other relevant factors.

b. Any electric cooperative or municipal electric utility may file a petition for modification of service area, which includes:

(1) A legal description of the service area desired,

(2) A designation of the utilities involved in each boundary section,

(3) A justification for the proposed service area modification, including addressing the public interest,

(4) A PDF (Portable Document Format) map, an electronic file of the proposed service area boundaries, in a format designated by the commission, as described on the electronic filing system (EFS) homepage under EFS filing standards, and

(5) A map showing the affected areas that complies with the map paragraph contained within this chapter is to be attached to the petition as an exhibit.

c. Electric cooperatives and municipal electric utilities may agree with other electric utilities to service territory modifications by contract pursuant to Iowa Code section 476.25(2). Contracts to be enforceable are to be approved by the commission.

27.2(3) *Certificate of authority.* A request for a service territory modification filed by an electric cooperative or municipal electric utility pursuant to this rule that would result in service to a customer by a public utility other than the public utility currently serving the customer will need a certificate of authority under Iowa Code section 476.23. Unless voluntarily agreed otherwise, the party currently serving the customer is to be paid a reasonable price for the facilities serving the customer.

27.2(4) *Maps.*

a. Each electric cooperative and municipal electric utility is to maintain a current map or set of maps showing the physical location of electric lines, stations, and electric transmission facilities for its service areas. The maps are to include the exact location of the following:

(1) Generating stations, with capacity designation.

(2) Purchased power supply points, with maximum contracted capacity designation.

(3) Purchased power metering points if located at other than power delivery points.

(4) Transmission lines, with size and type of conductor designation and operating voltage designation.

(5) Transmission-to-transmission voltage transformation substations, with transformer voltage and capacity designation.

(6) Transmission-to-distribution voltage transformation substations, with transformer voltage and capacity designation.

(7) Distribution lines, with size and type of conductor designation, phase designation, and voltage designation.

(8) All points at which transmission, distribution, or secondary lines of the utility cross Iowa state boundaries.

(9) All current information required in Iowa Code section 476.24(1).

(10) All county boundaries and county names.

(11) Natural and artificial lakes that cover more than 50 acres and all rivers.

(12) Any additional information required by the commission.

b. All maps, except those deemed confidential by the commission, are to:

(1) Be available for examination at the designated offices of the electric cooperative or municipal electric utility during regular office hours,

(2) Include clean, uniform lines to a scale of at least one inch per mile,

(3) Include a larger scale where it is necessary to clarify areas where there is a heavy concentration of facilities, and

(4) Ensure that cartographic details are clean cut, and the background contains little or no coloration or shading.

199—27.3(476) Customer relations.

27.3(1) *Notification to customers by bill insert at least annually.* Each electric cooperative or municipal electric utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached, and include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Commission by calling 515.725.7300 or toll-free 877.565.4450; by writing to 1375 E. Court Ave., Des Moines, IA 50319-0069; by filling out the form at iuc.iowa.gov; or by email to customer@iuc.iowa.gov." The utility may use different language with commission approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information required in this subrule.

27.3(2) *Payment agreements.*

a. Availability of a first payment agreement. When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the electric cooperative or municipal electric utility for residential utility service and is not in default of a payment agreement with the electric cooperative or municipal electric utility, an electric cooperative or municipal electric utility shall offer the customer an opportunity to enter into a reasonable payment agreement. The offer of a payment agreement is to be made prior to disconnection. The electric cooperative or municipal electric utility is not required to offer a customer who has been disconnected from service a payment agreement consistent with these rules, unless the utility did not comply with these rules prior to disconnection.

b. Reasonableness. Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The electric cooperative or municipal electric utility may require the person to confirm financial difficulty with an acknowledgment from the department of health and human services or another agency.

c. Terms of payment agreements.

(1) First payment agreement. The following conditions are to be offered to customers who have received a disconnection notice and are not in default of a payment agreement:

1. For customers who received a disconnection notice in conformance with these rules, an agreement with at least 12 even monthly payments is to be offered. A customer may pay off the delinquency early without incurring any prepayment penalties. A customer will not be charged interest, or a late payment charge, on a payment agreement where the customer is making payments consistent with the terms of the payment agreement, and the customer will not be required to pay a portion of the delinquent amount to enter into a payment agreement.

2. A provision for payment of the current amount owed by the customer is to be offered.

3. The electric cooperative or municipal electric utility may also require the customer to enter into a budget billing plan to pay the current bill.

4. When the customer makes the agreement in person, a signed copy of the agreement is to be provided to the customer.

5. The electric cooperative or municipal electric utility may offer the customer the option of making the agreement over the telephone or through electronic transmission.

6. When a payment agreement is made over the telephone or through electronic transmission, a written agreement reflecting the terms and conditions of the agreement is to be provided to the customer within three days of the date the oral or electronic agreement is entered into.

7. The document will be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage paid. If delivery is by other than U.S. mail, the document will be considered provided to the customer when delivered to the last-known address of the customer or sent via electronic delivery with customer consent.

8. The payment agreement is deemed accepted by the customer unless the customer notifies the utility otherwise within ten days from the date the document is provided. The address and toll-free telephone number where a qualified representative can be reached is to be included in the payment agreement.

9. Once the first payment required by the agreement is made by the customer or on behalf of the customer, the oral or electronic agreement is deemed accepted by the customer.

10. Each customer entering into a first payment agreement is allowed at least one late payment that is four days or less beyond the due date for payment, and the first payment agreement remains in effect.

11. The initial payment is due on the due date for the next regular bill.

(2) Second payment agreement. A second payment agreement is to be offered to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement.

1. The second payment agreement will be for a term at least as long as the term of the first payment agreement.

2. The customer is to pay for current service in addition to the monthly payments.

3. The customer may be required to make the first payment up front as a condition of entering into the second payment agreement.

4. The electric cooperative or municipal electric utility may also require the customer to enter into a budget billing plan to pay the current bill.

(3) Additional payment agreements. The electric cooperative or municipal electric utility may offer additional payment agreements to the customer.

d. Refusal by electric cooperative or municipal electric utility. A customer may offer the electric cooperative or municipal electric utility a proposed payment agreement. If the electric cooperative or municipal electric utility and the customer do not reach an agreement, the electric cooperative or municipal electric utility may refuse the offer orally, but the electric cooperative or municipal electric utility will provide a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal is considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal is considered provided to the customer when handed to the customer or when delivered to the last-known address of the customer, or sent via electronic delivery with customer consent.

e. Customer request for assistance. A customer may ask the commission for assistance in working out a reasonable payment agreement. The request for assistance is to be made to the commission within ten days after the written refusal is provided and disconnection will not take place during the commission's review.

27.3(3) *Bill payment terms.* The bill is to be considered provided to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill is to be considered provided when delivered to the last-known address of the customer or sent via electronic delivery with customer consent. There shall not be less than 20 days between the providing of a bill and the

date by which the account becomes delinquent. For customers on more frequent billing intervals, bills will not be considered delinquent less than five days from the date the bill is provided. However, a late payment charge will not be assessed if payment is received within 20 days of the date the bill is provided.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 3,000 kWh per month is changeable for cause; such as but not limited to 15 days from the approximate date each month upon which income is received by the person responsible for payment. Thirty days beyond the date of delinquency is the maximum delay allowed. Thirty days beyond the date of previous bill preparation is the maximum delay allowed.

b. In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge is limited to 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge.

c. If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment is to be credited pro rata between the bill for utility services and related taxes.

d. Each account is allowed not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules are to include that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The utility's rules are to state how the customer is notified that the eligibility has been used. Complete forgiveness has no effect upon the credit rating of the customer or collection of late payment charges.

27.3(4) *Meter testing standards.* Electric cooperatives and municipal electric utilities are to establish meter testing standards and procedures for customers who have complaints about the accuracy of the customer's meter. The meter testing standards are to be made available to a customer upon request.

199—27.4(476) Disconnection of service.

27.4(1) *Disconnection procedures and notice.* Electric cooperatives and municipal electric utilities may only disconnect service to customers in compliance with the following procedure and requirements:

a. Service may be disconnected without notice:

(1) In the event of a condition on the customer's premises determined by the utility to be hazardous.

(2) In the event of customer use of equipment in a manner that adversely affects the utility's equipment or the utility's service to others.

(3) In the event of tampering with the equipment furnished and owned by the utility. A broken or absent meter seal alone does not constitute tampering.

(4) In the event of unauthorized use.

b. The electric cooperative or municipal electric utility shall give written notice of pending disconnection, except as specified in paragraph 27.4(1)*"a."* The notice includes the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice is to be addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice is to be delivered to the last-known address of the customer. The date for disconnection of service is not to be less than 12 days after the notice is provided. The date for disconnection of service for customers on shorter billing intervals is not to be less than 24 hours after the notice is posted at the service premises.

c. Where more than one cause of disconnection exists, one written notice is to be given that includes all reasons for the notice. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes run concurrently.

d. Service may be disconnected after proper notice:

(1) For violation of or noncompliance with the utility's rules.

(2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way which are specified to be furnished, in the utility's rules filed with the commission, as conditions of obtaining service, or for the withdrawal of that same equipment, or for the termination of those same permissions or rights, or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the commission.

(3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

e. Service may be disconnected after proper notice for nonpayment of a bill or deposit, provided that the electric cooperative or municipal electric utility has complied with the following provisions:

(1) Given the customer a reasonable opportunity to dispute the reason for the disconnection or refusal.

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities set out in subrule 27.4(2). Customers billed more frequently than monthly are to be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each electric cooperative or municipal electric utility representative provides the representative's name and has immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) A service limitation policy shall include the following sentence: "Service limitation: We have adopted a limitation of service policy for customers who otherwise could be disconnected. Contact our business office for more information or to learn if you qualify."

(4) When disconnecting service to a residence, a diligent attempt is to be made to contact, by telephone or in person, the customer to inform the customer of the pending disconnection and the customer's rights and responsibilities. Between November 1 and April 1, if the attempt at customer contact fails, the premises are to be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and a copy of the rights and responsibilities available to avoid disconnection.

1. If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the electric cooperative or municipal electric utility is to make a diligent attempt to contact the landlord of the rental unit, if known, to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord is to be informed of the date when service may be disconnected. The electric cooperative or municipal electric utility will make a diligent attempt to inform the landlord at least 48 hours prior to disconnection of service to a tenant.

2. If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the electric cooperative or municipal electric utility to contain residential units affected by disconnection are to be posted at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

3. If the customer has received notice of disconnection and has a dispute concerning a bill for electric service, the electric cooperative or municipal electric utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. Disconnection for nonpayment of the disputed bill is delayed for up to 45 days after the providing of the bill if the customer pays the undisputed amount. The 45 days may be extended by up to 60 days if requested of the utility by the commission in the event the customer files a written complaint with the commission in compliance with 199—Chapter 6.

f. Reconnection. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected

customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts are to be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts are to be made to reconnect the customer not later than 11 a.m. the next day.

g. Severe cold weather. A disconnection is not to take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at a residence when the actual temperature or the 24-hour forecast of the National Weather Service for the residence's area is predicted to be 20 degrees Fahrenheit or colder. If the electric cooperative or municipal electric utility has properly posted a disconnect notice but is precluded from disconnecting service because of severe cold weather, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the residence's area rises above 20 degrees Fahrenheit and is forecasted to remain above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is otherwise entitled to postponement of disconnection.

h. Medical stay. Disconnection of a residential customer will be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises.

(1) An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances that indicate a severe or hazardous health situation.

(2) The electric cooperative or municipal electric utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

(3) Verification will postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service is to be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection.

i. Winter energy assistance. If between November 1 through April 1 the electric cooperative or municipal electric utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, service is not to be disconnected for 30 days from the date the electric cooperative or municipal electric utility is notified to allow the customer time to obtain assistance. Disconnection of service is not allowed from November 1 through April 1 for a resident who is a head of household and who has been certified to the electric cooperative or municipal electric utility by the community action agency as eligible for either the low-income home energy assistance program or the weatherization assistance program.

j. Deployment. If the electric cooperative or municipal electric utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

k. Abnormal electric consumption. A customer who is subject to disconnection for nonpayment of bill, and who has electric consumption that appears to the customer to be abnormally high, may request the utility provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. Assistance will be provided by the electric cooperative or municipal electric utility by discussing patterns of electric usage that may be readily identifiable, suggesting

that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance available to the customer.

l. An electric cooperative or municipal electric utility may disconnect electric service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement.

m. Prior to November 1, a notice describing the availability of winter energy assistance funds and the application process is to be mailed to customers. The notice is to be of a type size that is easily legible and conspicuous and contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. An electric cooperative or municipal electric utility serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

27.4(2) *Notice of customer rights and responsibilities.* The standard form of the summary of the rights and responsibilities to be provided to customers is set out below, and will be provided by an electric cooperative or municipal electric utility with all disconnection notices. A nonstandard rights and responsibilities notice may be used with commission approval. The standard customer rights and responsibilities notice is as follows:

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF ELECTRIC SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my service will be shut off because I have a past due bill?

a. Pay the bill in full;

b. Enter into a reasonable payment plan with the utility (see #2 below);

c. Apply for and become eligible for low-income energy assistance (see #3 below);

d. Give the electric cooperative or municipal electric utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or

e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

a. Contact the electric cooperative or municipal electric utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, you are to be offered a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.

b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your electric service on one day's notice, unless all the money you owe the utility is paid or you enter into another payment agreement.

3. How do I apply for low-income energy assistance? (Residential customers only)

a. Applications are taken at your local community action agency. If you are unsure where to apply, call 211 or 800.244.7431, or visit hhs.iowa.gov/programs/programs-and-services/liheap. To prevent disconnection, contact the utility prior to disconnection of your service.

b. To avoid disconnection, you must apply for energy assistance or weatherization before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

c. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1. Between November 1 and April 1, the utility will delay disconnection of your service for 30 days once you notify the utility that you are applying for energy

assistance or weatherization assistance, to allow you time to obtain assistance. Only one 30-day delay is required during the moratorium period.

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the electric cooperative or municipal electric utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your electric service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the electric cooperative's or municipal electric utility's office within five days of when your doctor or public health official notifies the utility of the health condition; otherwise, your electric service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your bill by telling the electric cooperative or municipal electric utility that you dispute the bill and paying the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the electric cooperative or municipal electric utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Commission for assistance in resolving the dispute (see #9 below).

6. When can the electric cooperative or municipal electric utility shut off my electric service because I have not paid my bill?

a. Your electric cooperative or municipal electric utility can shut off service between the hours of 6 a.m. and 2 p.m. Monday through Friday.

b. The electric cooperative or municipal electric utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The electric cooperative or municipal electric utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The electric cooperative or municipal electric utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the electric cooperative or municipal electric utility cannot shut off your service from November 1 through April 1. However, you will still owe the electric cooperative or municipal electric utility for the service used during this time.

f. The electric cooperative or municipal electric utility will not shut off your service if you have notified the electric cooperative or municipal electric utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

g. If one of the heads of household is a service member deployed for military service, electric service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the electric cooperative or municipal electric utility will need to be informed of the deployment prior to disconnection. However, you will still owe the electric cooperative or municipal electric utility for service used during this time.

7. How will I be told the electric cooperative or municipal electric utility is going to shut off my service?

a. You must be given a written notice at least 12 days before the electric service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The electric cooperative or municipal electric utility must try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the electric cooperative

or municipal electric utility cannot reach you by telephone or in person, the electric cooperative or municipal electric utility will put a written notice on the door of or another conspicuous place at your residence to tell you that your electric service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The electric cooperative or municipal electric utility will turn your service back on if you pay the whole amount you owe. The service shall be restored for 30 days if you provide the utility with medical verification from a doctor or public health official of an especial danger to health within 14 days of a shut off for nonpayment.

b. If you make your payment during regular business hours, or by 7 p.m. for electric cooperatives or municipal electric utilities permitting such payment or other arrangements after regular business hours, the electric cooperative or municipal electric utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility is to do it by 11 a.m. the next day.

c. The electric cooperative or municipal electric utility may charge you a fee to turn your service back on. That fee may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my electric cooperative or municipal electric utility?

If the electric cooperative or municipal electric utility has not been able to help you with your problem, you may contact the Iowa Utilities Commission toll-free at 877.565.4450. You may also write the Iowa Utilities Commission at 1375 E. Court Ave., Des Moines, IA 50319-0069, or email customer@iuc.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid and may contact Iowa Legal Aid at 800.532.1275.

27.4(3) *When disconnection is not allowed.*

a. No disconnection may take place from November 1 through April 1 for a resident who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the electric cooperative or municipal electric utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

27.4(4) *Servicing of utilization control equipment.* Each electric cooperative or municipal electric utility is to service and maintain any equipment it uses on a customer's premises and correctly set and keep in proper adjustment any utility-owned thermostats, clocks, relays, time switches or other devices that control the customer's service in accordance with the provisions in the utility's schedules.

27.4(5) *Customer complaints.* Complaints concerning the practices, facilities, or service of the electric cooperative or municipal electric utility are to be investigated promptly and thoroughly. The electric cooperative or municipal electric utility is to keep such records of customer complaints as will enable it to review and analyze its procedures and actions.

a. Each electric cooperative and municipal electric utility are to develop a fully informative procedure for the resolution of customer complaints.

b. The utility is to take reasonable steps to ensure that customers unable to travel are not denied the right to be heard.

c. The final step in a complaint review procedure, if the utility and customer are not able to agree on a resolution of the complaint, is a filing for commission resolution of the issues if the commission determines it has jurisdiction.

27.4(6) *Limitation of service.* The electric cooperative or municipal electric utility may adopt a policy for service limitation at a customer's residence as a measure to be taken in lieu of disconnection of service to the customer. The service limiter policy is to contain the following:

a. No activation without the customer's agreement.

b. A requirement for default on all payment agreements the customer has qualified for and agreed to.

c. Usage of a minimum of 3,600 watts. If the service limiter policy provides for different usage levels for different customers, specific nondiscriminatory criteria for determining the usage levels are set out. Electric-heating residential customers may have their service limited if otherwise eligible, but consumption limits are to be set at a level that allows customers to continue to heat their residences. For purposes of this rule, "electric heating" means heating by means of a fixed-installation electric appliance that serves as the primary source of heat and not, for example, one or more space heaters.

d. A provision that, if the minimum usage limit is exceeded such that the limiter function interrupts service, the service limiter function is to be capable of being reset manually by the customer, or the service limiter function will reset itself automatically within 15 minutes after the interruption. In addition, the service limiter function may also be capable of being reset remotely. If the option of resetting the meter remotely is available, the utility is to provide a 24-hour toll-free number for the customer to notify the electric cooperative or municipal electric utility that the limiter needs to be reset and the meter is to be reset immediately following notification by the customer. If the remote reset option is used, the meter is to be capable of being reset manually by the customer or the service limiter function will reset itself automatically within 15 minutes after the interruption.

e. There may be no disconnect, reconnect, or other charges associated with service limiter interruptions or restorations.

f. A provision that, upon installation of a service limiter or activation of a service limiter function on the meter, the electric cooperative or municipal electric utility is to provide the customer with information on the operation of the limiter, including how it can be reset, and information on what appliances or combination of appliances can generally be operated to stay within the limits imposed by the limiter.

g. A provision that the service limiter function of the meter is to be disabled no later than the next working day after the residential customer has paid the delinquent balance in full.

h. A service limiter customer that defaults on the payment agreement is subject to disconnection after a 24-hour notice.

199—27.5(476) Engineering standards.

27.5(1) *Requirement for good engineering practice.* The electric plant of the electric cooperative or municipal electric utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practice in the electric industry to ensure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

27.5(2) *Standards incorporated by reference.* Applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the commission. The standards listed below are recommended for use by municipal electric utilities.

a. Iowa Electrical Safety Code, as defined in 199—Chapter 25.

b. National Electrical Code, ANSI/NFPA 70-2023, published September 14, 2022.

c. C57.13.1-201, IEEE Guide for Field Testing of Relaying Current Transformers, as published October 31, 2018; and IEEE PC57.13.3, IEEE Draft Guide for Grounding of Instrument Transformer Secondary Circuits and Cases, PAR approval date November 10, 2022, PAR expiration date December 31, 2026.

d. American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hertz), ANSI C84.1-2020, published September 3, 2020.

e. Recommended Practice for System Grounding of Industrial and Commercial Power Systems, IEEE 3003.1-2019, published August 9, 2019.

f. IEEE 1159-2019, IEEE Recommended Practice for Monitoring Electric Power Quality, as published August 13, 2019.

g. IEEE 519-2022, IEEE Standard for Harmonic Control in Electric Power Systems, as published August 5, 2022.

h. At railroad crossings, 199—Chapter 42, "Engineering Standards for Electric and Communications Lines."

i. Iowa Stray Voltage Guide, located at www.iowastrayvoltageguide.com, published July 2014.

j. American National Standard for Electric Meters—Code for Electricity Metering, ANSI C12.1-2024, published August 29, 2024.

k. IEEE Guide for Electric Power Distribution Reliability Indices, IEEE 1366-2022, published November 22, 2022.

199—27.6(476) Safety.

27.6(1) *Interconnection compliance.* Each electric cooperative and municipal electric utility shall comply with commission rules for standards for interconnection, safety, and operating reliability under this subrule and rule 199—15.9(476).

27.6(2) *Protective measures.* Each electric cooperative and municipal electric utility shall exercise reasonable care to reduce those hazards inherent in connection with its electric service and to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public and fitted to the size and type of its operations.

27.6(3) *Accident investigation and prevention.* Electric cooperatives and municipal electric utilities are to give reasonable assistance to the commission in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

27.6(4) *Reportable accidents.* Electric cooperatives and municipal electric utilities are to maintain a summary of all reportable accidents, as defined in rule 199—25.5(476,478), arising from operations.

27.6(5) *Grounding of secondary distribution system.* Unless otherwise specified by the commission, each electric cooperative and municipal electric utility is to comply with, and encourage customers to comply with, the applicable provisions of the acceptable standards for the grounding of secondary circuits and equipment.

a. Ground connections should be tested for resistance at the time of installation. Each electric cooperative and municipal electric utility are to keep a record of all ground resistance measurements.

b. Each electric cooperative and municipal electric utility is to establish a program of inspection so that all artificial grounds installed are inspected within reasonable periods of time.

199—27.7(476) Customer contribution fund.

27.7(1) *Applicability and purpose.* This rule applies to each electric cooperative and municipal electric utility as defined in Iowa Code sections 476.1A and 476.1B. Pursuant to Iowa Code section 476.66, each electric cooperative or municipal electric utility is to maintain a program plan to assist the electric cooperative's or municipal electric utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.

27.7(2) *Notification.* Notice of the customer contribution fund is to be given to all customers at least twice a year. Upon commencement of service and at least once a year, the notice is to be mailed or personally delivered to all customers, or provided by electronic means to those customers who have consented to receiving electronic notices. The other notice may be published in a local newspaper(s) of general circulation within the service territory of the electric cooperative or municipal electric utility. A utility serving fewer than 6,000 customers may publish its semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum, the notice is to include:

a. A description of the availability and the purpose of the fund.

b. A customer authorization form that includes a monthly billing option and methods of contribution.

27.7(3) *Methods of contribution.* Contribution methods may include monthly pledges, as well as one-time or periodic contributions. A pledge by a customer or other party is not a binding contract between the electric cooperative or municipal electric utility and the pledger. Delayed contributions are not subject to late payment charges. Each electric cooperative or municipal electric utility may allow persons or organizations to contribute matching funds.

27.7(4) *Annual report.* On or before September 30 of each year, each electric cooperative or municipal electric utility is to file with the commission a report of all the customer contribution fund activity for the previous fiscal year from July 1 through June 30, on a form provided by the commission that contains an accounting of the total revenues collected and all distributions of the fund.

199—27.8(476,478) Service reliability requirements for electric utilities. Each electric cooperative and municipal electric utility is to adopt and have approved by its board of directors or governing authority a reliability plan. The reliability plan is to be updated not less than annually. A copy of the EC-1 (Annual Report) or ME-1, as applicable, is to be filed with the commission for informational purposes.

199—27.9(476,478) Notification of outages.

27.9(1) *Notification.* The notification requirements in this rule are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the safety and welfare of individual Iowa citizens. Each electric cooperative and municipal electric utility shall notify the commission when it is projected that an outage may result in a loss of service for more than six hours and the outage meets one of the following criteria:

a. Loss of service for more than six hours to substantially all of a municipality, including the surrounding area served by the same electric cooperative or municipal electric utility. An electric cooperative or municipal electric utility may use loss of service within the utility's service territory to 75 percent or more of customers within a municipality, including the surrounding area served by the utility, to meet this criterion;

b. A major event as defined in this chapter, except for notifications of emergency alerts from regional transmission organizations or independent system operators; or

c. Any other outage considered significant by the electric cooperative or municipal electric utility. This includes loss of service for more than six hours to significant public health and safety facilities known to the electric cooperative or municipal electric utility at the time of the notification.

27.9(2) *Information about outages.*

a. Notification shall be provided regarding outages that meet the requirements of subrule 27.9(1) by notifying the commission duty officer by email at dutyofficer@iuc.iowa.gov or, in appropriate circumstances, by telephone at 515.745.2332. Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

(1) The general nature or cause of the outage;

(2) The area affected;

(3) The approximate number of customers that have experienced a loss of electric service as a result of the outage;

(4) The time when service is estimated to be restored; and

(5) The name of the electric cooperative or municipal electric utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the outage. The notice should be supplemented as more complete or accurate information is available.

b. The electric cooperative or municipal electric utility is to provide to the commission updates of the estimated time when service will be restored to all customers able to receive service or of

significantly changed circumstances, unless service is restored within one hour of the time initially estimated.

c. The electric cooperative or municipal electric utility is to notify the commission once service is fully restored to all customers after an outage meeting the requirements of subrule 27.9(1).

27.9(3) *Planned interruptions.* Planned interruptions by electric cooperatives and municipal electric utilities are to be made at a time that will not cause an unreasonable inconvenience to customers. Adequate notice should be provided to customers that will be affected when a planned interruption lasts longer than one hour.

199—27.10(476) Electric vehicle charging service. The requirements in rule 199—20.20(476) regarding electric vehicle charging stations apply to electric cooperatives and municipal electric utilities.

199—27.11(476) Exterior flood lighting.

27.11(1) *Newly installed lighting.* All newly installed exterior flood lighting owned by an electric cooperative or municipal electric utility are to be solid-state lighting or lighting with equivalent or better energy efficiency.

27.11(2) *In-service lighting replacement schedule.* In-service lighting is to be replaced with solid-state lighting or lighting with equivalent or better energy efficiency when worn out due to ballast, lamp, or fixture failure or for any other reason, such as vandalism or storm damage. Electric cooperatives and municipal electric utilities are to include in their annual report to be filed pursuant to 199—Chapter 23 a report stating the progress in converting to higher pressure sodium lighting or lighting with equivalent or higher energy efficiency.

27.11(3) *Efficacy standards.* Lighting other than solid-state has equivalent or better efficacy if one or more of the following can be established:

a. For fixtures, the mean lumens-per-watt lamp rating is greater than 100;

b. The new lighting uses no more energy per installation than comparable, suitably sized solid-state; or

c. The new lighting luminaires have a mean efficacy rating equal to or greater than 100 lumens per watt according to a Department of Energy (DOE) Lighting Facts label, testing under the DOE Commercially Available LED Product Evaluation and Reporting Program (CALiPER), Design Lights Consortium (DLC) or any other testing agency that follows Illuminating Engineering Society of North America LM-79-19, as approved May 14, 2019, test procedures.

These rules are intended to implement Iowa Code sections 476.1A, 476.1B, 476.2, and 476.20.

Regulatory Analysis

Notice of Intended Action to be published: 199—Chapter 28
"Regulation of Municipal and Certain Other Gas Utilities Under Iowa Code Chapter 476"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 476.2, 476.1B, and 476.1C

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 476 and sections 476.20, 476.21, 476.51, 476.66, 476.1B, and 476.1C

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

February 12, 2026 9 a.m.	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Utilities Commission no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

IT Support
Iowa Utilities Commission
Phone: 515.725.7300
Email: ITsupport@iuc.iowa.gov

Purpose and Summary

This proposed rulemaking implements the jurisdiction of the Commission over municipal and certain other gas utilities. The rules establish definitions of standards for safety and engineering, customer payment agreement and disconnection requirements, contribution fund requirements, and outage/incident notification obligations. Each rule is specifically included in the Commission's jurisdiction.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Municipal and certain other gas utilities will bear any costs associated with compliance with Chapter 28. The actions that are required by the rules are mandated by statute, and the rules describe the actions that need to be taken to comply with the statutory requirements. There may be some costs associated with requesting Commission approval or in addressing complaints from gas utility customers. Most of the actions required by the rules are actions the utilities would need to take in the ordinary course of providing service to customers.

- **Classes of persons that will benefit from the proposed rulemaking:**

Municipal and certain other gas utilities will benefit, as will their customers, from standard requirements that each utility will need to comply with. Customers will know how the utilities are meeting the requirements for providing service and that there are minimum standards to ensure the safety and reliability of gas service and customer protections.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

The chapter does not impose any significant costs on municipal or certain other gas utilities that are inconsistent with national standards or statutory requirements. Costs with complying with the engineering and safety standards and customer protections from improper disconnections are required for the utility to provide safe and adequate gas service. The quantitative impact of the rules will be consistent with the utility providing gas service.

- **Qualitative description of impact:**

The qualitative impact of the rules is to ensure that the municipal and certain other gas utilities provide gas service consistent with national standards and Iowa statutes.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no additional costs to the Commission from implementation or enforcement by the Commission. The primary cost occurs in responding to informal complaints from municipal and certain other gas utility customers, and those costs are part of the duties of Commission staff.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues. Costs of the Commission are paid by utility ratepayers, and any actions required of the Commission are directly billed to the utility causing the cost.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The costs associated with the requirements in the rules are the same costs that each utility should undertake to provide safe and adequate gas service and to comply with Iowa statutory requirements. The benefits are that gas service to customers will be in compliance with national standards and customers will know what rights and remedies they have with regard to disconnection of gas service.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Commission has not found a less costly method of establishing requirements for gas service as required by Iowa Code sections 476.1B and 476.1C. Recently enacted amendments to these statutes establish the provisions in Iowa Code chapter 476 with which each municipal and certain other gas utilities are required to comply.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Commission has not considered any alternative methods because the recently enacted provisions of Iowa Code sections 476.1B and 476.1C establish which areas need to be addressed by the Commission.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

There were not any alternatives to reject.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

These rules only affect municipal and certain other gas utilities.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 199—Chapter 28:

CHAPTER 28
REGULATION OF MUNICIPAL AND CERTAIN OTHER GAS UTILITIES
UNDER IOWA CODE CHAPTER 476

199—28.1(476) General information. Iowa Code section 476.2(1) provides that the Iowa utilities commission shall have authority to establish all needful, just, and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content and filing of reports, documents and other papers provided for in Iowa Code chapter 476 or in the commission's rules.

28.1(1) *Application of rules.* The rules shall apply to gas utilities operating within the state of Iowa subject to Iowa Code sections 476.1B and 476.1C, and to the construction, operation, and maintenance of pipelines to the extent provided in Iowa Code chapter 479, and supersede all tariffs on file with the commission that are in conflict with these rules.

28.1(2) *Regulation of gas utilities.* Iowa Code sections 476.1B and 476.1C provide that certain gas utilities are not subject to regulation of the commission, except for regulatory action pertaining to the following:

a. Assessment of fees for the support of the commission and the office of consumer advocate pursuant to Iowa Code section 476.10.

b. Safety standards and engineering standards.

c. Iowa Code sections 476.20, 476.21, and 476.51.

28.1(3) *Definitions.* The following words and terms, when used in these rules, have the meanings indicated below:

"Appliance" means any device that utilizes gas fuel to produce light, heat, or power.

"CFR" means the Code of Federal Regulations in effect as of [the effective date of this rulemaking] unless a separate effective date is identified in a specific rule.

"Complaint" as used in these rules is a statement or question by anyone, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility failure to fulfill an obligation.

"Cubic foot" of gas has the following meanings:

1. Where gas is supplied and metered to customers at the pressure (as defined in subrule 28.7(2)) normally used for domestic customers' appliances, a cubic foot of gas shall be that quantity of gas that, at the temperature and pressure existing in the meter, occupies one cubic foot, except that where a temperature compensated meter is used, the temperature base shall be 60°F.

2. When gas is supplied to customers at other than the pressure in numbered paragraph "1," the utility shall specify in its rules the base for measurement of a cubic foot of gas. Unless otherwise stated by the utility, such cubic foot of gas shall be that quantity of gas that, at a temperature of 60°F and a pressure of 14.73 pounds per square inch absolute, occupies one cubic foot.

3. The standard cubic foot of gas for testing the gas itself for heating value shall be that quantity of gas, saturated with water vapor, that, at a temperature of 60°F and a pressure of 30 inches of

mercury, occupies one cubic foot. (Temperature of mercury = 32°F acceleration due to gravity = 32.17 ft. per second per second density = 13.595 grams per cubic centimeter.)

"Customer" means any person, firm, association, or corporation; any agency of the federal, state, or local government; or any legal entity responsible by law for payment for the gas service or heat from the gas utility.

"Delinquent" or *"delinquency"* means an account for which a service bill or service payment agreement bill has not been paid in full on or before the last day for timely payment.

"Gas," unless otherwise specifically designated, means manufactured gas, natural gas, other hydrocarbon gases, or any mixture of gases produced, transmitted, distributed, or furnished by any gas utility.

"Gas plant" means all facilities including all real estate, fixtures, and property owned, controlled, operated, or managed by a gas utility for the production, storage, transmission or distribution of gas and heat.

"Interruption of service" means any disturbance of the gas supply whereby gas service to a customer cannot be maintained.

"Main" means a gas pipe, excluding a service line, that is owned, operated, or maintained by a utility and is used for the purpose of distribution of gas.

"Major event" means when an event that may results in extensive damage to pipeline facilities within a utility's operating area due to unusually severe and abnormal weather or event.

"Meter," without other qualification, means any device or instrument that is used by a utility in measuring a quantity of gas.

"Meter shop" means a shop where meters are inspected, repaired, and tested and may be at a fixed location or may be mobile.

"Pressure," unless otherwise stated, is expressed in pounds per square inch above atmospheric pressure, i.e., gauge pressure.

"Rates" means the same as defined in Iowa Code section 384.80 and includes all charges or fees imposed or collected for the provision of, or incidental to, utility service.

"Service line" means a distribution line that transports gas from a common source of supply to a customer meter or the connection to a customer's piping, whichever is farther downstream, or the connection to a customer's piping if there is not a customer meter. A "customer meter" is the meter that measures the transfer of gas from a utility to a customer.

"Timely payment" is a payment on a customer's account made on or before the date shown on a current bill for service, or on a form that records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date that determines application of a late payment charge.

"Town border station" means the delivery point or measuring station at which a gas distribution utility receives gas from a natural gas transmission company.

"Utility" means any person; partnership; business association; or corporation, domestic or foreign, owning or operating any facilities for furnishing gas or heat to the public for compensation.

28.1(4) *Gas utilities service rules.* Gas utilities service rules or other legally enforceable provisions are to be consistent with the provisions in this chapter and must be available to all customers.

199—28.2(476) Maps; records.

28.2(1) Each gas utility is to maintain current maps, plans, or records of its entire gas systems, with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers in its service area. A utility shall file annually with the commission a verification that it has a correct set of utility system maps for each operating or distribution area, and such maps are to be made available to commission personnel upon request. The maps shall show:

a. Peak shaving facility location(s).

b. Feeder and distribution mains indicating size and pressure.
c. System metering (town border stations and other supply points).
d. Regulator stations in system indicating inlet and outlet pressures.
e. Calorimeter location.
f. State boundary crossing.
g. Franchise area.
h. Names of all communities (post offices) served.

28.2(2) Reports to federal agencies. Copies of reports submitted to the U.S. Department of Transportation pursuant to 49 CFR Part 191, 192, 193, or 199 shall be filed with the commission no later than ten days following the submission. Utilities operating in other states shall provide data to the commission for Iowa only.

199—28.3(476) Customer relations.

28.3(1) *Notification to customers by bill insert at least annually.* Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached and include the following statement: "If your complaint is related to service disconnection, payment agreements, safety, or renewable energy, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Commission by calling 515.725.7300, or toll-free 877.565.4450, by writing to 1375 E. Court Ave., Des Moines, IA 50319-0069; or by email to customer@iuc.iowa.gov." The utility may use different language with commission approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information required in this subrule.

28.3(2) *Payment agreements.*

a. Availability of a first payment agreement. When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility, the utility shall offer the customer an opportunity to enter into a reasonable payment agreement. The offer of a payment agreement is to be made prior to disconnection. The utility is not required to offer a customer who has been disconnected from service a payment agreement consistent with these rules unless the utility did not comply with these rules prior to disconnection.

b. Reasonableness. Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, size of the bill, amount of time and reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgment from the department of health and human services or another agency.

c. Terms of payment agreements.

(1) First payment agreement. The following conditions are to be offered to customers who have received a disconnection notice and are not in default of a payment agreement:

1. For customers who received a disconnection notice in conformance with these rules, an agreement with at least 12 even monthly payments is to be offered. A customer may pay off the delinquency early without incurring any prepayment penalties. A customer will not be charged interest, or a late payment charge, on a payment agreement where the customer is making payments consistent with the terms of the payment agreement, and the customer will not be required to pay a portion of the delinquent amount to enter into a payment agreement.
2. A provision for payment of the current amount owed by the customer is to be offered.
3. The utility may require the customer to enter into a budget billing plan to pay the current bill.
4. When the customer makes the agreement in person, a signed copy of the agreement is to be provided to the customer.

5. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission.

6. When a payment agreement is made over the telephone or through electronic transmission, a written agreement reflecting the terms and conditions of the agreement is to be provided to the customer within three days of the date the oral or electronic agreement is entered into.

7. The document will be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage paid. If delivery is by other than U.S. mail, the document will be considered provided to the customer when delivered to the last-known address of the customer or sent via electronic delivery with customer consent.

8. The payment agreement is deemed accepted by the customer unless the customer notifies the utility otherwise within ten days from the date the document is provided. The address and toll-free telephone number where a qualified representative can be reached is to be included in the payment agreement.

9. Once the first payment required by the agreement is made by the customer or on behalf of the customer, the oral or electronic agreement is deemed accepted by the customer.

10. Each customer entering into a first payment agreement is allowed at least one late payment that is four days or less beyond the due date for payment, and the first payment agreement remains in effect.

11. The initial payment is due on the due date for the next regular bill.

(2) Second payment agreement. A second payment agreement is to be offered to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement.

1. The second payment agreement will be for a term at least as long as the term of the first payment agreement.

2. The customer is to pay for current service in addition to the monthly payments.

3. The customer may be required to make the first payment up front as a condition of entering into the second payment agreement.

4. The utility may also require the customer to enter into a budget billing plan to pay the current bill.

(3) Additional payment agreements. The utility may offer additional payment agreements to the customer.

d. Refusal by utility. A customer may offer the utility a proposed payment agreement. If the utility and the customer do not reach an agreement, the utility may refuse the offer orally but will provide a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal is considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal is considered provided to the customer when handed to the customer or when delivered to the last-known address of the customer or sent via electronic delivery with customer consent.

e. Customer request for assistance. A customer may ask the commission for assistance in working out a reasonable payment agreement. The request for assistance is to be made to the commission within ten days after the written refusal is provided, and disconnection will not take place during the commission's review.

28.3(3) *Bill payment terms.* The bill is to be considered provided to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill is to be considered provided when delivered to the last-known address of the customer, or sent via electronic delivery with customer consent. There shall not be less than 20 days between the providing of a bill and the date by which the account becomes delinquent. For customers on more frequent billing intervals, bills may not be considered delinquent less than five days from the date the bill is provided. However, a late payment charge may not be assessed if payment is received within 20 days of the date the bill is provided.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 250 ccf per month is changeable for cause, such as but not limited to 15 days from the approximate date each month upon which income is received by the person responsible for payment. Thirty days beyond the date of previous bill preparation is the maximum delay allowed.

b. In any case where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when part of a delinquent bill payment. A utility's late payment charge is limited to 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge.

c. If the customer makes partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment is to be credited pro rata between the bill for utility services and related taxes.

d. Each account is allowed not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules are to include on one monthly bill in each period of eligibility that the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The utility's rules are to state how the customer is notified that the eligibility has been used. Complete forgiveness has no effect upon the credit rating of the customer or collection of late payment charges.

28.3(4) *Meter testing standards.* Gas utilities are to establish meter testing standards and procedures for customers who have complaints about the accuracy of the customer's meters. The meter testing standards are to be made available to a customer upon request. The following publications are considered to be representative of accepted good practice in matters of metering and meter testing:

a. American National Standard for Gas Displacement Meters (500 Cubic Feet Per Hour Capacity and Under), ANSI B109.1, 2019 Edition.

b. American National Standard for Diaphragm Type Gas Displacement Meters (Over 500 Cubic Feet Per Hour Capacity), ANSI B109.2, 2020 Edition.

c. American National Standard for Rotary Type Gas Displacement Meters, ANSI B109.3, 2019 Edition.

d. Measurement of Gas Flow by Turbine Meters, ANSI/ASME MFC-4M-1986 (Reaffirmed 2016).

e. Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids, API MPMS Chapter 14.3, Part 1 (R2017), Part 2 (2016), Part 3 (2013), and Part 4 (2019).

28.3(5) *Meter testing procedures.* The meter testing standards and procedures shall, at a minimum, address the following subject areas:

a. Classification of meters by capacity, type, and any other factor considered pertinent.

b. Checking of new meters for acceptable accuracy before they are placed in service.

c. Testing of in-service meters, including any associated instruments or corrective devices, for accuracy, adjustments, or repairs and including meters removed from service for any reason.

d. Periodic calibration or testing of devices or instruments used by the utility to test meters.

e. Leak testing of meters before return to service.

f. The limits of meter accuracy considered acceptable by the utility.

g. The nature of meter and meter test records maintained by the utility.

28.3(6) *Meter adjustment.* All meters and associated metering devices, when tested, will be adjusted as closely as practicable to the condition of zero error.

28.3(7) *Request tests.* Utilities will test a customer's meter at the customer's request but need not do so more frequently than once in 18 months. Test results will be mailed to the customer within ten days of the completed test, and a record of each test shall be kept on file at the utility's office. The utility shall give the customer or a representative of the customer the opportunity to be present while the test is conducted. If the test finds the meter is accurate within the limits accepted by the utility in its meter inspection and testing program, the utility may charge the customer $25 or the cost of

conducting the test, whichever is less. The customer shall be advised of any potential charge before the meter is removed for testing.

28.3(8) *Referee tests.* Upon written request by a customer or utility, the commission will conduct a referee test of a meter but not more frequently than once in 18 months. In addition to the written request, the customer will also provide the utility with a $30 deposit. The customer's request to the commission will indicate that the deposit has been paid. Within five days of receipt of the written request and payment, the commission will notify the utility of the test. The utility shall, within 30 days after notification of the request, schedule the date, time, and place of the test with the commission and customer. The meter shall not be removed or adjusted before the test. The utility shall furnish all testing equipment and facilities for the test. If the tested meter is found to be more than 2 percent fast or 2 percent slow, the deposit will be returned to the party requesting the test and billing adjustments made. The commission will issue its report after the test is conducted.

28.3(9) *Condition of meter.* No meter that is known to be mechanically defective, has an incorrect correction factor, or has not been tested and adjusted, if necessary, in accordance with paragraphs 28.3(5)*"b," "c,"* and *"e,"* shall be installed or continued in service. The capacity of the meter and the index mechanism shall be consistent with the gas requirements of the customer.

199—28.4(476) Disconnection of service.

28.4(1) *Disconnection procedures and notice.* Utilities may only disconnect service to customers in compliance with the following procedure and requirements:

a. Service may be disconnected without notice:

(1) In the event of a condition on the customer's premises determined by the utility to be hazardous.

(2) In the event of customer use of equipment in a manner that adversely affects the utility's equipment or the utility's service to others.

(3) In the event of tampering with the equipment furnished and owned by the utility. A broken or absent meter seal alone does not constitute tampering.

(4) In the event of unauthorized use.

b. The utility shall give written notice of pending disconnection, except as specified in paragraph 28.4(1)*"a."* The notice includes the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice is to be addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice is to be delivered to the last-known address of the customer. The date for disconnection of service is not to be less than 12 days after the notice is provided. The date for disconnection of service for customers on shorter billing intervals is not to be less than 24 hours after the notice is posted at the service premises.

c. Where more than one cause of disconnection exists, one written notice is to be given that includes all reasons for the notice. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes run concurrently.

d. Service may be disconnected after proper notice:

(1) For violation of or noncompliance with the utility's rules.

(2) For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way that are specified to be furnished, in the utility's rules filed with the commission, as conditions of obtaining service; for the withdrawal of that same equipment; for the termination of those same permissions or rights; or for the failure of the customer to fulfill the contractual obligations imposed as conditions of obtaining service by any contract filed with and subject to the regulatory authority of the commission.

(3) For failure of the customer to permit the utility reasonable access to the utility's equipment.

e. Service may be disconnected after proper notice for nonpayment of a bill or deposit, provided that the utility has complied with the following provisions:

(1) The customer has been given a reasonable opportunity to dispute the reason for the disconnection or refusal.

(2) The customer, and any other person or agency designated by the customer, has been given a written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities set out in subrule 28.4(2). Customers billed more frequently than monthly are to be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and responsibilities. All written notices include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative provides the representative's name and has immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) When disconnecting service to a residence, a diligent attempt is to be made to contact, by telephone or in person, the customer to inform the customer of the pending disconnection and the customer's rights and responsibilities. Between November 1 and April 1, if the attempt at customer contact fails, the premises are to be posted, at least one day prior to disconnection, with a notice informing the customer of the pending disconnection and a copy of the rights and responsibilities available to avoid disconnection.

1. If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the utility is to make a diligent attempt to contact the landlord of the rental unit, if known, to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord is to be informed of the date when service may be disconnected. The utility will make a diligent attempt to inform the landlord at least 48 hours prior to disconnection of service to a tenant.

2. If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection are to be posted at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

3. If the customer has received notice of disconnection and has a dispute concerning a bill for gas service, the gas utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. Disconnection for nonpayment of the disputed bill is delayed for up to 45 days after the providing of the bill if the customer pays the undisputed amount. The 45 days may be extended by up to 60 days if requested of the utility by the commission in the event the customer files a written complaint with the commission in compliance with 199—Chapter 6.

f. Reconnection. Disconnection of a residential customer may take place only between the hours of 6 a.m. and 2 p.m. on a weekday and not on weekends or holidays. If a disconnected customer makes payment or other arrangements during normal business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after normal business hours, all reasonable efforts are to be made to reconnect the customer that day. If a disconnected customer makes payment or other arrangements after 7 p.m., all reasonable efforts are to be made to reconnect the customer not later than 11 a.m. the next day.

g. Severe cold weather. A disconnection is not to take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at a residence when the actual temperature or the 24-hour forecast of the National Weather Service for the residence's area is predicted to be 20 degrees Fahrenheit or colder. If the utility has properly posted a disconnect notice but is precluded from disconnecting service because of severe cold weather, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the residence's area rises above 20 degrees Fahrenheit and is forecasted to remain above 20 degrees Fahrenheit for at least 24 hours unless the customer has paid in full the past due amount or is otherwise entitled to postponement of disconnection.

h. Medical stay. Disconnection of a residential customer will be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises.

(1) An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances that indicate a severe or hazardous health situation.

(2) The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

(3) Verification will postpone disconnection for 30 days. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service is to be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection.

i. Winter energy assistance. If between November 1 through April 1 the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, service is not to be disconnected for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection of service is not allowed from November 1 through April 1 for a resident who is a head of household and who has been certified to the utility by the community action agency as eligible for either the low-income home energy assistance program or the weatherization assistance program.

j. Deployment. If the utility is informed that one of the heads of household, as defined in Iowa Code section 476.20, is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

k. Abnormal gas consumption. A customer who is subject to disconnection for nonpayment of bill, and who has gas consumption that appears to the customer to be abnormally high, may request the utility provide assistance in identifying the factors contributing to this usage pattern and to suggest remedial measures. Assistance will be provided by the utility by discussing patterns of gas usage that may be readily identifiable, suggesting that an energy audit be conducted, and identifying sources of energy conservation information and financial assistance available to the customer.

l. A utility may disconnect gas service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement.

m. Prior to November 1, a notice describing the availability of winter energy assistance funds and the application process is to be mailed to customers. The notice is to be of a type size that is easily legible and conspicuous and contain the information set out by the state agency administering the assistance program. A utility serving fewer than 25,000 customers may publish the notice in a customer newsletter in lieu of mailing. A serving fewer than 6,000 customers may publish the notice in an advertisement in a local newspaper of general circulation or shopper's guide.

28.4(2) *Notice of customer rights and responsibilities.* The standard form of the summary of the rights and responsibilities to be provided to customers is set out below and will be provided by a utility with all disconnection notices. A nonstandard rights and responsibilities notice may be used with commission approval. The standard customer rights and responsibilities notice is as follows:

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF GAS SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my service will be shut off because I have a past due bill?

a. Pay the bill in full;

b. Enter into a reasonable payment plan with the utility (see #2 below);

c. Apply for and become eligible for low-income energy assistance (see #3 below);

d. Give the utility a written statement from a doctor or public health official stating that shutting off your gas service would pose an especial health danger for a person living at the residence (see #4 below); or

e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, you are to be offered a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.

b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.

c. If you do not make the payments you promise, the utility may shut off your gas service on one day's notice, unless all the money you owe the utility is paid or you enter into another payment agreement.

3. How do I apply for low-income energy assistance? (Residential customers only)

a. Applications are taken at your local community action agency. If you are unsure where to apply, call 211 or 800.244.7431, or visit hhs.iowa.gov/programs/programs-and-services/liheap. To prevent disconnection, contact the utility prior to disconnection of your service.

b. To avoid disconnection, you must apply for energy assistance or weatherization before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

c. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1. Between November 1 and April 1, the utility will delay disconnection of your service for 30 days once you notify the utility that you are applying for energy assistance or weatherization assistance, to allow you time to obtain assistance. Only one 30-day delay is required during the moratorium period.

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your gas service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility's office within five days of when your doctor or public health official notifies the utility of the health condition; otherwise, your gas service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your bill by telling the utility that you dispute the bill and paying the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Commission for assistance in resolving the dispute (see #9 below).

6. When can the utility shut off my gas service because I have not paid my bill?

a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m. Monday through Friday.

b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the utility cannot shut off your service from November 1 through April 1. However, you will still owe the utility for the service used during this time.

f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

g. If one of the heads of household is a service member deployed for military service, gas service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the utility will need to be informed of the deployment prior to disconnection. However, you will still owe the utility for service used during this time.

7. How will I be told the utility is going to shut off my service?

a. You must be given a written notice at least 12 days before the gas service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The utility must try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of or another conspicuous place at your residence to tell you that your gas service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The utility will turn your service back on if you pay the whole amount you owe. The service shall be restored for 30 days if you provide the utility with a medical verification from a doctor or public health official of an especial danger to health within 14 days of a shut off for nonpayment.

b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility is to do it by 11 a.m. the next day.

c. The utility may charge you a fee to turn your service back on. That fee may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Commission toll-free at 877.565.4450. You may also write the Iowa Utilities Commission at 1375 E. Court Ave., Des Moines, IA 50319-0069, or email customer@iuc.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid and may contact Iowa Legal Aid at 800.532.1275.

28.4(3) *When disconnection is not allowed.*

a. No disconnection may take place from November 1 through April 1 for a resident who has been certified to the public utility by the local community action agency as being eligible for either the low-income home energy assistance program or weatherization assistance program.

b. If the utility is informed that one of the heads of household, as defined in Iowa Code section 476.20, is a service member deployed for military service, as defined in Iowa Code section 29A.90, disconnection cannot take place at the residence during the deployment or prior to 90 days after the end of the deployment.

28.4(4) *Servicing of utilization control equipment.* Each utility is to service and maintain any equipment it uses on a customer's premises and correctly set and keep in proper adjustment any

utility-owned thermostats, clocks, relays, time switches, or other devices that control the customer's service in accordance with the provisions in the utility's schedules.

28.4(5) *Customer complaints.* Complaints concerning the practices, facilities, or service of the utility are to be investigated promptly and thoroughly. The utility is to keep such records of customer complaints as will enable it to review and analyze its procedures and actions.

a. Each utility is to develop a fully informative procedure for the resolution of customer complaints.

b. The utility is to take reasonable steps to ensure that customers unable to travel are not denied the right to be heard.

c. The final step in a complaint review procedure, if the utility and customer are not able to agree on a resolution of the complaint, is a filing for commission resolution of the issues if the commission determines it has jurisdiction.

199—28.5(476) Engineering standards.

28.5(1) *Requirement for good engineering practice.* The gas plant of the gas utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practice in the gas industry to ensure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

28.5(2) *Standards incorporated by reference.*

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual, Incident, and Other Reporting."

(2) 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards."

(3) 49 CFR Part 193, "Liquefied Natural Gas Facilities: Federal Safety Standards."

(4) 49 CFR Part 199, "Drug and Alcohol Testing."

(5) ASME B31.8,"Gas Transmission and Distribution Piping Systems," published November 20, 2018.

(6) NFPA 59, "Utility LP-Gas Plant Code," effective September 6, 2017.

(7) At railroad crossings, the engineering standards for pipelines rule in 199—Chapter 42.

b. The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54, "National Fuel Gas Code," published August 25, 2023.

(2) NFPA 501A, "Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities," 2025.

28.5(3) *Adequacy of gas supply.* The natural gas regularly available from supply sources supplemented by production or storage capacity must be sufficiently large to meet all reasonable demands for firm gas service.

28.5(4) *Gas transmission and distribution facilities.* The utility's gas transmission and distribution facilities shall be designed, constructed, and maintained as required to reliably perform the gas delivery burden placed upon them. Utilities will be capable of emergency repair work on a scale consistent with its scope of operation and with the physical conditions of its transmission and distribution facilities.

In appraising the reliability of the utility's transmission and distribution system, the commission will consider, as principal factors, the condition of the physical property and the size, training, supervision, availability, equipment, and mobility of the maintenance forces.

28.5(5) *Inspection of gas plant.* A utility will adopt and follow a program of inspection of its gas plant in order to determine the necessity for replacement and repair. The frequency of the various inspections is to be based on the utility's experience and accepted good practice. Utilities will keep sufficient records to give evidence of compliance with its inspection program.

199—28.6(476) Safety.

28.6(1) *Compliance.* Each utility shall comply with commission rules for standards for safety and operating reliability under this subrule.

28.6(2) *Protective measures.* Each utility shall exercise reasonable care to reduce hazards inherent in connection with its utility service and to which its employees, its customers, and the general public may be subjected and shall adopt and execute a safety program designed to protect the public and fitted to the size and type of its operations. Utilities will give reasonable assistance to the commission in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents and will maintain a summary of all reportable accidents arising from its operations.

28.6(3) *Accident investigation and prevention.* Utilities are to give reasonable assistance to the commission in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

28.6(4) *Reportable incidents.* Utilities are to maintain a summary of all reportable incidents arising from operations.

28.6(5) *Gas leaks.* A report of a gas leak shall be considered an emergency requiring immediate attention.

28.6(6) *Turning on gas.* Each utility upon the installation of a meter and turning on gas or the act of turning on gas alone shall take the necessary steps to assure itself that there exists no flow of gas through the meter, which is a warning that the customer's piping or appliances are not safe for gas turn on.

28.6(7) *Odorization.* Any gas distributed to customers through gas mains or gas services or used for domestic purposes in compressor plants, which does not naturally possess a distinctive odor to the extent that its presence in the atmosphere is readily detectable at all gas concentrations of one-fifth of the lower explosive limit and above, shall have an odorant added to it to make it so detectable. Odorization is not necessary, however, for such gas as is delivered for further processing or use where the odorant would serve no useful purpose as a warning agent. Utilities will test the gas to ensure the odor meets the standards of subrule 28.5(2). Prompt remedial action shall be taken if odorization levels do not meet the prescribed limits for detectability.

28.6(8) *Compliance.* All compliance issues identified during a commission inspection are to be corrected by the utility within 12 months of the notification. If such corrective actions cannot be taken within that time frame, the utility shall notify the commission and provide an explanation as to why such actions will take longer and the additional steps, if any, the utility is undertaking to maintain public health and safety in the meantime.

28.6(9) *Utility personnel.* Each utility is to inform the commission if a personnel change in gas operator, foreman, or supervisor occurs. This notice will occur no later than 30 days from the date of personnel change.

199—28.7(476) Standards of quality of service.

28.7(1) *Purity.* All gas supplied to customers shall be substantially free of impurities that may cause corrosion of mains or piping or from corrosive or harmful fumes when burned in a properly designed and adjusted burner. If the municipality or certain other gas utility receives gas from a source other than an interstate transmission pipeline, or a pipeline that is subject to gas quality specifications determined by a tariff, the municipality or certain other gas utility must take additional steps to ensure gas purity in the gas system.

28.7(2) *Pressure limits.* The maximum allowable operating pressure for a low-pressure distribution system shall not be so high as to cause the unsafe operation of any connected and properly adjusted low-pressure gas-burning equipment.

28.7(3) *Adequacy for pressure.* Each utility shall have a substantially accurate knowledge of the pressures inside its piping. Periodic pressure measurements shall be taken during periods of high demand at remote locations in distribution systems to determine the adequacy of service. Records of

such measurements including the date, time, and location of the measurement shall be maintained not less than two years.

28.7(4) *Standards for pressure measurements.*

a. Secondary standards. Each utility shall own or have access to a dead weight tester that is maintained in an accurate condition.

b. Working standards. Each utility must have or have access to water manometers, laboratory quality indicating pressure gauges, and field-type dead weight pressure gauges as necessary for the proper testing of the indicating and recording pressure gauges used in determining the pressure on the utility's system. Working standards are to be checked periodically by comparison with a secondary standard.

28.7(5) *Handling of standards.* Extreme care must be exercised in the handling of standards to ensure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

28.7(6) *Heating value.*

a. Delivered gas. Each utility shall have a substantially accurate knowledge of the heating value of the gas being delivered to customers at all times.

b. Natural and LP gas. The heating value of natural gas and undiluted, commercially pure LP gas is not considered to be under the control of the utility. Utilities will determine the allowable range of monthly average heating values within which its customers' appliances may be expected to function properly without repeated readjustment of the burners.

c. Renewable natural gas (RNG). The heating value of gas supplied from an RNG facility is considered within the control of the RNG supplier. The average daily heating value of mixed gas in a distribution system shall be at least 95 percent of that normally delivered by the pipeline supplier. RNG producers are responsible for ensuring the gas produced from the RNG facility is compatible to meet these heating requirements.

d. Peak shaving or other mixed gas. The heating value of gas in a distribution system that includes gas from LP or LNG peak shaving facilities, or gas from a source other than a pipeline supplier, is considered within the control of the utility. The average daily heating value of mixed gas shall be at least 95 percent of that normally delivered by the pipeline supplier. All mixed gas shall have a specific gravity of less than 1.000, and heating value shall not be so high as to cause improper operation of properly adjusted customer equipment.

e. Heating value determination and records. Unless acceptable heating value information is available for all periods from other sources, including the pipeline supplier, utilities will have a method by which the heating value of the gas in a distribution system can be accurately determined. The type, accuracy, operation, and location of equipment, and the accuracy of computation methods, shall be in accordance with accepted industry practices and equipment manufacturer's recommendations, subject to review by the commission.

199—28.8(476) Customer contribution fund.

28.8(1) *Applicability and purpose.* This rule applies to each gas public utility as defined in Iowa Code sections 476.1B and 476.1C. Pursuant to Iowa Code section 476.66, each utility shall maintain a program plan to assist the utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home assistance energy program for payment of winter heating bills.

28.8(2) *Notification.* Notice of the customer contribution fund is to be given to all customers at least twice a year. Upon commencement of service and at least once a year, the notice is to be mailed or personally delivered to all customers or provided by electronic means to those customers who have consented to receiving electronic notices. The other notice may be published in a local newspaper(s) of general circulation within the service territory of the utility. A utility serving fewer than 6,000

customers may publish its semiannual notices locally in a free newspaper, utility newsletter, or shopper's guide instead of a newspaper. At a minimum, the notice is to include:

a. A description of the availability and the purpose of the fund.

b. A customer authorization form that includes a monthly billing option and methods of contribution.

28.8(3) *Methods of contribution.* Contribution methods may include monthly pledges, as well as one-time or periodic contributions. A pledge by a customer or other party is not a binding contract between the utility and the pledger. Delayed contributions are not subject to late payment charges. Each utility may allow persons or organizations to contribute matching funds.

28.8(4) *Annual report.* On or before September 30 of each year, each utility is to file with the commission a report of all the customer contribution fund activity for the previous fiscal year from July 1 through June 30 on a form provided by the commission that contains an accounting of the total revenues collected and all distributions of the fund.

199—28.9(476) Notification of outages.

28.9(1) *Notification.* The notification requirements in this rule are for the timely collection of gas outage information that may be useful to emergency management agencies in providing for the safety and welfare of individual Iowa citizens. Each utility shall notify the commission when it is projected that an outage may result in a loss of service for more than six hours and the outage meets one of the following criteria:

a. Loss of service for more than six hours to substantially all of a municipality or certain other gas utility's customers, including the surrounding area served by the same utility. A utility may use loss of service within the utility's service territory to 75 percent or more of customers within a municipality or of a certain other gas utility, including the surrounding area served by the utility, to meet this criterion;

b. A major event as defined in this chapter, except for notifications of emergency alerts from regional transmission organizations or independent system operators; or

c. Any other outage considered significant by the utility. This includes loss of service for more than six hours to significant public health and safety facilities known to the utility at the time of the notification.

28.9(2) *Information about outages.*

a. Notification shall be provided regarding outages that meet the requirements of subrule 28.8(1) to the commission duty officer by email at dutyofficer@iuc.iowa.gov or, in appropriate circumstances, by telephone at 515.745.2332. Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

(1) The general nature or cause of the outage;

(2) The area affected;

(3) The approximate number of customers that have experienced a loss of gas service as a result of the outage;

(4) The time when service is estimated to be restored; and

(5) The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the outage. The notice should be supplemented as more complete or accurate information is available.

b. The utility is to provide to the commission updates of the estimated time when service will be restored to all customers able to receive service or of significantly changed circumstances unless service is restored within one hour of the time initially estimated.

c. The utility is to notify the commission once service is fully restored to all customers after an outage meeting the requirements of subrule 28.8(1).

28.9(3) *Planned interruptions.* Planned interruptions by utilities are to be made at a time that will not cause an unreasonable inconvenience to customers. Adequate notice should be provided to customers that will be affected when a planned interruption lasts longer than one hour.

28.9(4) *Other interruptions.* Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety. Records will be maintained for not less than two years of interruptions of service reported pursuant to subrule 28.9(2). Utilities will periodically review these records to determine steps to be taken to prevent recurrence.

199—28.10(476) Incident notification and reports.

28.10(1) *Notification.* Utilities will notify the commission immediately, or as soon as practical, of any incident involving the release of gas, failure of equipment, or interruption of facility operations that results in any of the following:

a. A death or personal injury necessitating in-patient hospitalization.

b. Estimated property damage of $15,000 or more to the property of the utility and to others, including the cost of gas lost.

c. Unintentional estimated gas loss of three million cubic feet or more.

d. Emergency shutdown of a liquefied natural gas (LNG) facility.

e. An unplanned interruption of service to 50 or more customers.

f. Evacuation of ten or more people.

g. Evacuation of a school, hospital, or health care facility.

h. Rerouting of traffic or closing of a highway by public emergency responders.

i. Media attention.

j. Unintentional fire or explosion.

k. The release of gas due to excavation damage.

l. Any other incident considered significant by the utility.

28.10(2) *Reporting information.* The utility shall notify the commission by email, as soon as practical, of any reportable incident at dutyofficer@iuc.iowa.gov or, when email is not available, by calling the commission duty officer at 515.745.2332. The person sending the email or the caller shall leave a call-back number for a person who can provide the following information:

a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries and the extent of those injuries, if any.

e. An initial estimate of damages.

f. The number of services interrupted.

g. A summary of the significant information available to the utility regarding the probable cause of the incident and extent of damages.

h. Any oral or written report required by the U.S. Department of Transportation and the name of the person who made the oral report or prepared the written report and when such a report was made.

28.10(3) *Written incident reports.* Within 30 days of the date of the incident, the utility shall file a written report with the commission that includes the information listed in subrule 28.10(2), the probable cause as determined by the utility, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, the utility will timely file the information in a supplemental report. The utility will also provide the commission with copies of any written reports concerning an incident or safety-related condition filed with or submitted to the U.S. Department of Transportation or the National Transportation Safety Board.

These rules are intended to implement Iowa Code chapter 476 and sections 476.20, 476.21, 476.51, 476.66, 476.1B, and 476.1C.

ARC 9951C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rulemaking related to the Iowa energy center and providing an opportunity for public comment

The Economic Development Authority hereby proposes to rescind Chapter 403, "Iowa Energy Center," Iowa Administrative Code, and to adopt a new Chapter 403 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 15.120.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 15.120.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 403 and adopt a new chapter in lieu thereof. The chapter describes the organization of the Iowa Energy Center (IEC) and its Board. The IEC is administered by the Authority pursuant to Iowa Code section 15.120.

The proposed chapter omits language that is duplicative of statutory language and other unnecessary or inconsistent language.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 1, 2025. A public hearing was held on the following date(s):

- October 21, 2025

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on January 29, 2026. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 2 to 2:15 p.m.	Via Microsoft Teams Information about Teams participation can be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review
January 29, 2026 10 to 10:15 a.m.	Via Microsoft Teams Information about Teams participation can be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 261—Chapter 403 and adopt the following **new** chapter in lieu thereof:

CHAPTER 403
IOWA ENERGY CENTER

261—403.1(15) Definitions. As used in these rules, unless the context otherwise requires:

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2) and includes the members appointed to the board by the governor.

"Committee" means a committee established by the board.

"Iowa energy center" or *"IEC"* means the Iowa energy center established pursuant to Iowa Code section 15.120 for the purposes identified therein.

261—403.2(15) Iowa energy center board.

403.2(1) *Quorum and voting requirements.* Seven or more members of the board constitute a quorum, and any board action requires an affirmative vote by a majority of the members present.

403.2(2) *Board officers.* Members of the board elect a chairperson and a vice chairperson annually and may elect other officers as necessary.

403.2(3) *Meetings.*

a. The board generally meets quarterly at the authority's offices or by electronic means. By notice of the regularly published meeting agendas, the board and its committees may hold regular or special meetings at other locations within the state. Meeting agendas are available on the authority's website at www.opportunityiowa.gov.

b. The chairperson may exclude any person disrupting the proceedings.

403.2(4) *Committees.* The board may, from time to time, establish advisory committees for purposes of overseeing the IEC, its programs, and its operations. Such committees include but are not limited to the following:

a. A grant committee is established to assist the board in making and administering awards of grants under the IEC's programs.

(1) The grant committee is an advisory body comprised of voting members of the board who are selected annually by the voting members of the board. The membership and size of the committee as well as the terms of the committee members will be established annually by the board.

(2) The members of the grant committee may elect a chairperson. The chairperson may appoint members of the grant committee to serve on a grant committee subcommittee if necessary. Such a subcommittee is advisory only and may perform such duties as may be assigned by the chairperson.

(3) The duties of the grant committee may include reviewing applications for grant awards, making recommendations to the board regarding the size and condition of grant awards, and any other duty assigned by the board in relation to the programs administered by the IEC.

(4) A majority of the committee members constitutes a quorum of the committee.

(5) Meetings of the grant committee are held at the call of the chairperson.

b. A loan committee is established to assist the board in making and administering loan awards under the IEC's programs, including the alternate energy revolving loan program and energy infrastructure revolving loan program.

(1) The loan committee is an advisory body comprised of voting members of the board who are selected annually by the voting members of the board. The membership and size of the committee as well as the terms of the committee members will be established annually by the board.

(2) The members of the loan committee may elect a chairperson. The chairperson may appoint members of the loan committee to serve on a loan committee subcommittee if necessary. Such a subcommittee is advisory only and may perform such duties as may be assigned by the chairperson.

(3) The duties of the loan committee may include reviewing applications for loans, making recommendations to the board regarding the size and condition of loans, and any other duty assigned by the board in relation to the programs administered by the IEC.

(4) A majority of the committee members constitutes a quorum of the committee.

(5) Meetings of the loan committee are held at the call of the chairperson.

These rules are intended to implement Iowa Code section 15.120.

ARC 9950C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rulemaking related to alternate energy revolving loan program and providing an opportunity for public comment

The Economic Development Authority hereby proposes to rescind Chapter 405, "Alternate Energy Revolving Loan Program," Iowa Administrative Code, and to adopt a new Chapter 405 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 15.120 and 476.46.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 476.46.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 405 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Alternate Energy Revolving Loan Program. The program encouraged the development of alternate energy production facilities and small hydro facilities within the State. New applications for loans ceased as of June 30, 2021, pursuant to 2021 Iowa Acts, Senate File 619, but the chapter continues to apply

to outstanding loans. The updated chapter is clearer and more concise throughout and omits language relating to the approval of new loans.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 1, 2025. A public hearing was held on the following date(s):

- October 21, 2025

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on January 29, 2026. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 2 to 2:15 p.m.	Via Microsoft Teams Information about Teams participation can be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review
January 29, 2026 10 to 10:15 a.m.	Via Microsoft Teams Information about Teams participation can be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 261—Chapter 405 and adopt the following **new** chapter in lieu thereof:

CHAPTER 405
ALTERNATE ENERGY REVOLVING LOAN PROGRAM

261—405.1(15) Definitions.

"Alternate energy production facility" means the same as defined in Iowa Code section 476.42.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2).

"Iowa energy center" or *"IEC"* means the Iowa energy center established by Iowa Code section 15.120.

"Project" means the construction of an alternate energy production facility or a small hydro facility.

"Small hydro facility" means the same as defined in Iowa Code section 476.42.

261—405.2(15) Loan amounts and terms.

405.2(1) The minimum loan amount is $25,000 per project, and the maximum loan amount shall not exceed the amount set forth in Iowa Code section 476.46(2)*"d."*

405.2(2) The board shall not lend more than 50 percent of eligible project costs.

405.2(3) Loan terms will be consistent with Iowa Code section 476.46(2)*"e."*

405.2(4) A borrower shall be eligible for not more than $1 million in loans outstanding at any time under this program.

405.2(5) The board shall not issue a loan that exceeds the value of the collateral provided.

405.2(6) The board will accept security for a loan. The following forms of collateral will be accepted:

a. Real property;

b. Dedicated certificate of deposit;

c. Irrevocable letter of credit;

d. Corporate guarantee;

e. Other forms of collateral if approved by the board and only if the forms of collateral listed in paragraphs 405.2(6)*"a"* through *"d"* are inadequate.

405.2(7) Term. The duration of the loan shall be for 20 years, the estimated useful life of the project that is financed by the loan, the terms of any other loans used to finance the project, or the estimated return on investment time period for the project, whichever is shortest.

261—405.3(15) Borrowers.

405.3(1) *Eligible borrowers.* The project shall be wholly owned by an eligible borrower. Eligible borrowers include:

a. Persons whose primary residence is in Iowa.

b. Businesses registered and domiciled in Iowa. For businesses organized as limited liability companies, each member of the limited liability company must be domiciled in Iowa and be an eligible borrower.

c. Water and wastewater utilities subject to Iowa Code chapter 388, rural water districts subject to Iowa Code chapters 357A and 504, and sanitary districts subject to Iowa Code chapter 358.

405.3(2) *Ineligible borrowers.* Ineligible borrowers include:

a. An organization that is lending to a project and also owns the project or is a member of an organization that owns the project.

b. An individual or an organization with a history of defaulted loans or compliance violations with other state programs or rules.

c. Regents institutions.

d. Community colleges.
e. State agencies.
f. Cities, but not water or wastewater utilities subject to Iowa Code chapter 388.
g. Counties.
h. School districts.
i. Nonprofit organizations.
j. Gas and electric utilities subject to Iowa Code chapter 388 or rural electric cooperatives subject to Iowa Code chapter 476.

261—405.4(15) Administration.

405.4(1) *Amendment.* Any substantive change to a project shall require an amendment to the loan agreement. The borrower shall request the amendment in writing. No substantive amendment shall be valid until approved by the board. The authority may execute nonsubstantive or corrective changes to the loan agreement without board approval.

405.4(2) *Closeout.* Upon project completion, the authority will initiate project closeout procedures.

405.4(3) *Recordkeeping and retention.* Borrowers shall retain all financial records, all supporting documents, and all other records pertinent to the loan for five years after the loan agreement is closed or the date the authority issues a written notice of default if the default is not cured.

405.4(4) *Reporting and compliance.* The authority reserves the right to conduct a site visit of all awarded projects to ensure the projects were built as proposed and to provide verification of ongoing operation. The authority will monitor all loans to ensure that loan proceeds have been spent as identified in the contract and that all other sources of financing have been committed to the project. Borrowers shall be required to notify the authority of any change in ownership.

405.4(5) *Default.*

a. At any time during the construction of a project or the repayment of the loan, the authority may find that a borrower is in default under the terms of the loan agreement. The authority will take prompt, appropriate, and aggressive debt collection action to recover any funds misspent by borrowers.

b. If the authority determines that a borrower is in default, the authority may seek recovery of the loan plus interest or other penalties as authorized pursuant to Iowa Code section 476.46, negotiate alternative payment schedules, suspend or discontinue collection efforts, and take other action as the authority deems necessary.

c. The authority shall attempt to collect the amount owed. Any negotiated settlement, write-off, or discontinuance of collection efforts is subject to final review by and approval of the board.

d. If the authority refers a defaulted loan to outside counsel for debt collection, then the terms of the contract between the authority and the outside counsel regarding the scope of counsel's authorization to accept settlements shall apply.

261—405.5(15) Applicability after June 30, 2021. To the extent allowed by other provisions of law, the rules adopted in this chapter shall continue to apply to agreements entered into on or before June 30, 2021.

These rules are intended to implement Iowa Code sections 15.120 and 476.46.

ARC 9949C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rulemaking related to energy infrastructure revolving loan program and providing an opportunity for public comment

The Economic Development Authority hereby proposes to rescind Chapter 406, "Energy Infrastructure Revolving Loan Program," Iowa Administrative Code, and to adopt a new Chapter 406 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 15.120 and 476.46A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 476.46A.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 406 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Alternate Energy Revolving Loan Program. The program provides loans for the development and construction of energy infrastructure. The updated chapter will be clearer and more concise throughout. Rule 261—406.6(15,476) currently lists feasibility studies, engineering, and final design as ineligible costs. The new rule regarding eligible and ineligible costs (261—406.5(15,476)) will not list those items as ineligible costs since they may be included as project costs under certain circumstances.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 1, 2025. A public hearing was held on the following date(s):

- October 21, 2025

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on January 29, 2026. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 2 to 2:15 p.m.	Via Microsoft Teams Information about Teams participation can be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review
January 29, 2026 10 to 10:15 a.m.	Via Microsoft Teams Information about Teams participation can be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 261—Chapter 406 and adopt the following **new** chapter in lieu thereof:

CHAPTER 406
ENERGY INFRASTRUCTURE REVOLVING LOAN PROGRAM

261—406.1(15,476) Definitions.

"Affiliates" means any entity that directly or indirectly, through one or more intermediaries controls, is controlled by, or is under common control with another entity or person. "Control" as used in this definition means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an enterprise through ownership, by contract, or otherwise. A voting interest of 10 percent or more creates a rebuttable presumption of control.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2).

"Borrower" means an applicant for the program that is approved for a loan.

"Energy infrastructure" means the same as defined in Iowa Code section 476.46A(3)*"a."*

"Iowa energy center" or *"IEC"* means the Iowa energy center established by Iowa Code section 15.120.

"Loan" means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the conditions of the award.

"Loan committee" means the committee of the board established to review loan applications pursuant to 261—Chapter 403.

"Program" means the energy infrastructure revolving loan program administered pursuant to Iowa Code section 476.46A and this chapter.

"Project" means an activity or set of activities, proposed in an application by a borrower, that are designed to accomplish the energy infrastructure goals of the program.

261—406.2(15,476) Loan amounts and terms.

406.2(1) The minimum loan amount is $50,000 per project.

406.2(2) The board shall not lend more than 75 percent of total project costs for any project type. For purposes of determining the amount the board may lend pursuant to this subrule, total project costs

include eligible costs pursuant to subrule 406.5(1) as well as other costs determined by the board to be necessary to the development of energy infrastructure.

406.2(3) The board shall not issue a loan that exceeds the value of the collateral provided.

406.2(4) The board will accept security for a loan. The following forms of collateral will be accepted:

a. Real property.

b. Dedicated certificate of deposit.

c. Irrevocable letter of credit.

d. Corporate guarantee.

e. Utility revenue or reserve funds, if applicable.

f. Other forms of collateral if approved by the board and only if the forms of collateral listed in paragraphs 406.2(4)*"a"* through *"e"* are inadequate.

406.2(5) The board may consider the borrower's credit rating in determining what form of collateral is acceptable.

406.2(6) The board may consider the projected payback date of the project in determining the duration of the loan, which shall not exceed 15 years.

406.2(7) The interest rate shall not exceed the Wall Street Journal prime rate as of the date of approval.

261—406.3(15,476) Eligible and ineligible borrowers.

406.3(1) *Eligible borrowers.* Iowa Code section 476.46A(2) describes the entities eligible for financial assistance under this program.

406.3(2) *Ineligible borrowers.* Ineligible borrowers include:

a. A business that is not located in or operating in Iowa. A business that will be located and operating in Iowa upon completion of an eligible project may be eligible.

b. An individual or an organization with a history of defaulted loans or compliance violations with other state programs or rules.

c. Regents institutions.

d. Community colleges.

e. State agencies.

f. Cities, except municipal utilities that are eligible borrowers pursuant to Iowa Code section 476.46A(2).

g. Counties.

h. School districts.

i. Nonprofit organizations.

261—406.4(15,476) Eligible and ineligible projects.

406.4(1) Only projects meeting the following criteria are eligible for a loan under this program:

a. The project shall be located in Iowa or be for the primary use or benefit of Iowans. If any portion of the project is located outside of Iowa, the applicant bears the burden of demonstrating that the project as a whole will be for the primary use or benefit of Iowans.

b. The project shall develop and construct energy infrastructure pursuant to Iowa Code section 476.46A(3)*"a."*

c. The borrower shall be the owner, contract purchaser, lessee, or other interest holder of the real property where the project is located.

406.4(2) A project that generates energy for use only at a borrower's personal residence is not an eligible project.

261—406.5(15,476) Eligible and ineligible costs.

406.5(1) *Eligible costs.* Examples of project costs that are eligible for financial assistance include but are not limited to:

a. Real and personal property comprising a project.

b. Materials and equipment required for necessary site preparation, construction, and installation.

c. Labor for site preparation, construction, and installation of a project.

d. Costs associated with maintenance, operation, or repair of a project during the term of the loan.

406.5(2) *Ineligible costs.* Examples of project costs that are not eligible for financial assistance include but are not limited to:

a. Administrative costs or employee salaries of the borrower or any affiliates that are not associated with site preparation, construction, and installation of a project.

b. Costs incurred prior to the committee's recommendation to approve a loan. Costs incurred prior to the committee's recommendation may be eligible for assistance if the borrower demonstrates the necessity to begin incurring costs sooner.

c. Permitting or regulatory costs.

d. Other costs that the board determines to be ineligible.

261—406.6(15,476) Application process.

406.6(1) Application forms are available at iowagrants.gov.

406.6(2) Applications will be accepted only during the established application periods identified by the authority on its website at www.opportunityiowa.gov.

406.6(3) The authority will review applications for completeness, eligibility, and technical and financial merit. The authority may engage outside reviewers to complete technical, financial, or other reviews of applications as needed. The authority may request additional information from applicants to complete review of applications.

406.6(4) The authority will prepare recommendations for the loan committee. The loan committee will review the applications and staff recommendations and then make recommendations to the board. The board will approve, defer, or deny applications for loans. The authority may negotiate the amount, terms, and other conditions of each loan before an award is approved.

261—406.7(15,476) Administration.

406.7(1) *Notice of approval or denial.* The authority will notify applicants in writing of the board's approval or denial of an application. If the application is approved, the notice will include any conditions and terms of the loan.

406.7(2) *Loan agreement.* A borrower shall enter into a loan agreement with the authority. The borrower will execute and return the loan agreement to the authority within 90 days of the transmittal of the final loan agreement from the authority. Failure to do so may be cause for the board to terminate the award.

406.7(3) *Disbursement of funds.* Borrowers shall submit requests for disbursement of funds in the manner proscribed by the authority.

406.7(4) *Amendment.* Any substantive change to the scope of work for a project or request to renegotiate loan terms shall require an amendment to the loan agreement. The borrower shall request amendments in writing. No substantive amendment shall be valid until approved by the board. The authority may execute nonsubstantive or ministerial changes to the loan agreement without board approval.

406.7(5) *Loan forgiveness.* The board may consider requests for loan forgiveness if the borrower demonstrates forgiveness is necessary to avoid a negative material impact on the project or potential default.

406.7(6) *Closeout.* Upon project completion, the authority will initiate project closeout procedures.

406.7(7) *Recordkeeping and retention.* Borrowers shall retain all financial records, all supporting documents, and all other records pertinent to the loan for five years after the loan agreement is closed or the date the authority issues a written notice of default if the default is not cured.

406.7(8) *Reporting and compliance.* The borrower shall complete all reports required by the loan agreement. The borrower shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly or the governor's office. The authority reserves the right to conduct site visits of all awarded projects to ensure the projects were built as proposed and to provide verification of ongoing

operation. The authority will monitor all loans to ensure that loan proceeds have been spent as identified in the loan agreement and that all other sources of financing have been committed to the project.

406.7(9) *Default.*

a. At any time during the project or the repayment of the loan, the authority may find that a borrower is in default under the terms of the loan agreement. The authority will take prompt, appropriate, and aggressive debt collection action to recover any funds misspent by borrowers.

b. If the authority determines that a borrower is in default, the authority may seek recovery of the loan plus interest or other penalties, negotiate alternative payment schedules, suspend or discontinue collection efforts, and take other action as the authority deems necessary.

c. The authority shall attempt to collect the amount owed. Any negotiated settlement, write-off, or discontinuance of collection efforts is subject to final review by and approval of the board.

d. If the authority refers a defaulted loan to outside counsel for debt collection, then the terms of the contract between the authority and the outside counsel regarding the scope of counsel's authorization to accept settlements shall apply.

These rules are intended to implement Iowa Code sections 15.120 and 476.46A.

ARC 9911C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to general solid waste permitting requirements for sanitary disposal projects and solid waste management facilities and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 100, "Scope Of Title—Definitions—Rules of Practice," Iowa Administrative Code, and to adopt a new Chapter 100 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455B.304, 455B.305, 455D.6 and 455D.7.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 455D and sections 455B.304 and 455B.305.

Purpose and Summary

Proposed Chapter 100 combines two existing chapters (567—Chapters 100 and 102) that govern general solid waste permitting requirements for sanitary disposal projects and solid waste management facilities. New Chapter 100 will establish a single location for the definitions and permitting requirements applicable to solid waste management and disposal.

The two existing chapters were reviewed and edited consistent with Executive Order 10 (EO10). Combining them will (1) consolidate and clarify redundant and obsolete requirements, (2) remove unused or unneeded definitions, (3) update or remove redundant permit application requirements, and (4) consolidate general administrative permitting requirements applicable to sanitary disposal projects and solid waste management facilities.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 17, 2025. A public hearing was held on the following date(s):

- October 7, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 29, 2026. Comments should be directed to:

Mike Sullivan
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: EO10_solidwaste@dnr.iowa.gov

Free language access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at EO10_solidwaste@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 1 p.m.	Virtual Meeting (via Google Meet or Zoom) A meeting registration link will be provided prior to the hearing
January 29, 2026 1 p.m.	Virtual Meeting (via Google Meet or Zoom) A meeting registration link will be provided prior to the hearing

Persons who wish to attend a public hearing must contact the Department at EO10_solidwaste@dnr.iowa.gov for a link to the hearing. Additionally, persons who wish to make a public comment may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: If you need assistance in a language other than English, contact the Department at EO10_solidwaste@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.360.1671 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.360.1671 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 567—Chapter 100 and adopt the following **new** chapter in lieu thereof:

TITLE VIII
SOLID WASTE MANAGEMENT AND DISPOSAL

CHAPTER 100
SCOPE OF TITLE—DEFINITIONS—RULES OF PRACTICE

567—100.1(455B,455D) Scope of title. The department has jurisdiction over the management, dumping, depositing, and disposal of solid waste by establishing standards and regulating solid waste through a system of general rules and specific permits. The construction and operation of any sanitary disposal project or solid waste management activity requires a specific permit from the department.

This chapter provides general definitions applicable to Title VIII (solid waste management and disposal) of the commission's rules and general conditions of solid waste disposal. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this chapter shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—100.2(455B,455D) Definitions. For the purposes of this title, the following terms shall have the meaning indicated in this chapter. The definitions found in Iowa Code section 455B.301 and chapter 455D shall apply.

"Active life" means the period of operation beginning with the initial receipt of solid waste and ending at the completion of closure activities.

"Active portion" means that part of a facility or unit that has received or is receiving wastes and that has not been closed.

"Agricultural waste" means organic materials normally discarded during the production of plants and animals from agronomic, horticultural, or silvicultural operations. "Agricultural waste" includes but is not limited to manure, crop residuals, bedding, and other vegetative by-products produced during farm processing. Dead animals are not included.

"Airport" means a public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

"Alternative cover material" means a substitute material or mix of materials that can be utilized in lieu of soil as cover material at a sanitary landfill.

"Annular space" means the open space formed between the borehole and the well casing.

"Appliances" means household and commercial devices such as refrigerators, freezers, kitchen ranges, air-conditioning units, dehumidifiers, gas water heaters, furnaces, clothes washers, clothes dryers, dishwashers, microwave ovens and commercial coolers with components containing mercury, refrigerants, or PCB-containing capacitors.

"Aquifer" means a saturated geologic formation or combination of formations that has appreciably greater ability to transmit water than do adjacent formations. Typically, an aquifer is capable of yielding usable quantities of water to a well.

"Areas susceptible to mass movement" means those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at,

beneath, or adjacent to the sanitary landfill site, because of natural or human-induced events, results in the down slope transport of soil and rock material by means of gravitational influence. Areas of mass movement include but are not limited to landslides, avalanches, debris slides and flows, soil function, block sliding, and rockfall.

"Attendant" means an employee of a sanitary disposal project who is not employed or assigned to operate the equipment used on the site.

"Ballast" means an electrical device containing capacitors for the purpose of triggering high-level electrical components. A ballast provides electrical balance within the high-level electrical component circuitry.

"Beneficial use" means a specific utilization of a solid by-product that constitutes reuse rather than disposal and does not adversely affect human health or the environment.

"Beneficial use determination" means a written formal decision or rule issued by the department that affirms that the utilization of a solid by-product constitutes a beneficial use rather than the disposal of solid waste.

"Bird hazard" means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

"Bulking agent" means a material that contributes structure and porosity, usually a dry, rigid material such as shredded wood.

"Capacitor" means a device for accumulating and holding a charge of electricity that consists of conducting surfaces separated by a dielectric fluid.

"Cash plus marketable securities" means all the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

"Cathode ray tube" or *"CRT"* means a vacuum tube composed primarily of leaded glass that is the visual or video display component of an electronic device. An intact CRT means a CRT whose vacuum has not been released. A broken CRT means glass removed from its housing or casing whose vacuum has been released.

"Certified compostable products" means any product specifically manufactured to break down in a compost system at the end of its useful life. Examples include containers; films; or foodservice ware such as bowls, plates, cups, cutlery, and bioplastic liner bags. Products are composed of materials such as vegetable matter, paper, cardboard, and plastics and are certified as conforming to ASTM International Standard ASTM D6400 or ASTM D6868.

"CFC" or *"CFCs"* means chlorofluorocarbons, including any of several compounds used as refrigerants.

"CFR" or *"Code of Federal Regulations"* means the federal administrative rules adopted by the United States as amended through August 1, 2025.

"Clean wood waste" means wood that is free of coatings and preservatives.

"Coal combustion residuals" means any solid waste produced by burning coal, either by itself or in conjunction with natural gas or other carbon-based fuels. "Coal combustion residuals" includes but is not limited to bottom ash, fly ash, slag, and flue gas desulfurization system material generated by coal combustion and associated air pollution control equipment.

"Commercial solid waste" means the same as defined in 40 CFR Section 258.2.

"Commission" means the environmental protection commission.

"Compost" means the product manufactured through the controlled aerobic, biological decomposition of biodegradable materials. The product has undergone mesophilic and thermophilic temperatures, which significantly reduces the viability of pathogens and weed seeds and stabilizes the carbon such that it is beneficial to plant growth.

"Compostable" means an organic material that undergoes degradation by biological processes during composting to yield carbon dioxide, water, inorganic compounds, and biomass.

"Composting" means the controlled process and management of aerobic, biological decomposition resulting in an innocuous final product. This process significantly reduces the viability of pathogens and weed seeds and stabilizes the carbon such that it is beneficial to plant growth.

"Composting facility" means all related receiving, processing, production, curing, and storage areas and necessary roads, buildings, equipment, litter control devices, pollution control devices, fire control devices, landscaping, gates, personnel and maintenance facilities, sewer and water lines, and process water.

"Comprehensive plan" means a course of action developed and established cooperatively between cities, counties, and municipal solid waste sanitary disposal projects regarding their chosen integrated solid waste management system, its participants, waste reduction strategies, and disposal methods.

"Comprehensive plan amendment" means a notification, filed between comprehensive plan updates, that the planning agency seeks to change the participation or change the designated disposal project(s) as set out in the most recent approved comprehensive plan submittal.

"Comprehensive plan update" means a planning document that provides status reports on the integrated solid waste management system and that describes revision to the information and evaluation of the integrated solid waste management system and the proposed course of action for the next planning cycle.

"Confined aquifer" means an aquifer with a confining bed above and below. Water in a confined aquifer is under pressure such that water rises above the top of the aquifer in a well that penetrates the aquifer.

"Confining bed" means a geologic formation exhibiting relatively low ability to transmit water compared to adjacent formations. Confining beds are typically not capable of yielding usable quantities of water to a well.

"Construction and demolition waste" means waste building materials including wood, metals and rubble that result from construction or demolition of structures.

"Construction and demolition waste disposal site" means a sanitary landfill that accepts only construction and demolition wastes.

"Consumer price index" means the measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services.

"Contact water" means liquid that has run off, or emerged from, raw feedstock and materials that are being processed, or a liquid that has come into contact with equipment dedicated to the handling of raw feedstocks or unstabilized compost, and that contains extracted, dissolved, or suspended materials. "Contact water" includes condensate from gasses resulting from the composting process but does not include water from curing materials, finished compost, or product storage piles.

"Contaminated animal carcasses" means waste, including carcasses, body parts, and bedding of animals, that was exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals.

"Contaminated sharps" means any contaminated object that can penetrate the skin, including but not limited to needles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires.

"Contaminated soil" means soil that contains any harmful constituent in a concentration that may harm human health.

"Cover material" means soil placed as daily, intermediate, or final cover at a sanitary landfill.

"CRT collection" means any activity by a CRT recycling facility or CRT collection facility involving the collection of discarded CRTs that is not a short-term CRT collection event.

"CRT collection facility" means a property where ongoing CRT collection is the only CRT recycling activity performed.

"CRT recycling" means any process by which discarded CRTs that would otherwise become waste are collected, processed, and returned to use in the form of raw materials or products. CRT recycling includes but is not limited to receiving broken or intact CRTs, intentionally breaking intact CRTs or further breaking or separating broken CRTs, and sorting or otherwise managing glass removed from CRT monitors.

"CRT recycling facility" means a property where CRT recycling takes place. A CRT recycling facility may also collect CRTs.

"Crumb rubber" means a material derived by reducing waste tires or other rubber into uniform granules of 3/8 inch or less, with the inherent reinforcing materials such as steel and fiber removed along with other contaminants.

"Cultures and stocks of infectious agents" means specimen cultures collected from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biological agents, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, or mix cultures.

"Cured compost" means compost that is both stable and mature according to the definitions found in this title.

"Curing" means a continuation of the composting process after the high heat stage during which maturity continues to increase.

"Cut tire" means a waste tire from which the tire face, tread, or sidewall has been cut or removed for beneficial use or final disposal. A cut tire shall consist of pieces greater than 18 inches on any one side.

"Debt service" means the amount of principal and interest due on a loan in a given time period, typically the current year.

"Deficit" means total annual revenues minus total annual expenditures.

"Demanufacturing" means the removal of components, including but not limited to PCB-containing capacitors, ballasts, mercury-containing components, fluorescent tubes, and refrigerants, from discarded appliances.

"Discarded" means no longer to be used for the original intended purpose and means the letting go or throwing away of materials that have become useless or superfluous though often not intrinsically valueless.

"Displacement" means the relative movement of any two sides of a fault measured in any direction.

"DOT-approved container" means those containers approved by the U.S. Department of Transportation, the agency responsible for shipping regulations for hazardous materials in the United States.

"Downgradient" means direction of decreasing hydraulic head.

"Downgradient well" means a well that has been installed downgradient of the site and is capable of detecting the migration of contaminants from the site.

"Electric generating facility" means electric utilities and independent power producers that fall within the North American Industry Classification System (NAICS) Code 221112.

"Existing MSWLF unit" means the same as defined in 40 CFR Section 258.2.

"FAA certified airport" means an airport serving air carriers certified by the Civil Aeronautics Board that has been issued an airport operating certificate from the Administrator of the Federal Aviation Administration pursuant to Section 612 of the Federal Aviation Act, 49 U.S.C. §1432, and 49 CFR Part 139.

"Facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste. Any specific facility is formally defined in the permit issued by the department. Buffer lands around a facility are not required to be included in the permitted boundary of a facility.

"Fault" means a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to that on the other side.

"Fill material" means material that is used to raise the elevation of, take up space in, or build up the level of the land. For the purposes of beneficial use, fill material is not considered subbase for hard-surface pavement construction or structural fill.

"Finished compost" means compost that has been cured and, if necessary, screened or refined.

"Fiscal year" means the state fiscal year running from July 1 through the following June 30.

"Fixed facility" means a permitted appliance demanufacturer operating at a permanent location.

"Floodplain" means the area adjoining a river or stream that has been or may be hereafter covered by flood water.

"Fluff" means the residual waste from the shredding operation after metals recovery.

"Food processing residuals" means organic materials generated as a by-product of the industrial food processing sector that are nontoxic, are nonhazardous, and contain no sanitary wastewater. The term does not include fats, oil, grease, or Dissolved Air Flotation (DAF) skimmings.

"Foundry sand" means a solid by-product from the foundry industry that is derived from molding, core-making, and casting cleaning processes that primarily contain sand, olivine, or clay and that is suitable for disposal as solid waste in a sanitary landfill.

"Free liquid" means the liquid produced when a 100-milliliter or 100-gram representative sample is placed on a standard mesh number 60 (fine mesh size) conical paint filter for five minutes (Method 9095B EPA SW-846, 2004).

"Friable ACM waste" has the same meaning as in 40 CFR Section 61.141.

"Garbage" means all solid and semisolid putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for use as food and all offal, excluding useful industrial by-products, and shall include all such substances from all public and private establishments and from all residences.

"General special waste" means special wastes that are commonly accepted by landfills and have specific handling requirements for disposal that are explicitly listed in 567—102.508(455B,455D). General special waste is required to be included in the landfill's special waste acceptance criteria (SWAC) but does not require a special waste authorization (SWA).

"Geologic cross section" means a drawing of a subsurface profile showing the various strata encountered.

"Groundwater flow path" means the route of water and contaminant travel, if any, within a groundwater system.

"HCFC" or *"HCFCs"* means hydrochlorofluorocarbons, including any of several compounds used as refrigerants.

"High water table" means the position of the water table that occurs in times of above normal precipitation.

"Holocene" means the most recent epoch of the Quaternary Period, extending from the end of the Pleistocene Epoch to the present.

"Household waste" has the same meaning as in 40 CFR Section 258.2.

"Human blood and blood products" means human serum, plasma, other blood components, bulk blood, or containerized blood in quantities greater than 20 milliliters.

"Hydraulic head" means the energy contained at a point in the groundwater system. Hydraulic head is measured as the elevation to which water rises in a piezometer.

"Incidental solid waste transfer" means the truck-to-truck transfer of solid waste from a satellite solid waste collection vehicle to a solid waste collection vehicle if that solid waste could be collected only by a satellite solid waste collection vehicle due to vehicle access restrictions.

"Incineration" means the processing and burning of solid waste for the purpose of volume and weight reduction in facilities designed for such use.

"Incorporation" means to mix into the soil by tilling, disking, or other suitable means.

"Industrial process waste" means a nonhazardous solid waste that is generated as a result of manufacturing activities, product processing, or commercial activities and is managed separately from municipal solid waste, commercial solid waste, and construction and demolition waste. It may include water treatment residuals or waste but does not include office waste, cafeteria waste, or other types that are not the direct result of production processes.

"Industrial sludge" means any sludge produced by industrial activity.

"Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of the Resource Conservation and Recovery Act (RCRA). Such waste may include but is not limited to waste resulting from the following manufacturing processes: electric power generation, fertilizer and agricultural chemicals, food and related products and by-products, inorganic chemicals, iron and steel manufacturing, leather and leather products, nonferrous metals manufacturing and foundries, organic chemicals, plastics and resins manufacturing, pulp and paper industry, rubber and miscellaneous plastic products, textile manufacturing; transportation

equipment, and water treatment. "Industrial solid waste" does not include mining waste or oil and gas waste.

"Infectious" means containing pathogens with sufficient virulence and quantity so that exposure to an infectious agent by a susceptible host could result in an infectious disease when the infectious agent is improperly treated, stored, transplanted, or disposed of.

"Infectious waste" means waste that is infectious, including but not limited to contaminated sharps, cultures and stocks of infectious agents; blood and blood products; pathological waste; and contaminated animal carcasses from hospitals or research laboratories.

"Initial comprehensive plan" means a first or new comprehensive plan filed with the department pursuant to Iowa Code section 455B.306.

"Integrated solid waste management" means any solid waste management system that is focused on planned development of programs and facilities that reduce waste volume and toxicity, recycle marketable materials, and provide for safe disposal of any residuals.

"In-vessel" means the use of a drum, silo, bin, tunnel, or other container for the purpose of producing compost.

"Karst terranes" means areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terranes include but are not limited to sinkholes, sinking streams, caves, large springs, and blind valleys.

"Land application" means a method through which sludge or solid waste is applied to the surface of the ground. Land application may include subsurface injection.

"Landfarm" means the area of land used for landfarming a single application of a particular source and type of PCS.

"Landfarm applicator" means an entity permitted by the department to apply PCS to the land to create one or more landfarms.

"Landfarming" means a surface-level soil remediation technology for petroleum contaminated soils that reduces concentrations of petroleum constituents through biodegradation to a level safe for human health and the environment. This technology usually involves spreading excavated contaminated soils in a thin layer on the ground surface and stimulating aerobic microbial activity within the soils through aeration. The enhanced microbial activity results in degradation of adsorbed petroleum product constituents through microbial respiration. Some petroleum product constituents volatize during the landfarming process.

"Landfarm plot" means the specific operating area of a landfarm upon which a particular source and type of PCS is applied.

"Landfarm season" means the period of the year when the ground is not frozen or snow-covered and runoff from these situations is not expected to transport PCS beyond the landfarm area.

"Landfill property" means the entire area of the landfill including the disposal site and any other contiguous property proposed for actual landfill use.

"Landfill site" means any location; place; or tract of land used for collection, storage, conversion, utilization, incineration or landfilling of solid waste, to include the landfill area, nonfill work areas, borrow areas plus a 100-foot wide perimeter surrounding the working areas or the property line if it is closer than 100 feet to the working areas.

"Land pollution" means the presence in or on the land of any solid waste in such quantity, of such nature, for such duration, and under such condition as would affect injuriously any waters of the state, cause air pollution, or create a nuisance.

"Lateral expansion" means a horizontal expansion of the waste boundaries of an existing sanitary landfill.

"License" means the same as defined in Iowa Code section 17A.2.

"Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include human-made materials, such as

fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

"Lower explosive limit" means the lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at 25°C and atmospheric pressure.

"Maturity" means the degree or level of completeness of composting. Mature compost is free of phytotoxic components.

"Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90 percent or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

"Mercury-containing components" means devices containing mercury. Examples include but are not limited to thermostats, thermocouples, mercury switches, and fluorescent tubes.

"Mobile operation" means a permitted appliance demanufacturer that has equipment capable of operating in an area away from a fixed, permitted location.

"Monitoring well" means any well installed solely for the sampling of groundwater quality at a given location and depth and constructed in a manner approved by the department.

"Municipal solid waste landfill" or *"MSWLF"* means a discrete area of land or an excavation that receives household waste and that is not a land application site, surface impoundment, injection well, or waste pile as those terms are defined under 40 CFR Section 257.2. An MSWLF may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous dry sludge, and industrial solid waste. An MSWLF may be publicly or privately owned. An MSWLF may be a new MSWLF site, an existing MSWLF site, or a lateral expansion.

"Municipal solid waste landfill (MSWLF) unit" means a discrete area of land or an excavation that receives household waste and that is not a land application site, surface impoundment, injection well, or waste pile as those terms are defined under 40 CFR Section 257.2. An MSWLF unit may also receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, construction and demolition debris, and industrial solid waste. An MSWLF unit may be publicly or privately owned.

"Municipal solid waste sanitary disposal project" means all facilities and appurtenances, including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of household waste without creating a significant hazard to the public health or safety. A municipal solid waste sanitary disposal project may also receive other types of RCRA Subtitle D wastes, such as construction and demolition debris and commercial and industrial solid waste.

"Net worth" means total assets minus total liabilities and is equivalent to an owner's equity.

"Nonfriable ACM waste" means the same as defined in 40 CFR Section 61.141.

"Nonstandard PCS" means soil contaminated with a petroleum product other than gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

"Open burning" means any burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack.

"Open dump" means any exposed accumulation of solid waste at a site other than a sanitary disposal project operating under a permit from the department.

"Open dumping" means the illegal depositing of solid wastes on the surface of the ground or into a body or stream of water.

"Operating area" means the immediate portion of a sanitary disposal project used for unloading and handling of solid waste to prepare it for processing or final disposal.

"Operator" means an individual who is employed and assigned to operate the equipment used on the site.

"Organic materials" means any material of animal or plant origin.

"Parent corporation" means a corporation that directly owns at least 50 percent of the voting stock of the corporation that is the facility owner or operator; the latter corporation is deemed a subsidiary of the parent corporation.

"Passenger tire equivalent" means a conversion measurement that is used to estimate waste tire weights and volume amounts and in which one passenger car tire with a rim diameter of 19 inches or less is equal to 25 pounds. One cubic yard of volume shall contain ten passenger tire equivalents. Tires larger than a passenger car tire shall be evaluated for volume using this conversion measurement.

"Pathological waste" means human tissues and body parts that are removed during surgery or autopsy.

"PCB" or *"PCBs"* means polychlorinated biphenyl, which is a chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances that contain polychlorinated biphenyl.

"Perched saturated zone" means a localized saturated zone occurring above the regional zone of saturation. The perched saturated zone's presence is caused by a lens of relatively impermeable material within the unsaturated zone that impedes the downward movement of water toward the zone of saturation.

"Petroleum contaminated soil" or *"PCS"* means soil contaminated with petroleum products including but not limited to gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

"Piezometer" means a device used to measure hydraulic head at a specific point in the groundwater system. Piezometers are generally small diameter wells sealed along the entire length and open to water only at the bottom through a short section of well screen, which is the point where hydraulic head is measured. A piezometer may be constructed similar to a monitoring well or may be a driven well point.

"Planning agency" means the designated contact agency on file with the department.

"Planning area" means the combined jurisdiction of the local governments and the designated municipal solid waste sanitary disposal project(s) involved in a comprehensive plan. A planning area may include one or more municipal solid waste sanitary disposal projects.

"Planning cycle" means the length of time between the due date for each comprehensive plan update submittal as approved by the department, which shall be every five years on a schedule prescribed by the department.

"Point of compliance" or *"POC"* means the point at which the sanitary landfill owner or operator demonstrates compliance with the liner performance standard, if applicable, and with the groundwater protection standard. The point of compliance is a vertical surface located hydraulically downgradient of the waste management area that extends down into the uppermost aquifer underlying the regulated sanitary landfill unit(s) and where groundwater monitoring shall be conducted.

"Point of demanufacturing" means the actual location of demanufacturing for fixed facilities and mobile operations.

"Pollution control waste" means any solid waste residue extracted by, or resulting from, the operation of pollution control equipment.

"Poor foundation conditions" means those areas where features exist that indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of an MSWLF site.

"Potentiometric surface" means the imaginary surface that represents the level to which water from an aquifer (confined or unconfined) will rise in wells.

"Premises" means a geographically contiguous property owned by a generator or noncontiguous property owned by a generator that is connected by a controlled right-of-way to which the public does not have access. Two or more pieces of property that are geographically contiguous and divided by public or private right-of-way are a single premises.

"Processed tire" means a tire that has been processed through grinding, shredding, or other means, thereby producing a material that is readily suitable for marketing into product manufacturing, energy recovery, or other beneficial reuse markets. Waste tires that have been compacted, baled, cut, or shredded without a suitable market shall not be considered processed tires and shall be regulated as solid waste. Waste tires that have been cut into pieces that are not more than 18 inches on any side shall be accepted at a permitted sanitary landfill for final disposal as solid waste.

"Public agency" means the same as defined in Iowa Code section 28E.2.

"Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering and has sufficient training and experience in groundwater hydrology and related fields demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding groundwater monitoring, contaminant fate and transport, and corrective action.

"Raw rendering material" means any body, part of a body, or product of a body of any dead animal that is unwholesome, condemned, inedible, or otherwise unfit for human consumption.

"RCRA" means the Resource Conservation and Recovery Act as amended in 1996 and as implemented through 40 CFR Parts 239 through 282.

"Refuse" means putrescible and nonputrescible solid wastes including but not limited to garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleanings, industrial solid wastes, and sewage treatment wastes in dry or semisolid form.

"Refuse collection service" means a publicly or privately operated agency, business, or service engaged in the collecting and transporting of solid waste for disposal purposes.

"Residential lead-based paint waste" means the same as defined in 40 CFR Section 258.2.

"Rubbish" means nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, glass, bedding, crockery, or litter of any kind.

"Runoff" means the same as defined in 40 CFR Section 258.2.

"Run-on" means the same as defined in 40 CFR Section 258.2.

"Salvageable material" means discarded material that is no longer of value for its original purpose but has value if reclaimed.

"Salvaging" means the systematic removal of salvageable material in a formal and orderly manner as a part of the normal operating procedure of a sanitary disposal project.

"Sanitary disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

"Sanitary landfill" means a discrete area of land or an excavation used for solid waste disposal. Types of sanitary landfills include MSWLFs, construction and demolition debris landfills, industrial landfills, and coal combustion residuals landfills.

"Sanitary landfill operator" means an individual having active, daily on-site responsibility for day-to-day operation of a department-permitted sanitary landfill. This individual must also have the authority to turn waste away at the gate when the waste is considered unacceptable.

"Sanitary landfill unit" means a designated portion of a sanitary landfill's footprint to distinguish the area from other areas.

"Satellite solid waste collection vehicle" means a small, specialized solid waste collection vehicle that has been specifically designed to service locations that have vehicle access restrictions that would otherwise render solid waste collection technically prohibitive.

"Saturated zone" means the same as defined in 40 CFR Section 258.2.

"Scavenging" means the uncontrolled removal of materials from the unloading or working area of a sanitary disposal project.

"Seismic impact zone" means an area with a 10 percent or greater probability that the maximum horizontal acceleration in the lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in 250 years.

"Service area" means an area served by a specific municipal solid waste sanitary disposal project defined in terms of the jurisdictions of the local governments using the facility. A planning area may include more than one service area.

"Sewage sludge" means the same as defined in Iowa Code section 455B.171(34).

"Shelby tube" means a thin-walled, seamless steel tube with a sharp cutting edge that is used to obtain undisturbed samples of cohesive or moderately cohesive soils (silts and clays).

"Shoreland" means land within 300 feet of the high water mark of any natural or artificial publicly or privately owned lake or any impoundment of water used as a source of public water supply.

"Short-term CRT collection event" means any temporary activity involving the collection of discarded CRTs for recycling that is not on the premises of a CRT recycling facility or CRT collection facility.

"Sludge" means any solid, semisolid, or liquid waste generated from a commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility.

"Small capacitor" means a capacitor that contains less than 1.36 kg (3 lbs) of dielectric fluid. The following assumptions may be used if the actual weight of the dielectric fluid is unknown. A capacitor whose total volume is less than 1,639 cubic centimeters (100 cubic inches) may be considered to contain less than 1.36 kg (3 lbs) of dielectric fluid, and a capacitor whose volume is more than 3,278 cubic centimeters (200 cubic inches) must be considered to contain more than 1.36 kg (3 lbs) of dielectric fluid. A capacitor whose volume is between 1,639 and 3,278 cubic centimeters may be considered to contain less than 1.36 kg (3 lbs) of dielectric fluid if the total weight of the capacitor is less than 4.08 kg (9 lbs).

"Soil boring" means a hole drilled or driven into the subsurface for the purpose of determining subsurface characteristics.

"Soil stabilization" means the treatment or coating of soil to increase or maintain the stability of a mass of soil, to protect soil areas at risk of erosion, or to improve the engineering properties of the soil.

"Solid by-product" means a solid secondary material or residual, produced or created by an industrial, commercial or institutional process or activity. Solid by-products are composed of materials that are suitable for disposal as solid waste in a sanitary landfill.

"Solid waste" means the same as defined in Iowa Code section 455B.301. Pursuant to Iowa Code section 455B.301(29)*"b,"* the commission has determined that solid waste includes those wastes exempted from federal hazardous waste regulation pursuant to 40 CFR 261.4(b), except to the extent that any such exempted substances are liquid wastes or wastewater. This determination shall apply to all chapters within Title VIII.

"Solid waste collection" means the gathering of solid waste from public and private places.

"Solid waste collection vehicle" means a vehicle that has the primary purpose of collecting solid waste from a variety of locations, including at curbside and from dumpsters, compactors, and roll-off boxes.

"Solid waste incinerator operator" means an individual with active, daily on-site responsibility for day-to-day operation of a permitted solid waste incinerator. This individual must also have the authority to turn waste away when it has been determined to be unacceptable.

"Solid waste storage" means the holding of solid waste pending intermediate or final disposal.

"Solid waste transfer station" means any site, location, tract of land, installation or building that has the primary purpose of receiving solid waste generated off the premises from multiple generators and consolidating the waste prior to transporting it to a final disposal facility. A solid waste transfer station is a sanitary disposal project and may hold or store solid waste before transport for a short period. A solid waste transfer station is not a final disposal facility.

"Solid waste transportation" means the conveying of solid waste from one place to another by means of vehicle, rail car, water vessel, conveyor, or other means.

"Solid waste transport vehicle" means a vehicle that has the primary purpose of transporting solid waste received by a solid waste transfer station (e.g., walking floor semi-trailer).

"Source of PCS" means the contaminated area from which the PCS originated. Examples of a source include but are not limited to a specific gas station or spill location.

"Special wastes" means the same as defined in Iowa Code section 455B.304(17).

"Specific yield" means the ratio of the volume of water that a given mass of saturated rock or soil will yield by gravity to the volume of that mass. This ratio is stated as a percentage.

"Split spoon sampler" means a device used in conjunction with a drilling rig to obtain core samples from unconsolidated strata.

"Stability" when used in reference to composting means a stage in the composting process when microbial activity is diminished with the corresponding decrease of available organic carbon and other

energy sources. Stable compost consumes little nitrogen and oxygen and generates little carbon dioxide or heat.

"Stabilized sludge" means sludge that has been processed to a point where it has the ability to resist further change, produces minimal odor, and has achieved a substantial reduction in the pathogenic organism content. The department recognizes principles of stabilization other than the conventional biological processes. Whether these processes produce a stabilized sludge will be evaluated on an individual basis.

"Standard PCS" means soil contaminated with gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

"Statistically significant increase" or *"SSI"* means a statistical difference large enough to account for data variability and not thought to be due to chance alone.

"Storage coefficient" means the volume of water an aquifer releases from or takes into storage per unit surface area of aquifer per unit change in head.

"Structural components" means liners, leachate collection systems, final covers, run-on/runoff systems, and any other component used in the construction and operation of the MSWLF that is necessary for protection of human health and the environment.

"Structural fill" means the discrete, controlled use of a solid by-product as a substitute for a conventional aggregate, raw material, or soil under or immediately adjacent to a building or structure to provide strength, stability, and improved drainage characteristics (e.g., embankments, trench or foundation backfill, and pipe bedding). Structural fill does not include uses that involve general filling or grading operations that bring a naturally low area up to grade.

"Subbase for hard-surface pavement construction" means material that is used in subsurface applications for the construction of roads, including their shoulders, and parking lots that have hard surfaces such as concrete or asphalt. For the purposes of beneficial use, subbase for hard-surface pavement construction is not considered fill material.

"Substantial business relationship" means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that a currently existing business relationship between the guarantor and the owner or operator is demonstrated to the satisfaction of the department.

"Suitable for disposal as solid waste in a sanitary landfill" means that the material is in compliance with all state and federal rules and regulations pertaining to what may be disposed of in an Iowa sanitary landfill. Such materials are at a minimum nonhazardous and nonradioactive, are solid or semisolid, and do not contain free liquids as defined by Method 9095B (Paint Filter Liquids Test) (2004), included in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication SW-846) that is incorporated by reference.

"Surge pit" means a pit inside a solid waste transfer station building that receives solid waste from the tipping floor or directly from solid waste collection vehicles. Surge pits provide more space for temporary storage during peak operating hours and allow for additional compaction of the solid waste before it is loaded into solid waste transport vehicles.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

"Tar ball" means a ball or conglomeration of tarlike petroleum constituents.

"Tire casing" means a used and worn tire that is suitable for the process of recapping. A tire casing stored for more than one year without being recapped shall be considered a waste tire.

"Total expenditures" means all expenditures, excluding capital outlays and debt repayment.

"Total revenues" means revenues from all taxes and fees, excluding revenue from funds managed by a local government on behalf of a specific third party, and does not include the proceeds from borrowing or asset sales.

"Toxic wastes" means materials containing poisons, biocides, acids, caustics, pathological wastes, and similar harmful wastes that may require special handling and disposal procedures to protect the environment and the persons involved in the storage, transport, and disposal of the wastes.

"Transmissivity" means the rate at which water is transmitted through a unit width of an aquifer under a unit hydraulic gradient.

"Trees" means trunks, limbs, stumps, or branches from trees or shrubs and untreated, uncoated, chemically unchanged wood wastes. This shall not include wood products that are part of an otherwise defined waste or have been contaminated by coatings, treatments, or metals.

"Tremie tube" means a pipe used to carry materials (e.g. gravel pack, grout) to the bottom of a boring and allow placement from the bottom up without segregation of materials or introduction of appreciable air pockets.

"Truck-to-truck transfer" means the direct transfer of solid waste from one vehicle to a second vehicle with no intermediary handling.

"Type of PCS" means the specific petroleum product or combination thereof that contaminated the soil. Examples include but are not limited to gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

"Unconfined aquifer" means an aquifer that does not have a confining bed above it. The level of water in a well in an unconfined aquifer is below the top of the aquifer formation.

"Unsaturated zone" means the subsurface zone above the water table in which the interstitial spaces are only partially filled with water or not filled at all.

"Unstable area" means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terranes.

"Upgradient" means direction of increasing hydraulic head.

"Upgradient well" means a well that is capable of yielding groundwater samples that are representative of regional conditions and are not affected by the landfill site.

"Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

"Used tire" means a tire that previously has been on a vehicle but that retains suitable tread depth and is free of damage or defects so that it may be safely returned to its original purpose.

"Vector" means a carrier organism that is capable of transmitting a pathogen from one organism to another. Vectors include but are not limited to birds, rats and other rodents, and insects.

"Vertical expansion" means additional waste placement on top of or against the side slopes of a previously filled sanitary landfill unit, whether active, closed, or inactive.

"Washwater" means a water-based liquid that has either originated from solid waste unloaded inside the enclosed portion of a solid waste transfer station or that has come into contact with enclosed solid waste transfer station areas that have come into contact with solid waste.

"Waste management unit boundary" means the same as defined in 40 CFR Section 258.2.

"Waste tire stockpile" means a permitted site that is used for the storage, collection, or deposit of waste tires, including indoor, outdoor, and underground storage.

"Water table" means the water surface below the ground at which the unsaturated zone ends and the saturated zone begins.

"Water well" means the same as defined in Iowa Code section 455B.171(44).

"Wearing surface" means a layer or top surface that is in direct contact with traffic or other moving objects and is subject to wear.

"Yard waste" means debris such as grass clippings, leaves, garden waste, brush, and trees. "Yard waste" does not include tree stumps.

"Zone of saturation" means the subsurface zone below the water table in which the interstitial spaces are completely filled with water.

567—100.3(455B,455D) Permit required. No public or private agency shall construct or operate a sanitary disposal project or solid waste management activity without first obtaining a permit from the department. In order to be issued a municipal solid waste sanitary disposal project permit, the permit applicant must also satisfy the comprehensive planning requirements set forth in 567—Chapter 104. The issuance of a permit by the department in no way relieves the applicant of the responsibility of complying with all other local; state; or federal statutes, ordinances, and rules or other requirements applicable to the solid waste management activity.

567—100.4(455B,455D) Types of permits. There are five types of permits issued by the director; all are described in this rule.

100.4(1) *Sanitary disposal project permit.* A sanitary disposal project permit is issued by the director under the authority of Iowa Code section 455B.305 to facilitate the final disposition of solid waste. Such permits are issued for a term of up to ten years and are renewable for similar terms.

a. To be timely filed, an application for renewal must be received at the department's office prior to the expiration date of the existing permit on a form prescribed by the department.

b. The department may conduct an inspection of the sanitary disposal project following receipt of the application for renewal. Following the inspection, the permit holder shall be notified of all measures needed to bring the sanitary disposal project into conformance with Iowa Code chapter 455B and the applicable rules.

c. A permit shall be renewed when a properly completed application has been received and all corrective measures required under 100.4(1)*"b"* have been completed.

100.4(2) *Solid waste management permit.* A solid waste management permit is issued by the director under the authority of Iowa Code chapters 455B and 455D for the management of solid waste. Such permits are issued for a term of up to five years and are renewable for similar terms.

a. To be timely filed, an application for renewal must be received at the department's office prior to the expiration date of the existing permit on a form prescribed by the department.

b. The department may conduct an inspection of the solid waste management activity following receipt of the application for renewal. Following the inspection, the permit holder shall be notified of all measures needed to bring the solid waste management activity into conformance with Iowa Code chapter 455B, Iowa Code chapter 455D, and the applicable rules.

c. A permit shall be renewed when a properly completed application has been received and all corrective measures required under 100.4(2)*"b"* have been completed.

100.4(3) *Developmental permit.* The director may issue a developmental permit for construction and operation of a sanitary disposal project or solid waste management activity that is not specifically described in these rules if the permit applicant demonstrates at a public hearing that the proposed project can provide satisfactory management or disposal of solid waste without adverse health-related or environmental effects.

a. No such permit shall be issued until the director, after public hearing, considers and approves the proposed project.

b. Developmental permits shall be issued for a term no less than one year and no more than three years.

c. Developmental permits may be renewed if the director finds, following public hearing, that the project provided satisfactory management or disposal of solid waste without adverse health-related or environmental effects over the term of the prior permit.

100.4(4) *Temporary permit.* A temporary permit is issued by the director under the authority of Iowa Code section 455B.307(1) for sanitary disposal projects that do not comply with the requirements of Iowa Code chapter 455B and these rules. Such permits are issued for a term of one year and are renewable. Temporary permits may be renewed if the director finds that the public interest will be best served by granting a renewal and the conditions of the previous temporary permit have been complied with.

a. Temporary permits shall incorporate as a condition a compliance schedule specifying how and when the applicant will meet the requirements of Iowa Code chapter 455B and these rules.

b. The decision of the director whether to issue a temporary permit, being discretionary, shall be a final decision. Once a temporary permit has been issued, it may be suspended or revoked only as provided in Iowa Code section 455B.305 and 561—Chapter 7.

100.4(5) *Closure permit.* A closure permit is issued by the director under the authority of Iowa Code section 455B.305 for sanitary disposal projects that no longer accept solid waste. Such permits are issued for a term of up to 30 years. The term of subsequent renewal of the permit, if the post-closure period is extended, will be determined on a site-specific basis. A sanitary disposal project shall require a closure permit until the department determines that post-closure maintenance, monitoring, and operation of a leachate control system, if applicable, are no longer necessary.

a. Application shall be filed at the time of departmental notification of intended closure.

b. The application for issuance of this permit to a municipal solid waste sanitary disposal project shall be based on a previously approved comprehensive plan and the rules adopted pursuant to the authority of Iowa Code section 455B.306.

c. This permit shall require submission of an annual audit report, pursuant to Iowa Code section 455B.306(9)*"e,"* detailing the status of the financial instrument and other funds as required to guarantee completion of post-closure and monitoring requirements.

d. Requests for permit modification may be initiated by the department or by the permit holder.

e. At the end of the applicable post-closure period, and upon satisfactory completion of all required post-closure activities as established by Iowa Code chapter 455B, written notification shall be issued by the director stating that a permit is no longer required for the facility.

567—100.5(455B,455D) Permit applications.

100.5(1) *Application contents.* Each application for a permit to construct and operate a sanitary disposal project or solid waste management activity shall include the following unless project conditions render the specific item as not applicable. The rationale for exclusion of any item that is determined not to be applicable must be provided in either the body of the application or as a supplement to facilitate department review. Each application shall be on a form prescribed by the department and include specific information as required by 567—Chapter 101 or 102, as applicable.

a. The name, address, email, and telephone number of:

(1) Owner of site where the project will be located.

(2) Permit applicant.

(3) Official responsible for operation of the project.

(4) Professional engineer (P.E.) licensed in the state of Iowa and retained for financial assurance or the design of the facility, if any.

b. A legal description and physical address of the site.

c. A map or aerial photograph locating the boundaries of the site and identifying:

(1) North or other principal compass points.

(2) Zoning and land use within one-half mile.

(3) Haul routes to and from the site with load limits or other restrictions.

(4) Homes and buildings within one-half mile.

(5) Section lines or other legal boundaries.

d. Type, source, and expected volume or weight of solid waste to be handled per day, week, and year.

e. For municipal solid waste sanitary disposal projects, the solid waste comprehensive planning area of the facility and political jurisdictions included within that area.

f. A detailed description of the management or disposal process to be used and the sanitary disposal project designated for final disposal, if applicable.

g. A listing of equipment available on site for operations, including types as well as size, capacity, and production rates.

h. Proof of the applicant's ownership of the site or legal entitlement to use the site for the management of solid waste.

i. A closure plan that:

(1) Details how and when the facility will be closed in accordance with applicable requirements.

(2) Describes the proposed groundwater monitoring plan, leachate control system, and site inspection and maintenance activities, if applicable.

(3) States the name, address, email, and telephone number of the person or office to serve as contact with regard to the facility during the post-closure period, if applicable.

j. For sanitary disposal projects, an emergency response and remedial action plan (ERRAP) pursuant to 567—100.14(455B).

k. Proof of financial assurance pursuant to 567—Chapter 101, Division VIII, for all sanitary disposal projects.

l. Such other information as may be required by the director.

100.5(2) *Incomplete application.* If an application for a permit is found to be incomplete by the department, the applicant will be notified of that fact and of the specific deficiencies. Thirty days following such notification, the application may be returned by the department as incomplete without prejudice to the applicant's right to reapply. The applicant may be granted, upon request, an additional 30 days to complete the application. If an application for renewal or modification is found to be incomplete by the department, the applicant will be notified of that fact and of the specific deficiencies. Thirty days following such notification, the application for renewal or modification may be denied by the department.

100.5(3) *Factors in permit issuance decision.* The department may request that additional information be submitted for review to make a permit issuance decision. The department shall issue a permit if, after a review and inspection of the facility and its compliance history, the department finds that the facility is in substantial compliance with Iowa Code chapters 455B and 455D, these rules, and the conditions of the permit. If the facility is found not to be in substantial compliance with Iowa Code chapters 455B and 455D, these rules, and the conditions of the permit, or if a good-faith effort to maintain compliance is not being made, the project shall be placed on a compliance schedule approved by the department before the permit is issued. The permit may be issued with new conditions pursuant to 567—100.8(455B,455D).

100.5(4) *Request for permit modification.* A request for permit modification shall be submitted in writing to the department with supporting documentation and materials. The department may also request that information pursuant to 100.5(1) be resubmitted, in part or in whole, in order to make a permit modification decision. The modified permit may be approved with new conditions pursuant to 567—100.8(455B,455D).

567—100.6(455B,455D) Construction and operation. All sanitary disposal projects and solid waste management activities shall be constructed and operated according to the plans and specifications as approved by the department and the conditions of the permit. The approved plans and specifications shall constitute a condition of the permit.

567—100.7(455B,455D) Inspection prior to start-up. The department shall be notified when the construction of a sanitary disposal project or solid waste management activity has been completed, in order that an inspection may be made to determine if the project has been constructed as designed and approved by the department. No solid waste shall be accepted by a sanitary disposal project or solid waste management activity until it has been inspected and approved by the department.

567—100.8(455B,455D) Permit conditions. Any permit may be issued subject to conditions specified in writing by the department that are necessary to ensure that the project is constructed and operated in compliance with Iowa Code chapters 455B and 455D and these rules.

567—100.9(455B,455D) General operating requirements for sanitary disposal projects and solid waste management activities. Every application for a permit issued by the department shall detail the means of compliance with the following operating requirements. All projects shall be operated in conformance with these requirements and any specific requirements of imposed by applicable rules or permit conditions.

100.9(1) Open burning shall be prohibited, except when permitted by 567—Chapter 23. Any burning to be conducted at the site shall be at a location separate and distinct from the operating area.

100.9(2) Unless the project is regulated by 567—101.5(455B), litter shall be confined to the property on which the project is located. At the conclusion of each day of operation, any litter strewn beyond the confines of the operating area shall be collected and stored in covered leakproof containers or properly disposed.

100.9(3) Scavenging shall be prohibited. Any salvaging to be conducted must be described in the application, and all salvaged materials must be stored and removed from the project site in conformance with the permit conditions. Each area where salvaged materials are stored shall be segregated and clearly marked.

100.9(4) Effective means shall be taken to prevent the attraction or harborage of vectors and to prevent a nuisance or public health hazard.

100.9(5) Equipment designated in the plans and specifications or equivalent equipment shall be used to operate the site at all times.

100.9(6) The major internal roads shall be of all-weather construction and maintained in good condition. Dust shall be controlled on internal roads.

100.9(7) Sites shall have a permanent sign posted at the site entrance specifying:

a. Name of the operation.

b. Site permit number.

c. Hours and days the site is open to the public, if applicable.

d. Categories of waste that will be accepted for disposal or, as an alternative, categories of waste that are prohibited.

e. Telephone number.

567—100.10(455B,455D) General closure requirements for sanitary disposal projects and solid waste management activities. Every application for a permit issued by the department shall detail the means of compliance with the following closure requirements. All projects shall be closed in conformance with these requirements and any specific requirements of imposed by applicable rules or permit conditions.

100.10(1) The owner or operator shall submit to the local political jurisdictions, the department, and the department field office with jurisdiction over the facility at least 90 days written notice of intent to permanently close or suspend operations.

100.10(2) Notice shall be posted at least 90 days prior to closure at the facility indicating the date of closure and alternative solid waste management facilities. If the facility is open to the public, notice of closure shall be published at least 90 days prior to closure in a newspaper of local circulation. This notice shall include the date of closure and, where applicable, identification of alternative solid waste management facilities.

100.10(3) Unless otherwise authorized by the department, implementation of the closure plan shall be completed within 90 days of the closure of the facility. The owner and an Iowa-licensed professional engineer shall certify that the closure plan has been implemented in compliance with this rule, the closure plan, and the permit. Closure shall not be official until the department has inspected the site and given written certification of the completion of proper disposal of all solid waste.

100.10(4) Upon completion of closure activities, as-built plans shall be submitted showing changes from the original design plans, if any; test results indicating compliance with final cover, where applicable; waste removal; equipment decontamination; and other forms of closure documentation requested by the department.

567—100.11(455B,455D) Compliance with rule changes.

100.11(1) *Design and construction.* Sanitary disposal projects and solid waste management activities designed and constructed in accordance with rules in effect at the time of construction shall not be required to be redesigned or reconstructed due to subsequent rule changes unless the department finds that such facilities pose a threat to human health or the environment. Such facilities shall be brought

into compliance with rules in effect at the time of reconstruction, expansion, or otherwise modifying the project or at the time of permit renewal.

100.11(2) *Operation.* If any new rule conflicts with an operating procedure prescribed in the engineering plans or the permit of a sanitary disposal project or solid waste management activity, the operation shall conform with the new rule.

567—100.12(455B,455D) Transfer of title. If title to a sanitary disposal project or solid waste management activity is transferred and the transferee desires to continue operation of the project, the transferee shall apply in writing to the department within 30 days of the title transfer for a transfer of the permit.

100.12(1) The department shall transfer the permit when it determines that the site is in compliance with Iowa Code chapters 455B and 455D, these rules, and the conditions of the permit and that the transferee possesses the equipment and personnel to operate the project in conformance with applicable rules and the conditions of the permit.

100.12(2) No permit is valid after 60 days following transfer of title unless the permit has been transferred by the department to the new titleholder pursuant to this rule. If the permit has not been transferred within 60 days, the new titleholder shall submit a complete permit application to operate the sanitary disposal project or solid waste management activity pursuant to 567—100.5(455B,455D).

567—100.13(455B,455D) Effect of revocation. The director may revoke and reissue, or terminate, in whole or in part, any license or permit for cause. If a license or permit held by any public or private agency for a sanitary disposal project or solid waste management activity is revoked by the director, no new license or permit shall be issued to that agency for that project for a period of one year from the date of revocation. Such revocation shall not prohibit the issuance of a license or permit for the project to another public or private agency.

567—100.14(455B) Emergency response and remedial action plans.

100.14(1) *Purpose.* The purpose of this rule is to implement Iowa Code section 455B.306(7)*"d"* by providing the criteria for developing a detailed ERRAP for permitted sanitary disposal projects. Each ERRAP shall include established provisions to minimize the possibility of fire; explosion; or any release to air, land, or water of pollutants that could threaten human health and the environment and to identify possible occurrences that may endanger human health and the environment.

100.14(2) *Applicability.* This rule applies to the owners or operators of all sanitary disposal projects that are permitted pursuant to 567—Chapter 101 and any activity deemed necessary by the department to maintain an ERRAP as part of their permit. The ERRAP does not replace or supersede other regulatory requirements related to public health, safety, or welfare.

100.14(3) *Submittal requirements.*

a. The owner or operator of a facility that is subject to this rule shall, at the time of application, incorporate a complete, detailed ERRAP that meets the requirements set forth in this rule.

b. An updated ERRAP shall be submitted at the time of each permit renewal or permit reissuance application and with any request for permit modification or significant change in facility operation that requires revision of the currently approved ERRAP.

100.14(4) *Content.* The content of ERRAP documents shall be concise and readily usable as a reference manual by facility managers and operators during emergency conditions. The ERRAP document content shall address at least the following primary issues in detail unless project conditions render the specific issue as not applicable. The rationale for exclusion of any issue areas that are determined not to be applicable must be provided in either the body of the plan or as a supplement to facilitate department review. Additional ERRAP requirements unique to the facility shall be addressed, as applicable.

a. Facility information.

(1) Permitted agency.

(2) Department permit number.

(3) Facility description.

(4) Responsible official and contact information.
(5) Project location.
(6) Site and environs map.
b. Regulatory requirements.
(1) Iowa Code section 455B.306(7)*"d"* criteria citation.
(2) Reference to provisions of the permit.
c. Emergency conditions—response activities—remedial action for short-term (48 hours or less) and long-term (over 48 hours) for the following:
(1) Failure of utilities that impede or prohibit operation of the facility, including but not limited to power/electricity and communications.
(2) Weather-related events that impede or prohibit operations of the facility, including but not limited to flooding and storms.
(3) Fire and explosions related to solid waste.
1. Solid waste fires, including landfill working face.
2. Hot loads.
3. Landfill gas.
(4) Solid waste spills and releases, including but not limited to waste materials, leachate, and landfill gas.
(5) Mass movement of land and waste, including but not limited to earthquakes, slope failures, waste shifts, or subsidence.
(6) Emergency notifications and reporting.
1. Federal agencies.
2. State agencies.
3. Local agencies.
4. News media.
5. Public and private facilities with special populations within five miles.
6. Emergency response agencies and contact information.
7. Reporting requirements and forms.
(7) Emergency waste management procedures.
1. Communications and public relations.
2. Temporary discontinuation of services—short- and long-term.
3. Facilities access and rerouting.
4. Waste acceptance.
5. Wastes in process.
6. Equipment.
(8) Emergency aid.
1. Responder contacts.
2. Medical services.
3. Contracts and agreements.
(9) ERRAP training requirements.
1. Training providers.
2. Employee orientation.
3. Annual training updates.
4. Training completion and recordkeeping.

100.14(5) *ERRAP review.* The ERRAP shall be developed with the review and input of the local fire department and local emergency management coordinator. Documentation shall be maintained that such review and input has been requested.

567—100.15(455B) Laboratory analyses. Analyses for a contaminant regulated under Title VIII must be performed by a laboratory certified for the analyte(s) and applicable method pursuant to 567—Chapter 83.

These rules are intended to implement Iowa Code sections 455B.304 and 455B.305 and chapter 455D.

ARC 9931C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to sanitary disposal projects and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 101, "Solid Waste Comprehensive Planning Requirements"; to adopt a new Chapter 101, "Sanitary Disposal Projects"; and to rescind Chapter 106, "Citizen Convenience Centers and Transfer Stations," Chapter 113, "Sanitary Landfills for Municipal Solid Waste: Groundwater Protection Systems for the Disposal of Nonhazardous Wastes," Chapter 114, "Sanitary Landfills: Construction and Demolition Wastes," and Chapter 115, "Sanitary Landfills: Industrial Monofills," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455B.304, 455B.304(12), 455B.304(8) and 455B.306(9).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 455B, Executive Order 10, and 40 CFR Part 258.

Purpose and Summary

Chapters 103, 106, 113, 114, and 115 were reviewed consistent with Executive Order 10 (2023). Proposed Chapter 101 is a consolidation of these six chapters related to sanitary disposal projects. No new programs are being proposed. The chapter will contain the following eight divisions, including one reserved division, with a summary and purpose as follows: Chapters 103, 106, 113, 114, and 115were reviewed consistent with Executive Order 10 (2023). Proposed Chapter 101 is a consolidation of these six chapters related to sanitary disposal projects. No new programs are being proposed. The proposed chapter will contain eight divisions, with summaries and purposes as follows:

Division I—Landfill-Specific Requirements: Provides general landfill-specific requirements for sanitary disposal projects regulated in Divisions II, III, and IV of Chapter 101.

Division II—Municipal Solid Waste Landfills: Implements Iowa Code chapter 455B, subchapter IV (Solid Waste Disposal) and protects human health and the environment through the implementation of minimum national standards pursuant to the Resource Conservation and Recovery Act for municipal solid waste landfills. Notably, these rules have been promulgated in the Federal Register as part of Environmental Protection Agency's approval of Iowa's program.

Division III—Industrial Landfills: Establishes rules for the siting, designing, and operating of sanitary landfills accepting only industrial solid waste or only construction and demolition debris. As part of this rulemaking, the permit period for industrial landfills was extended to five years, up from three years.

Division IV—Coal Combustion Residuals Landfills: Establishes rules for the siting, designing, and operating of a sanitary landfill accepting only coal combustion residuals.

Division V—Solid Waste Transfer Stations: Establishes rules for the collection, temporary storage, and transfer of solid waste prior to final disposition. This includes the siting, designing, and operating of transfer stations. As part of this rulemaking, the permit period for solid waste transfer stations was extended to five years, up from three years.

Division VI—Solid Waste Incinerator Operator Certification: Provides the criteria for establishing the certification of operators of solid waste incinerators to help ensure the safe and proper management for disposal of waste.

Division VII—Infectious Waste Treatment and Disposal: Reserved.

Division VIII—Financial Assurance: Provides criteria for establishing financial assurance for closure, post-closure care, and corrective action at sanitary disposal projects.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 17, 2025. A public hearing was held on the following date(s):

- October 7, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13. Some provisions are minimum standards required by federal law (40 CFR Part 258, Subpart G), and waivers to such provisions shall not be granted unless they are as protective as the applicable minimum federal standard.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 29, 2026. Comments should be directed to:

Mike Sullivan, Supervisor
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: michael.sullivan@dnr.iowa.gov

Free language access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at EO10_solidwaste@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 2 p.m.	Virtual Meeting (via Google Meet or Zoom) A meeting registration link will be provided prior to the hearing
January 29, 2026 2 p.m.	Virtual Meeting (via Google Meet or Zoom) A meeting registration link will be provided prior to the hearing

Persons who wish to attend a public hearing must contact the Department at EO10_solidwaste@dnr.iowa.gov for a link to the hearing. Additionally, persons who wish to make a

public comment may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: If you need assistance in a language other than English, contact the Department at EO10_solidwaste@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.360.1671 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.360.1671 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 567—Chapter 101 and adopt the following **new** chapter in lieu thereof:

CHAPTER 101
SANITARY DISPOSAL PROJECTS

DIVISION I
LANDFILL-SPECIFIC REQUIREMENTS

567—101.1(455B) Purpose, applicability, and compliance. The purpose of this division is to provide sanitary landfill-specific requirements for sanitary disposal projects regulated in Divisions II, III, and IV of this chapter. All sanitary landfills regulated in Divisions II, III, and IV of this chapter must comply with the provisions of this division and with 567—Chapter 100, except as noted below and in those respective divisions.

101.1(1) Municipal solid waste landfills that did not receive waste after October 9, 1994, shall be governed by the closure permit issued or the rules in place at the time for post-closure activities.

101.1(2) All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—101.2(455B) Farm exceptions. This chapter does not apply to farm waste and farm buildings that are disposed of in compliance with the following requirements.

101.2(1) A private agency may dispose of farm waste and farm buildings without first having obtained a sanitary disposal project permit, provided that the disposal is in accordance with 101.1(3), the rules of the department of agriculture and land stewardship, and the following:

a. The farm waste was owned by the private agency and was used on the premises where disposal occurs.

b. Prior to disposal of vehicles, machinery, and equipment, all fluids are drained, including motor oils, motor fuels, lubricating fluids, coolants and solvents, and agricultural chemicals; and all batteries and rubber tires are removed.

c. Prior to disposal of storage or feeding equipment, the equipment is emptied of all contents not otherwise authorized for burial pursuant to these rules.

d. Farm buildings have been emptied of contents not otherwise authorized for burial pursuant to these rules and have been buried on the premises where they were located.

e. All materials drained or removed from farm waste or farm buildings prior to disposal are recycled, reused, or disposed of in accordance with Iowa Code chapter 455B and the rules implementing that chapter.

f. The farm waste and farm buildings are buried in soils listed in tables contained in the county soil surveys and soil interpretation records (published by the U.S. Soil Conservation Service) as being moderately well drained, well drained, somewhat excessively drained, or excessively drained soils. Other soils may be used if artificial drainage is installed to obtain water-level depth more than two feet below the burial depth of the waste.

g. The lowest elevation of the burial pit is six feet or less below the surface.

h. The farm waste and farm buildings are immediately covered with a minimum of 6 inches of soil and finally covered with a total minimum of 24 inches of soil.

101.2(2) A private agency may dispose of dead farm animals without first having obtained a sanitary disposal project, provided that the disposal is in accordance with 101.2(3), the rules of the department of agriculture and land stewardship, and the following:

a. The dead farm animals result from operations located on the premises where disposal occurs.

b. A maximum loading rate is maintained of seven cattle, 44 swine, 73 sheep or lambs, or 400 poultry carcasses on any given acre per year. All other species will be limited to two carcasses per acre. Animals that die within two months of birth may be buried without regard to number.

c. The dead animals are buried in soils as being moderately well drained, well drained, somewhat excessively drained, or excessively drained soils. Other soils may be used if artificial drainage is installed to obtain water-level depth more than two feet below the burial depth of the waste.

d. The lowest elevation of the burial pit is six feet or less below the surface.

e. The dead farm animals are immediately covered with a minimum of 6 inches of soil and finally covered with a total minimum of 30 inches of soil.

101.2(3) Farm waste, farm buildings, and dead farm animals must be disposed of in accordance with the following separation distances:

a. At least 100 feet from any private and 200 feet from any public well that is being used or would be used without major renovation for domestic purposes.

b. At least 50 feet from any adjacent property line.

c. At least 500 feet from an existing neighboring residence.

d. More than 100 feet from any body of surface water such as a stream, lake, pond, or intermittent stream, except as provided in 101.2(3)*"f."*

e. Outside the boundaries of a floodplain, wetland, or shoreline area, except as provided in 101.2(3)*"f."*

f. Trees, brush and grubbed stumps generated as a result of clearing, snagging, or maintenance or repair of drainage ditches or outlets may be buried within 100 feet of a surface water and within a floodplain or shoreline area.

567—101.3(455B) Definitions. For the purposes of this division, the definitions in Iowa Code section 455B.301 and 567—Chapter 100 shall be incorporated by reference.

567—101.4(455B) Permits. In addition to the permit requirements in 567—Chapter 100 and as otherwise required by law, the following permit requirements shall apply to all sanitary landfills.

101.4(1) *Operating permits.* An MSWLF, construction and demolition debris, or industrial landfill operating permit shall be issued and may be renewed for a period no longer than five years. A coal combustion residuals landfill operating permit shall be issued and may be renewed for a period no longer than ten years. If an MSWLF adopts research, development, and demonstration (RD&D) provisions pursuant to 101.104(2), an MSWLF operating permit with RD&D provisions shall be issued and may be renewed for a period no longer than three years.

101.4(2) *Closure permits.* An MSWLF or industrial landfill closure permit shall be issued for a period of 30 years. A coal combustion residuals landfill closure permit shall be issued for a period of ten years. A sanitary landfill requires a closure permit until the department determines that post-closure operations are no longer necessary. A request for a closure permit renewal or termination shall be filed at least 180 days before the expiration of the current permit. If the department finds that a sanitary landfill has completed all required post-closure activities and no longer presents a significant risk to human health or the environment, then the department shall issue written notification that a closure permit is no longer required for the facility. If the department extends the post-closure period, then the duration of the subsequent closure permit will be determined on a site-specific basis.

567—101.5(455B) Applications and construction requirements. Unless otherwise authorized by the department, a permit applicant shall submit on a form prescribed by the department, and shall provide evidence demonstrating how the landfill will comply with the requirements in 567—Chapter 100, the following general requirements, and any requirements specified in the applicable division of this chapter.

101.5(1) *Local siting approval.* Documentation that local siting approval pursuant to Iowa Code section 455B.305A, if applicable, has been obtained.

101.5(2) *Separation from groundwater.* The base of a sanitary landfill unit shall be situated so that the base of the waste within the proposed unit is at least five feet above the high water table unless a greater separation is required to ensure that there will be no significant adverse effect on groundwater or surface waters or a lesser separation is unlikely to have a significant adverse effect on groundwater or surface waters. Artificial means of lowering the high water table are acceptable. The separation of the base of a sanitary landfill unit from the high water table shall be measured and maintained in a manner acceptable to the department.

101.5(3) *Wells.* A sanitary landfill unit shall not be within 1,000 feet of any water well in existence at the time of receipt of the original permit application or application to laterally expand the permitted sanitary landfill unit for the facility. Groundwater monitoring wells are exempt from this requirement. The department may also exempt extraction wells utilized as part of a remediation system from this requirement.

101.5(4) *Floodplains.* New sanitary landfill units or lateral expansions shall not be located in a 100-year floodplain. Existing sanitary landfills located in 100-year floodplains must demonstrate to the department that the unit will not restrict the flow of a 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste so as to pose a hazard to human health and the environment. The owner or operator must place the demonstration in the operating record and submit a copy of the demonstration to the department. For purposes of this subrule, the definitions for floodplain, 100-year flood, and washout are the same as defined in 40 CFR 258.11.

567—101.6(455B) General operating requirements. In addition to the general operating requirements in 567—Chapter 100, the following shall apply to all sanitary landfills unless otherwise noted.

101.6(1) *Controlled access.* Sanitary landfills will control public access and prevent unauthorized vehicular traffic and illegal dumping of wastes by using artificial barriers, natural barriers, or both, as appropriate to protect human health and the environment.

101.6(2) *Scales and weights.* A scale certified by the Iowa department of agriculture and land stewardship shall weigh all solid waste collection vehicles and solid waste transport vehicles. The owner or operator shall maintain a record of the weight of waste disposed.

101.6(3) *All-weather access to disposal.* A disposal area shall be accessible during all weather conditions when the landfill is open.

101.6(4) *Salvaged and processed materials.* Salvaged and processed materials (e.g., scrap metal, compost, mulch, aggregate, tire chips) from a sanitary landfill shall be managed and stored in an orderly manner that does not create a nuisance or encourage the attraction or harborage of vectors.

101.6(5) *Vector control.* Sanitary landfills shall prevent or control the on-site populations of vectors using techniques appropriate for the protection of human health and the environment.

101.6(6) *Litter control.* Sanitary landfills shall take steps to minimize the production of litter and the release of windblown litter off site of the facility. All windblown litter off site of the facility shall be collected daily unless prevented by unsafe working conditions. On-site litter shall be collected daily unless prevented by working conditions. A dated record of unsafe conditions that prevented litter collection activities shall be maintained by the facility.

101.6(7) *Dust control.* Sanitary landfills shall take steps to minimize the production of dust so that unsafe or nuisance conditions are prevented.

101.6(8) *Mud control.* Sanitary landfills shall take steps to minimize the tracking of mud by vehicles exiting the facility so that slick or unsafe conditions are prevented.

101.6(9) *Leachate and wastewater treatment.* The leachate management system shall be managed and maintained pursuant to the requirements of Divisions II, III, and IV of this chapter. Leachate collection pipes shall be cleaned and inspected as necessary but not less than once every three years. Leachate and wastewater shall be treated as necessary to meet the pretreatment limits, if any, imposed by a publicly owned wastewater treatment works (POTW) or by the effluent discharge limits established by a National Pollutant Discharge Elimination System (NPDES) permit. Documentation of the pretreatment permit or pretreatment agreement with the POTW or NPDES permit must be submitted to the department. All leachate and wastewater treatment systems shall conform to the department's wastewater design standards.

101.6(10) *Signage.* Facilities open to the public shall have signs or pavement markings indicating on-site traffic patterns.

101.6(11) *Traffic control.* Adequate queuing distance shall be provided for vehicles entering and exiting the property.

567—101.7(455B) Sanitary landfill operator certification. Sanitary landfill operators shall be trained, tested, and certified by a department-approved certification program.

101.7(1) A sanitary landfill operator shall be on duty during all hours of operation of all sanitary landfills, except coal combustion residuals sanitary landfills, consistent with the respective certification.

101.7(2) To become a certified operator, an individual shall complete a basic operator training course that has been approved by the department or an alternative, equivalent training approved by the department and shall pass a departmental examination as specified by this subrule. An operator certified by another state may have reciprocity subject to prior approval by the department.

101.7(3) A sanitary landfill operator certification is valid until June 30 of the following even-numbered year.

101.7(4) The required basic operator training course for a certified sanitary landfill operator shall have at least 20 contact hours and shall address the following areas at a minimum:

a. Description of types of wastes.
b. Interpreting and using engineering plans.
c. Construction surveying techniques.
d. Waste decomposition processes.
e. Geology and hydrology.
f. Landfill design.
g. Landfill operation.
h. Environmental monitoring.
i. Applicable laws and regulations.
j. Permitting processes.
k. Leachate control and treatment.

101.7(5) Alternate basic operator training must be approved by the department. The applicant shall be responsible for submitting any documentation the department may require to evaluate the equivalency of alternate training.

101.7(6) Fees.

a. The fee for each examination is $20.

b. The initial certification fee is $8 for each one-half year of a two-year period from the date of issuance to June 30 of the next even-numbered year.

c. The certification renewal is $24.

d. The penalty fee is $12.

101.7(7) Examinations.

a. The operator certification examinations shall be based on the basic operator training course curriculum.

b. All individuals wishing to take the examination required to become a certified operator of a sanitary incinerator shall complete an operator certification examination application on a form prescribed by the department. A listing of dates and locations of examinations is available from the department upon request. The application form requires the applicant to indicate the basic operator training course taken. Evidence of training course completion must be submitted with the application for certification. The completed application and the application fee shall be sent to the Iowa Department of Natural Resources, 6200 Park Avenue, Des Moines, Iowa 50321. Application for examination must be received by the department prior to the date of examination.

c. A properly completed application for examination shall be valid for one year from the date the application is approved by the department.

d. Upon failure of the first examination, the applicant may be reexamined at the next scheduled examination. Upon failure of the second examination, the applicant shall be required to wait a period of 180 days between each subsequent examination.

e. Upon each reexamination when a valid application is on file, the applicant shall submit to the department the examination fee at least ten days prior to the date of examination.

f. Failure to successfully complete the examination within one year from the date of approval of the application shall invalidate the application.

g. Completed examinations will be retained by the department for a period of one year, after which they will be destroyed.

h. Oral examinations may be given at the discretion of the department.

101.7(8) Certification.

a. All operators who passed the operator certification examination by July 1, 1991, are exempt from taking the required operator training course. Beginning July 1, 1991, all operators are required to take the basic operator training course and pass the examination in order to become certified.

b. Application for certification must be received by the department within 30 days of the date the applicant receives notification of successful completion of the examination. All applications for certification shall be made on a form prescribed by the department and shall be accompanied by the certification fee.

c. Applications for certification by examination that are received more than 30 days but less than 60 days after notification of successful completion of the examination shall be accompanied by the certification fee and the penalty fee. Applicants who do not apply for certification within 60 days of notice of successful completion of the examination will not be certified on the basis of that examination.

d. For applicants who have been certified under other state mandatory certification programs, the equivalency of which has been previously reviewed and accepted by the department, certification without examination will be approved.

e. For applicants who have been certified under voluntary certification programs in other states, the department shall consider certification by reciprocity if the applicant has successfully completed a basic operator training course and an examination generally equivalent to the Iowa examination. The department may require the applicant to successfully complete the Iowa examination.

f. Applicants who seek Iowa certification pursuant to 101.7(8)*"d"* and *"e"* shall submit an application for examination accompanied by a letter requesting certification pursuant to this subrule. Application for certification pursuant to this subrule shall be received by the department in accordance with 101.7(8)*"b"* and *"c."*

101.7(9) Duration and renewal of certification. All certificates shall expire every two years, on even-numbered years, and must be renewed every two years to maintain certification. Application and fee are due prior to expiration of certification.

a. Late application for renewal of a certificate may be made, provided that such late application shall be received by the department within 30 days of the expiration of the certificate. Such late application shall be on forms prescribed by the department and accompanied by the penalty fee and the certification renewal fee.

b. If a certificate holder fails to apply for renewal within 30 days following expiration of the certificate, the right to renew the certificate automatically terminates. Certification may be allowed at any time following such termination, provided that the applicant successfully completes an examination. The applicant must then apply for certification in accordance with 101.7(8).

c. An operator shall not continue to operate a sanitary landfill after expiration of a certificate without renewal thereof.

d. Continuing education must be earned during the two-year certification period. All certified operators must earn eight contact hours per certificate during each two-year period. The two-year period will begin upon issuance of certification.

e. Only those operators fulfilling the continuing education requirements before the end of each two-year period will be allowed to renew their certificates. The certificates of operators not fulfilling the continuing education requirements shall be void upon expiration unless an extension is granted by the department.

f. All activities for which continuing education credit will be granted must be related to the subject matter of the particular certificate to which the credit is being applied.

g. The department may, in individual cases involving hardship or extenuating circumstances, grant an extension of time of up to three months within which the applicant may fulfill the minimum continuing education requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the certified operator that prevent attendance at the required activities. All requests for extensions must be made 60 days prior to expiration of certification.

h. The certified operator is responsible for notifying the department of the continuing education credits earned during the period. The continuing education credits earned during the period shall be shown on the application for renewal.

i. A certified operator shall be deemed to have complied with the continuing education requirements of this subrule during periods that the operator serves honorably on active duty in the military service, for periods that the operator is a resident of another state or district having a continuing education requirement for operators and meets all the requirements of that state or district for practice there, for periods that the person is a government employee working as an operator and is assigned to duty outside the United States, or for other periods of active practice and absence from the state approved by the department.

101.7(10) Discipline of certified operators.

a. Disciplinary action may be taken on any of the following grounds:

(1) Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator. Duties of certified operators include compliance with rules and permit conditions applicable to sanitary landfill operation.

(2) Failure to submit required records of operation or other reports required under applicable permits or rules of the department, including failure to submit complete records or reports.

(3) Knowingly making any false statement, representation, or certification on any application, record, report or document required to be maintained or submitted under any applicable permit or rule of the department.

b. Disciplinary sanctions allowable are:

(1) Revocation of a certificate.

(2) Probation under specified conditions relevant to the specific grounds for disciplinary action. Additional education or training or reexamination may be required as a condition of probation.

c. The procedure for discipline is as follows:

(1) The department shall initiate disciplinary action. The commission may direct that the department investigate any alleged factual situation that may be grounds for disciplinary action under 101.7(10)*"a"* and report the results of the investigation to the commission.

(2) A disciplinary action may be prosecuted by the department.

(3) Written notice shall be given to an operator against whom disciplinary action is being considered. The notice shall state the informal and formal procedures available for determining the matter. The operator shall be given 20 days to present any relevant facts and indicate the operator's position in the matter and to indicate whether informal resolution of the matter may be reached.

(4) An operator who receives notice shall communicate verbally, in writing, or in person with the department, and efforts shall be made to clarify the respective positions of the operator and department.

(5) The applicant's failure to communicate facts and positions relevant to the matter by the required date may be considered when determining appropriate disciplinary action.

(6) If agreement as to appropriate disciplinary sanction, if any, can be reached with the operator and the commission concurs, a written stipulation and settlement between the department and the operator shall be entered into. The stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the operator, and the reasons for the particular sanctions imposed.

(7) If an agreement as to appropriate disciplinary action, if any, cannot be reached, the department may initiate formal hearing procedures. Notice and formal hearing shall be in accordance with 567—Chapter 7 related to contested and certain other cases pertaining to license discipline.

101.7(11) Upon revocation of a certificate, application for certification may be allowed after two years from the date of revocation. Any such applicant must successfully complete an examination and be certified in the same manner as a new applicant.

101.7(12) Temporary certification. A temporary operator of a sanitary landfill may be designated for a period of six months when an existing certified operator is no longer available to the facility. The facility must make application to the department, explain why a temporary certification is needed, identify the temporary operator, and identify the efforts that will be made to obtain a certified operator. A temporary operator designation shall not be approved for greater than a six-month period, except for extenuating circumstances. In any event, not more than one six-month extension to the temporary operator designation may be granted. Approval of a temporary operator designation may be rescinded for cause as set forth in 101.7(10). All sanitary landfills, with the exception of coal combustion residuals landfills, shall have at least one sanitary landfill operator trained, tested, and certified by a department-approved program.

567—101.8(455B) Groundwater monitoring and reporting.

101.8(1) The planning, monitoring, and reporting for groundwater monitoring at a sanitary landfill shall be performed by a qualified groundwater scientist.

101.8(2) Monitoring wells must be constructed and cased by a well contractor certified pursuant to 567—Chapter 82 in a manner that maintains the integrity of the monitoring well borehole. This casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of groundwater samples. The annular space (i.e., the space between the borehole and well casing) above the sampling depth must be sealed to prevent contamination of samples and the groundwater. Monitoring wells constructed in accordance with the rules in effect at the time of construction shall not be required to be abandoned and reconstructed as a result of subsequent amendments to these rules unless the department finds that the well is no longer providing representative groundwater samples. Figure 1 contains a general diagram of a properly constructed monitoring well.

a. The owner or operator must notify the department that the design, installation, development, and decommission of any monitoring wells; piezometers; and other measurement, sampling, and analytical devices documentation has been placed in the operating record.

b. The monitoring wells; piezometers; and other measurement, sampling, and analytical devices must be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

c. Each groundwater monitoring point must have a unique and permanent number, and that number must never change or be used again at the sanitary landfill. The types of groundwater monitoring points shall be identified as follows:

(1) Monitoring wells by "MW# (insert unique and permanent number)".

(2) Piezometers by "PZ# (insert unique and permanent number)".

(3) Groundwater underdrain systems by "GU# (insert unique and permanent number)".

d. Monitoring well construction shall comply with the following requirements:

(1) In all phases of drilling, well installation, and completion, the methods and materials used shall not introduce substances or contaminants that may alter the results of water quality analyses.

(2) Drilling equipment that comes into contact with contaminants in the borehole or aboveground shall be thoroughly cleaned to avoid spreading contamination to other depths or locations. Contaminated materials or leachate from wells must not be discharged onto the ground surface or into waters of the state so as to cause harm in the process of drilling or well development.

(3) The owner or operator must ensure that, at a minimum, the well design and construction log information is maintained in the facility's permanent record on a form prescribed by the department and that a copy is sent to the department.

e. Monitoring well casings shall comply with the following requirements:

(1) The diameter of the inner well casing (e.g., Figure 1) of a monitoring well shall be at least two inches.

(2) Plastic-cased wells shall be constructed of materials with threaded and non-glued joints that do not allow water infiltration under the local subsurface pressure conditions and when the well is evacuated for sampling.

(3) Well casing shall provide sufficient structural stability so that a borehole or well collapse does not occur. Flush joint casing is required for small diameter wells installed through hollow stem augers.

f. Monitoring well screens shall comply with the following requirements:

(1) Slot size shall be based on sieve analysis of the sand and gravel stratum or filter pack. The slot size must keep out at least 90 percent of the filter pack.

(2) Slot configuration and open area must permit effective development of the well.

(3) The screen shall be no longer than ten feet in length, except for water table wells, in which case the screen shall be of sufficient length to accommodate normal seasonal fluctuations of the water table. The screen shall be placed five feet above and below the observed water table unless local conditions are known to produce greater fluctuations. Screen length for piezometers shall be two feet or less. Multiple-screened, single-cased wells are prohibited.

g. Monitoring well filter packs shall comply with the following requirements:

(1) The filter pack shall extend at least 18 inches above and 12 inches below the well screen.

(2) The size of the filter pack material shall be based on sieve analysis when sand and gravel are screened. The filter pack material must be 2.5 to 3 times larger than the 50 percent grain size of the zone being monitored.

(3) In stratum that is neither sand nor gravel, the size of the filter pack material shall be selected based on the particle size of the zone being monitored.

h. Monitoring well annular space shall comply with the following requirements:

(1) Grouting materials must be installed from the top of the filter pack up in one continuous operation with a tremie tube.

(2) The annular space between the filter pack and the frostline must be backfilled with bentonite grout.

(3) The remaining annular space between the protective casing and the monitoring well casing must be sealed with bentonite grout from the frostline to the ground surface.

i. Monitoring well heads shall be protected as follows:

(1) Monitoring wells shall have a protective metal casing installed around the upper portion of the monitoring well casing as follows:

1. The inside diameter of the protective metal casing shall be at least 2 inches larger than the outer diameter of the monitoring well casing.

2. The protective metal casing shall extend from a minimum of 1 foot below the frostline to slightly above the well casing top; however, the protective casing shall be shortened if such a depth would cover a portion of the well screen.

3. The protective casing shall be sealed and immobilized with a concrete plug around the outside. The bottom of the concrete plug must extend at least 1 foot below the frostline; however, the concrete plug shall be shortened if such a depth would cover a portion of the well screen. The top of the concrete plug shall extend at least three inches above the ground surface and slope away from the well. Soil may be placed above the plug and shall be at least 6 inches below the cap to improve runoff.

4. The inside of the protective casing shall be sealed with bentonite grout from the frostline to the ground surface.

5. A vented cap shall be placed on the monitoring well casing.

6. A vented, locking cap shall be placed on the protective metal casing. The cap must be kept locked when the well is not being sampled.

(2) All monitoring wells shall have a ring of brightly colored protective posts or other protective barriers to help prevent accidental damage.

(3) All monitoring wells shall have a sign or permanent marking clearly identifying the permanent monitoring well number (MW#).

(4) Run-on shall be directed away from all monitoring wells.

j. Well development is required prior to the use of the monitoring well for water quality monitoring purposes. Well development must loosen and remove fines from the well screen and gravel pack. Any water utilized to stimulate well development must be of sufficient quality that future samples are not contaminated. Any gases utilized in well development must be inert gases that will not contaminate future samples. Following development, the well shall be pumped until the water does not contain significant amounts of suspended solids.

101.8(3) Groundwater monitoring points that are no longer functional must be sealed. Groundwater monitoring points that are to be sealed and are in a future waste disposal area shall be reviewed to determine if the method utilized to seal the monitoring point needs to be more protective than the following requirements. All abandoned groundwater-monitoring points (e.g., boreholes, monitoring wells, and piezometers) shall be sealed by a well contractor certified pursuant to 567—Chapter 82 and in accordance with the following requirements.

a. The following information shall be placed in the operating record on a form prescribed by the department and a copy sent to the department:

(1) The unique, permanent monitoring point number.

(2) The reasons for abandoning the monitoring point.

(3) The date and time the monitoring point was sealed.

(4) The method utilized to remove monitoring point materials.

(5) The method utilized to seal the monitoring point.

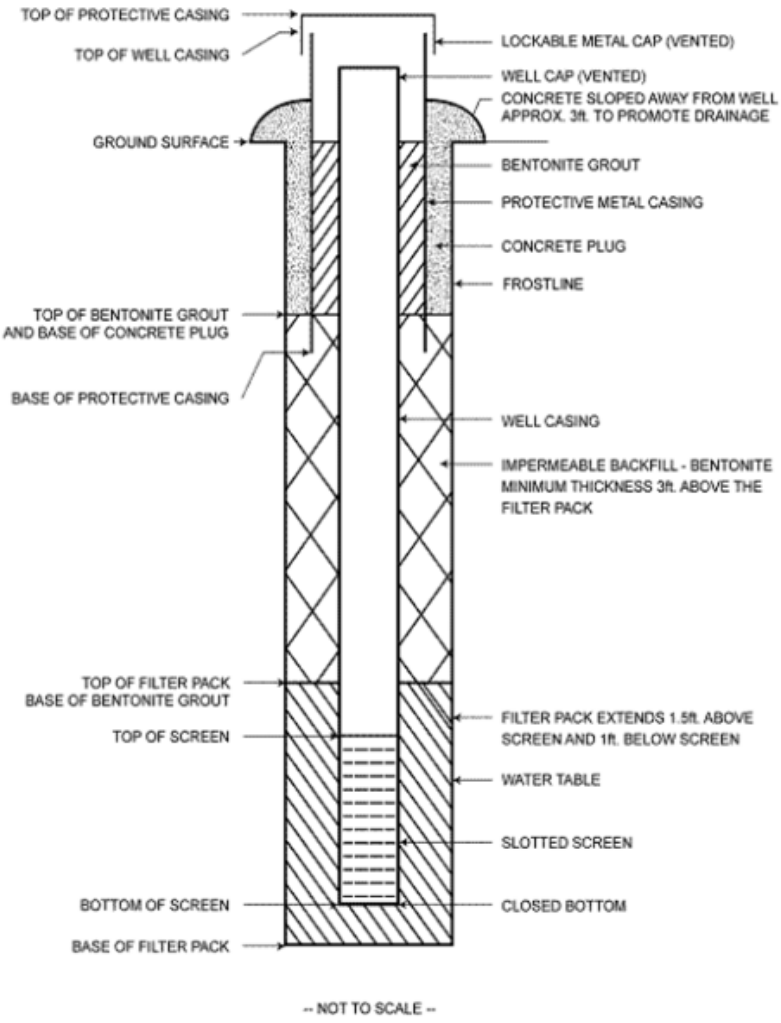
b. The monitoring point materials (e.g., protective casing, casing, screen) shall be removed. If drilling is utilized to remove the materials, then the drilling shall be to the maximum depth of the previously drilled monitoring point. All drilling debris shall be cleaned from the interior of the borehole.

c. The cleared borehole shall be sealed with impermeable bentonite grout via a tremie tube. The end of the tremie tube shall be submerged in the grout while filling from the bottom of the borehole to the top of the ground surface. Uncontaminated water shall be added from the surface as needed to aid grout expansion.

d. After 24 hours, the bentonite grout shall be retopped if it has settled below the ground surface.

101.8(4) Groundwater samples shall not be field-filtered prior to laboratory analysis.

Figure 1 – Typical Monitoring Well Cross-Section



567—101.9(455B) Contingency planning. In addition to the emergency response and remedial action plan (ERRAP) requirements in 567—Chapter 100, all sanitary landfills shall include a contingency plan in their ERRAP detailing specific procedures to be followed in case of equipment breakdown, maintenance downtime, or fire in equipment or vehicles, including methods to be used to remove or dispose of accumulated waste.

567—101.10(455B) Disruption and excavation of sanitary landfills or closed dumps. No person shall excavate, disrupt, or remove any deposited material from any active or discontinued sanitary landfill or closed dump without first having notified the department in writing.

101.10(1) Notification shall include an operational plan stating the area involved, lines and grades defining limits of excavation, estimated number of cubic yards of material to be excavated, sanitary disposal project where material is to be disposed, and estimated time required for excavation procedures.

101.10(2) An excavation shall be confined to an area consistent with the number of pieces of digging equipment and trucks used for haulage.

101.10(3) The disposal of all solid waste resulting from excavation shall be in conformity with Iowa Code chapter 455B and applicable solid or hazardous waste regulations.

567—101.11(455B) Transfer of title. If title of a closed sanitary disposal project is transferred, any future waste exhumation activities, excluding repairs or maintenance activities, are considered to be

operation of the landfill due to the similar environmental effects possible from the two activities due to waste exposure.

These rules are intended to implement Iowa Code section 455B.304 and chapter 455D.

567—101.12 to **101.100** Reserved.

DIVISION II
MUNICIPAL SOLID WASTE LANDFILLS

567—101.101(455B) Purpose. The purpose of this division is to implement Iowa Code chapter 455B, subchapter IV (solid waste disposal), and to protect human health and the environment through the implementation of minimum national standards pursuant to the Resource Conservation and Recovery Act ("RCRA" or "the Act") for all municipal solid waste landfill (MSWLF) units and under the Clean Water Act for MSWLFs that are used to dispose of sewage sludge.

This division details the permitting, siting, design, operating, monitoring, corrective action, reporting, recordkeeping, closure, and post-closure requirements for sanitary landfills accepting municipal solid waste.

567—101.102(455B) Applicability and compliance.

101.102(1) This division shall apply to sanitary landfills that are constructed and operated exclusively for the final deposition of municipal solid waste.

101.102(2) Pursuant to Iowa Code section 455B.305(1), an MSWLF shall not be constructed or operated without first obtaining a permit from the department pursuant to this division, the requirements set forth in 567—Chapter 100, and Division I of this chapter.

101.102(3) The issuance of a permit to an MSWLF pursuant to this chapter in no way relieves the applicant of the responsibility of complying with all other local, state, or federal statutes; ordinances; and rules or other requirements applicable to the construction and operation of an MSWLF.

101.102(4) Sanitary landfills accepting municipal solid waste must comply with the provisions of this division.

101.102(5) These rules do not pertain to the management and disposal of special wastes. Division VI of this chapter contains rules pertaining to the management and disposal of special wastes.

101.102(6) These rules do not apply to MSWLF units that did not receive waste after October 9, 1994. The closure permit issued or the rules in effect at the time of closure shall govern post-closure activities for such MSWLF units.

101.102(7) This division does not apply to MSWLF units that ceased receiving waste before October 1, 2007, and are not contiguous with MSWLF units that continued to accept waste after October 1, 2007. For the purpose of this subrule, contiguous MSWLF units are those that adjoin, abut, or have a common boundary or edge with one another or that utilize the same groundwater monitoring network system. The permit issued and the rules in effect at the time waste acceptance ceased shall govern post-permit activities for such MSWLF units, except as follows:

a. Financial assurance in accordance with 567—101.114(455B) shall be required.

b. Surface water sampling in accordance with 101.110(3) shall be required.

c. MSWLF units shall perform groundwater sampling for the following parameters:

(1) Routine semiannual water sampling parameters:

1. Chloride.
2. Specific conductance (field measurement).
3. pH (field measurement).
4. Ammonia nitrogen.
5. Iron, dissolved.
6. Chemical oxygen demand.
7. Any additional parameters deemed necessary by the department.

(2) Routine annual water sampling parameters:

1. Total organic halogen.
2. Phenols.
3. Any additional parameters deemed necessary by the department.

d. If the analytical results for a downgradient groundwater monitoring point do not fall within the control limits of two standard deviations above (or below, for pH) the mean parameters, listed in 101.102(7)*"d"*(1) and *"d"*(2), in a corresponding upgradient groundwater monitoring point and it cannot be demonstrated that a source other than an MSWLF unit caused the control limit exceedance, then the owner or operator shall comply with the groundwater assessment monitoring program requirements in 101.110(6) and corrective action requirements in 101.110(7), 101.110(8), and 101.110(9), if necessary.

101.102(8) Compliance with amendments to these rules.

a. Owners or operators of existing MSWLF units that have an approved leachate collection system and a composite liner, or a leachate collection system and an alternative liner modeled at an approved point of compliance, shall not be required to redesign or reconstruct the MSWLF units due to amendments to these rules subsequent to such approval unless the department finds that such units are causing pollution or that continued use of such units will result in a vertical expansion on top of or against the side slopes of a previously filled noncompliant MSWLF unit. Prior to waste placement in the vertical expansion area, revised design plans shall be submitted to include construction of a separatory liner and leachate collection system that comply with all the requirements of 101.107(5) to be placed between the area of vertical expansion and the underlying noncompliant MSWLF unit.

b. Except as authorized by 101.102(8)*"a,"* if any new regulation conflicts with a provision of or an operating procedure prescribed in the engineering plans or the MSWLF permit, the facility shall conform to the new regulation.

101.102(9) Equivalency review procedure.

a. In approving a permit application under this division, the department may authorize, in writing, alternatives to the design requirements in this division only if, and only to the extent that, specific rules in this division expressly state that alternatives may be authorized under this division.

b. An owner or operator requesting an alternative design under this division shall submit a request to the department prepared by an Iowa-licensed professional engineer. The request shall:

(1) Identify the specific rule for which an equivalency alternative is being sought.

(2) Demonstrate through supporting technical documentation, justification and quality control procedures that the requested alternative to the design requirements in the rules of this division will, for the life of operations at the facility, achieve the performance standards in that rule.

c. No equivalency alternative will be approved unless the application affirmatively demonstrates that the following conditions are met:

(1) The request is complete and accurate and the requirements of this subrule have been met.

(2) The proposed alternative will provide protection equivalent to the design requirements in this division for the air, water, or other natural resources of the state of Iowa and will not harm or endanger the public health, safety, or welfare.

101.102(10) All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—101.103(455B) Definitions. The definitions in Iowa Code section 455B.301 and 567—Chapter 100 shall apply to this division.

567—101.104(455B) Permits.

101.104(1) *Applicability.* For purposes of this division, the permit requirements in 567—Chapter 100; Division I of this chapter, and this rule apply.

101.104(2) *Research, development, and demonstration (RD&D) permits.* The director or the director's designee may issue an RD&D permit that overrides the applicable portions of this division

pursuant to 40 CFR 258.4 without issuing a waiver pursuant to 561—Chapter 10. A permit amendment from the department for leachate recirculation only does not require an RD&D permit.

101.104(3) *Notice and public participation in the MSWLF permit issuance and post-permit actions.*

a. For the purposes of this subrule, "post-permit actions" includes permit renewals and requests for the following facility modifications:

(1) Change in an MSWLF facility boundary or an MSWLF unit.

(2) Application for an RD&D permit pursuant to 101.104(2).

(3) Installation of a landfill gas collection system.

(4) Application for a closure permit for an MSWLF unit.

(5) Transfer of an MSWLF permit to a new owner.

(6) Waiver from this division under 567—101.115(455B).

(7) Change in the post-permit land use of the property.

(8) Other significant permit actions that are determined by the department to require public notice and participation. Such actions may include requests to change any of the requirements set forth as special provisions in the permit.

b. Prior to the issuance of approval or denial for an MSWLF permit or post-permit action, public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the permit or post-permit action request. Procedures for the circulation of public notice shall include at least the following:

(1) Upon receipt of the permit application or post-permit action request, the department shall determine whether public notice is required in accordance with this subrule. If public notice is required, then the department shall prepare the public notice that shall be circulated by the owner or operator within the service area of the MSWLF by posting the public notice near the entrance to the MSWLF; and by publishing the public notice in periodicals or, if appropriate, in a newspaper(s) of general circulation.

(2) The public notice shall be posted on the department's webpage.

c. The department shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views with respect to the MWSLF permit application or post-permit action request. All written comments submitted during the 30-day comment period shall be retained by the department and considered by the department in the formulation of the department's final determinations. The period for comment may be extended at the sole discretion of the department.

d. The contents of the public notice shall include at least the following:

(1) The name, address, and telephone number of the department.

(2) The name and address of each applicant.

(3) A brief description of each applicant's activities or operations that result in the submittal of the permit application or post-permit action request.

(4) A statement that any person may submit written and signed comments or may request a public hearing, or both, on the proposed permit or post-permit action request. A statement of procedures to request a public hearing pursuant to 101.104(3)*"e"* shall be included.

(5) Locations where copies of the permit application or post-permit action request may be reviewed and the times at which the copies shall be available for public inspection.

e. The applicant or any interested agency, person, or group of persons may request or petition for a public hearing with respect to an MSWLF permit application or post-permit action request. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the department within the 30-day period prescribed in 101.104(3)*"c"* and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The department shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the department. Instances of doubt should be resolved in favor of holding the hearing. Any hearing requested pursuant to this subrule shall be held in the service area of the MSWLF or other appropriate area at the sole discretion of the department.

f. If the department determines that a public hearing is warranted, then the department shall prepare the public notice of the hearing. Public notice of any hearing held shall be circulated at least as widely as was the notice of the permit application or post-permit action request.

g. The contents of public notice of any hearing held pursuant to 101.104(3)*"e"* shall include at least the following:

(1) The name, address, and telephone number of the department;

(2) The name and address of each applicant whose application will be considered at the hearing;

(3) A brief reference to the public notice issued for each permit application and post-permit action request;

(4) Information regarding the time and location for the hearing;

(5) The purpose of the hearing;

(6) A concise statement of the issues raised by the person requesting the hearing;

(7) Locations where copies of the permit application or post-permit action may be reviewed, including the closest department field office, and the times at which the copies shall be available for public inspection; and

(8) A brief description of the nature of the hearing, including the rules and procedures to be followed.

h. The department shall keep a record of the commenters and of the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final decision is made, the record and copies of the department's responses shall be made available to the public.

567—101.105(455B) Permit applications. Unless otherwise authorized by the department, a permit applicant shall submit on a form prescribed by the department compliance with the requirements in 567—Chapter 100 and Division I of this chapter and the following information:

1. A site exploration and characterization report for the facility that complies with the requirements of 101.106(3).

2. Plans and specifications for the facility, and quality control and assurance (QC&A) plans, that comply with the requirements of 101.107(4).

3. A development and operations (DOPs) plan for the facility.

4. An environmental monitoring plan that complies with the requirements of 567—101.109(455B) and 567—101.110(455B).

5. The project goals and timelines and other documentation as necessary to comply with 101.104(2) and other requirements of the department if an RD&D permit is being requested or renewed.

6. A closure and post-closure plan that complies with the requirements of 567—101.112(455B) and 567—101.113(455B).

567—101.106(455B) Siting and location requirements. This rule applies to new MSWLF units and horizontal expansions of existing MSWLF units. Except for 101.106(2), this rule does not apply to permitted MSWLF units that have been approved prior to October 1, 2007. Information required to document compliance with 567—101.106(455B) shall be consolidated and maintained in a site exploration and characterization report pursuant to 101.106(3).

101.106(1) *Location restrictions.* MSWLFs shall comply with the following location restrictions.

a. Airports.

(1) No new MSWLF shall be constructed or established within six miles of a smaller public airport unless approved or authorized by the Federal Aviation Administration (FAA).

(2) Owners or operators of new MSWLF units, existing MSWLF units, and lateral expansions that are located within 10,000 feet (3,048 meters) of any airport runway end used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport runway end used by piston-type aircraft only must demonstrate to the FAA and obtain its approval that the units are designed and operated so that the MSWLF unit does not pose a bird hazard to aircraft. The owner or operator must place the

demonstration of this requirement in the operating record and submit to the department a copy of the demonstration approved by the FAA.

(3) Owners or operators proposing to site new MSWLF units or lateral expansions within a five-mile radius of any airport runway end used by turbojet or piston-type aircraft must notify the affected airport and the FAA. A copy of these notifications shall be submitted to the department.

b. Wetlands. New MSWLF units and lateral expansions shall not be located in wetlands unless the owner or operator can make the demonstrations in 40 CFR 258.12 to the department.

c. Fault areas. New MSWLF units or lateral expansions shall not be located within 200 feet (60 meters) of a fault that has had displacement in Holocene time unless the owner or operator demonstrates to the department that an alternative setback distance of less than 200 feet (60 meters) will prevent damage to the structural integrity of the MSWLF unit and will be protective of human health and the environment.

d. Seismic impact zones. New MSWLF units and lateral expansions shall not be located in seismic impact zones unless the owner or operator demonstrates to the department that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site. The owner or operator must place the demonstration in the operating record and submit a copy of the demonstration to the department.

e. Unstable areas. Owners or operators of new MSWLF units, existing MSWLF units, or lateral expansions located in an unstable area must demonstrate to the department that engineering measures have been incorporated into the MSWLF unit's design to ensure that the integrity of the structural components of the MSWLF unit will not be disrupted. The owner or operator must place the demonstration in the operating record and submit a copy of the demonstration to the department. The owner or operator must consider the following factors, at a minimum, when determining whether an area is unstable:

(1) On-site or local soil conditions that may result in significant differential settling;

(2) On-site or local geologic or geomorphologic features; and

(3) On-site or local human-made features or human-induced events (both surface and subsurface).

f. Property line setback. An MSWLF unit shall be at least 50 feet from an adjacent property line.

g. Housing and sensitive populations. An MSWLF unit shall not be within 500 feet of an occupied residence, recreational area, child care facility, educational facility, or health care facility in existence at the time of receipt of the original permit application or application to laterally expand the permitted MSWLF unit unless there is a written agreement between the MSWLF owner and such facility. The written agreement shall be filed with the county recorder for abstract of title purposes and a copy submitted to the department.

101.106(2) *Soil and hydrogeologic investigations.* An MSWLF shall have a qualified groundwater scientist, as defined in 567—101.3(455B), conduct a soil and hydrogeologic investigation in accordance with this subrule. The purpose of this investigation is to obtain data to determine potential routes of contaminant migration via groundwater. Such information is vital for completion of the site exploration and characterization report and the hydrologic monitoring system plan and design. This subrule sets forth the minimum requirements for soil and hydrogeologic investigations. An MSWLF shall comply with this subrule unless the department issues written approval due to specific site conditions.

a. Number of borings. A sufficient number of borings shall be made to accurately identify the stratigraphic and hydrogeologic conditions at the site.

b. Depth of borings. Unless otherwise approved by the department in writing, the following requirements shall apply to the depth of borings:

(1) All borings shall be a minimum of 25 feet deep and at least 10 feet below the water table.

(2) At a minimum, half of all borings shall extend 20 feet into the uppermost aquifer, 50 feet below the water table, or 10 feet into bedrock.

(3) At a minimum, one boring shall extend 10 feet into bedrock or 100 feet below the lowest ground surface elevation.

(4) All borings shall be of sufficient depth to correlate strata between borings.

c. Boring method and soil samples.

(1) Continuous samples shall be collected for all borings unless otherwise approved by the department in writing.

(2) Boring logs shall be as detailed as possible in describing each stratum.

(3) Samples shall be clearly marked, preserved, and transported in accordance with laboratory procedures.

(4) The permit applicant shall keep and preserve samples until at least 30 days after the permit is issued.

(5) Soil samples from each stratum shall be tested for falling-head hydraulic conductivity and grain size distribution.

d. Conversion of or plugging borings.

(1) Borings may be converted to piezometers or monitoring wells. However, the conversion of such borings does not guarantee that more piezometers or monitoring wells will not be required in the department-approved hydrologic monitoring system plan and design.

(2) Borings not converted to piezometers or monitoring wells shall be plugged and properly sealed so as not to create pathways for subsurface or surface pollution migration. Borings converted to piezometers or monitoring wells may still need to be partially plugged depending on the depth of the boring. Plugging shall be performed pursuant to 101.110(2).

e. Soil and hydrogeologic investigation description and analysis. A soil and hydrogeologic investigation description and analysis shall be completed and maintained and, at a minimum, shall contain the following:

(1) The boring logs pursuant to 101.106(3)*"c"*(2).

(2) A description of the properties of each soil and bedrock stratum as appropriate, including:

1. Soil texture and classification.
2. Particle size distribution.
3. Mineral composition, cementation, and soil structure.
4. Permeability, including horizontal and vertical permeability, and porosity.
5. Geologic structure, including strike, dip, folding, faulting, and jointing.
6. Previous activities and infrastructure at the site that could affect geology and hydrogeology, such as but not limited to mining, quarry operations, borrow pits, waste disposal, storage tanks, pipelines, utilities, and tile lines.
7. Lenses and other discontinuous units, voids, solution openings, layering, fractures, other heterogeneity, and the scale or frequency of the heterogeneity.
8. Correlation and continuity of strata between borings.

(3) Descriptions of the hydrogeologic units within the saturated zone, including:

1. Thickness.
2. Hydraulic properties, including as appropriate conductivity, transmissivity, storativity, and effective porosity.
3. Concentrations of chemical constituents listed in 40 CFR Part 258, Appendix I, present in the groundwater of hydrogeologic units and the source of those constituents, if known.
4. Role and effect of each hydrogeologic unit as an aquifer, aquitard, or perched saturated zone.
5. The actual or potential use of the aquifers as water supplies.

(4) Plan view maps, and a series of cross sections with two oriented perpendicular and two oriented parallel to the predominant directions of groundwater flow through the MSWLF unit, showing:

1. The extent of soil and bedrock strata.
2. The position of the water table.
3. The position of the uppermost aquifer.
4. Measured values of hydraulic head.
5. Equipotential lines and inferred groundwater streamlines of the water table, and the uppermost aquifer if different from the water table.
6. Location of soil and bedrock borings.
7. Location of piezometers and monitoring points, if any.

(5) A description and evaluation of horizontal and vertical groundwater flow that specifically addresses the following and their significance to the movement of pollutants carried by groundwater:

1. Local, intermediate, and regional groundwater systems.
2. Groundwater recharge and discharge areas within and immediately surrounding the facility, including interactions with perennial and intermittent surface waters and how the facility affects recharge rates.
3. Existing and proposed groundwater and surface water withdrawals.
4. The effects of heterogeneity, fractures, or directional differences in permeability on groundwater movement.
5. Directions of groundwater movement, including vertical components of flow, specific discharge rates, and average linear velocities within the hydrologic strata.
6. Seasonal or other temporal fluctuations in hydraulic head.
7. The effect of existing and proposed MSWLF units.

(6) An analysis of potential impacts on groundwater and surface water quality, and water users, in the event of a theoretical release at the most downgradient portion of each MSWLF unit. The analysis shall at a minimum utilize contaminants and indicator parameters with high mobility in groundwater. This analysis shall include:

1. Assumptions and approximations utilized and why they were utilized.
2. If a model is utilized, a thorough description of models used and each model's capabilities and limitations, including the reliability and accuracy of the models in actual field tests.
3. Projected paths and rates of movement of contaminants found in leachate.

(7) Recommendations for the location of the proposed MSWLF unit and conceptual design based on hydrogeologic information.

101.106(3) *Site exploration and characterization report.* An MSWLF shall develop and submit to the department for review a site exploration and characterization report. At a minimum, the site exploration and characterization report shall detail compliance with the requirements of this rule and contain the following components:

a. A title page and index.

b. A legal description of the site.

c. Proof of the applicant's ownership of the site and legal entitlement to use the site as an MSWLF. If the applicant does not own the site, then proof of legal entitlement to the site must be submitted. Such legal entitlement must include the following:

(1) Provisions that allow continued disposal operations until closure of the facility.

(2) Provisions for the performance of facility closure operations.

(3) Provisions for post-closure care for at least a 30-year period after facility closure.

d. Proof of the applicant's local siting approval pursuant to Iowa Code section 455B.305A, if applicable.

e. Scaled maps or aerial photographs locating the boundaries of the facility and identifying:

(1) North and other principal compass points.

(2) Section lines and other legal boundaries.

(3) Zoning and land use within one-half mile.

(4) Haul routes to and from the facility, including load limits or other restrictions on those routes.

(5) Topography within one-half mile.

(6) Applicable setback distances and location requirements pursuant to this rule, including:

1. Airports within six miles of existing, new, and planned MSWLF units.
2. Floodplains within or adjacent to the facility.
3. Wetlands within or adjacent to the facility.
4. Fault areas within 200 feet of existing, new, and planned MSWLF units.
5. Seismic impact zones within or adjacent to the facility.
6. Unstable areas within or adjacent to the facility.
7. Water wells within 1,000 feet of upgradient existing, new, and planned MSWLF units.
8. Public water wells within one mile of upgradient existing, new, and planned MSWLF units.

9. Boundaries of the existing, new, and planned MSWLF units and the facility property line.

10. Housing and sensitive populations within 500 feet of existing, new, and planned MSWLF units.

f. The bird-aircraft hazard demonstration pursuant to 101.106(2)*"a,"* if applicable.

g. The floodplain demonstration pursuant to 101.106(2)*"b,"* if applicable.

h. The wetlands demonstration pursuant to 101.106(2)*"c,"* if applicable.

i. The fault area demonstration pursuant to 101.106(2)*"d,"* if applicable.

j. The seismic impact zone demonstration pursuant to 101.106(2)*"e,"* if applicable.

k. The unstable area demonstration pursuant to 101.106(2)*"f,"* if applicable.

l. Copies of written agreements with surrounding property owners pursuant to 101.106(2)*"l,"* if applicable.

m. The soil and hydrogeologic investigation description and analysis pursuant to 101.106(3)*"e."*

567—101.107(455B) MSWLF unit design and construction standards. MSWLF units shall be designed and constructed in accordance with this rule.

101.107(1) *Plans and specifications.*

a. Unless otherwise requested by the department, one copy of plans, specifications, and supporting documents shall be provided to the department for review.

b. New MSWLF units shall be constructed in compliance with the rules and regulations in effect at the time of construction. Previous department approval of plans and specifications for MSWLF units not yet constructed shall be superseded by the promulgation of new rules and regulations, after which plans and specifications shall be resubmitted to the department for approval prior to construction and operation.

101.107(2) *MSWLF unit subgrade.* The subgrade for a new MSWLF unit shall be constructed as follows:

a. All trees, stumps, roots, boulders, debris, and other material capable of deteriorating in situ material strength or of creating a preferential pathway for contaminants shall be completely removed or sealed off prior to construction of the MSWLF unit.

b. The material beneath the MSWLF unit shall have sufficient strength to support the weight of the unit during all phases of construction and operation. The loads and loading rate shall not cause or contribute to failure of the liner and leachate collection system.

c. The total settlement or swell of the MSWLF unit's subgrade shall not cause or contribute to failure of the liner and leachate collection system.

d. If the in situ material of the MSWLF unit's subgrade cannot meet the requirements of 101.107(4)*"b"* and *"c,"* then such material shall be removed and replaced with material capable of compliance.

e. The subgrade of an MSWLF unit shall be constructed and graded to provide a smooth working surface on which to construct the liner.

f. The subgrade of an MSWLF unit shall not be constructed in or with frozen soil.

101.107(3) *MSWLF unit liners and leachate collection systems.* The liner and leachate collection system for a new MSWLF unit shall be constructed in accordance with the requirements of this subrule. All active portions must have a composite liner or an alternative liner approved by the department. An MSWLF unit must have a functioning leachate collection system during its active life.

a. Liner systems. An MSWLF unit shall have a liner system that complies with either the composite liner requirements of 101.107(5)*"a"*(1) or an alternative liner system that complies with the requirements of 101.107(5)*"a"*(2). Liners utilizing compacted soil must place the compacted soil in lifts no thicker than eight inches after compaction.

(1) Composite liner systems.

1. A composite liner consists of two components, an upper flexible membrane liner and a lower compacted soil liner.

2. The upper component must consist of a minimum 30 mil flexible membrane liner. Flexible membrane liner components consisting of high-density polyethylene (HDPE) shall be at least 60 mil

thick. The flexible membrane liner component must be installed in direct and uniform contact with the lower compacted soil component.

3. The lower component must consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} centimeters per second (cm/sec). The compacted soil must be placed in lifts no thicker than eight inches after compaction.

4. The composite liner must be adequately sloped toward the leachate collection pipes to provide drainage of leachate. Unless alternative design requirements to this performance standard are approved as part of the permit under 101.102(11) (relating to equivalency review procedure), the leachate collection system shall have a slope greater than or equal to 2 percent and not exceeding 33 percent.

(2) Alternative liner systems.

1. The design must ensure that the concentration values listed in Table I of 567—101.107(455B) will not be exceeded in the uppermost aquifer at the relevant point of compliance, as specified pursuant to 101.107(5)*"a"*(2)"2." Alternative liners utilizing compacted soil must place the compacted soil in lifts no thicker than eight inches.

2. The relevant point of compliance specified by the department must be within 50 feet of the planned liner or waste boundary, unless site conditions dictate otherwise, downgradient of the facility with respect to the hydrologic unit being monitored in accordance with 101.110(2)*"a"*(2), and located on land owned by the owner of the MSWLF unit. The relevant point of compliance specified by the department shall be at least 50 feet from the property line of the facility.

3. When approving an alternative liner design, the department shall consider at least the following factors:

- The hydrogeologic characteristics of the facility and surrounding land.
- The climatic factors of the area.
- The volume and physical and chemical characteristics of the leachate.
- The sensitivities and limitations of the modeling demonstrating the applicable point of compliance.
- Practicable capability of the owner or operator.

4. The alternative liner must be adequately sloped toward the leachate collection pipes to provide drainage of leachate. Unless alternative design requirements to this performance standard are approved as part of the permit under 101.102(11) (relating to equivalency review procedure), the leachate collection system shall have a slope greater than or equal to 2 percent and not exceeding 33 percent.

Table I

Chemical	MCL (mg/l)
Arsenic	0.01
Barium	1.0
Benzene	0.005
Cadmium	0.01
Carbon tetrachloride	0.005
Chromium (hexavalent)	0.05
2,4-Dichlorophenoxy acetic acid	0.1
1,4-Dichlorobenzene	0.075
1,2-Dichloroethane	0.005
1,1-Dichloroethylene	0.007
Endrin	0.0002
Fluoride	4.0
Lindane	0.004
Lead	0.05
Mercury	0.002
Methoxychlor	0.1
Nitrate	10.0
Selenium	0.01
Silver	0.05
Toxaphene	0.005

Chemical	MCL (mg/l)
1,1,1-Trichloroethane	0.2
Trichloroethylene	0.005
2,4,5-Trichlorophenoxy acetic acid	0.01
Vinyl chloride	0.002

b. Leachate collection system. MSWLF units shall have a leachate collection system that complies with the following requirements:

(1) The leachate collection system shall be designed and constructed to function for the entire active life of the facility and the post-closure period.

(2) The leachate collection system shall be of a structural strength capable of supporting waste and equipment loads throughout the active life of the facility and the post-closure period.

(3) The leachate collection system shall be designed and constructed to minimize leachate head over the liner at all times. An MSWLF unit shall have a leachate collection system that maintains less than a 30-centimeter (12-inch) depth of leachate over the liner. The leachate collection system shall have a method for accurately measuring the leachate head on the liner at the system's lowest point(s) within the MSWLF unit (e.g., sumps). Furthermore, an additional measuring device shall be installed to measure leachate directly on the liner in the least conductive drainage material outside of the sump and collection trench. Leachate head measurements from cleanout lines or manholes are not acceptable for the second measurement. All such measurement devices shall be in place before waste is placed in the MSWLF unit.

(4) If the leachate collection system is not designed and constructed factoring in leachate recirculation or bioreactor operations, the department may prohibit such activities within the MSWLF unit.

(5) The collection pipes shall be of a length and cross-sectional area that allow for cleaning and inspection through the entire length of all collection pipes at least once every three years. The collection pipes shall not be designed or constructed with sharp bends that prevent cleaning or inspection along any section of the collection pipe or that may cause the collection pipe to be damaged during cleaning or inspection.

(6) Leachate collection system designs shall attempt to minimize the potential for clogging due to mass loading.

(7) Unless alternative design requirements are approved as part of the permit under 101.102(11) (relating to equivalency review procedure), the following design requirements shall apply:

1. A geotextile cushion over the flexible membrane liner if the system utilizes such a liner and granular drainage media. A geotextile cushion is not required if the granular drainage media is well rounded and less than 3/8 inch in diameter. The geotextile's mass shall be determined based on the allowable pressure on the geomembrane.

2. Collection pipe(s) at least four inches in diameter at the base of the liner slope(s), surrounded by the high hydraulic-conductivity material listed in 101.107(5)*"b"*(7)"3" below. The collection pipe shall have slots or holes large enough to minimize the potential for clogging from fines conveyed by incoming leachate.

3. One of the following high hydraulic-conductivity materials:

- High hydraulic-conductivity material (e.g., gravel) of uniform size and a fines content of no more than 5 percent by weight passing a #200 sieve. The high hydraulic-conductivity material shall be at least 12 inches in depth and have a hydraulic conductivity of at least 1×10^{-2} cm/sec; or
- A geosynthetic drainage media (e.g., geonet). The transmissivity of geonets shall be tested to demonstrate that the design transmissivity will be maintained for the design period of the facility. The testing for the geonet in the liner system shall be conducted using actual boundary material intended for the geonet at the maximum design normal load for the MSWLF unit and at the design load expected from one lift of waste. At the maximum design normal load, testing shall be conducted for a minimum period of 100 hours unless data equivalent of the 100-hour period is provided, in which case the test shall be conducted for a minimum period of one hour. In the case of the design load from one lift of waste, the minimum period shall be one hour. For geonets used in final covers, only one test shall be

conducted for a minimum period of one hour using the expected maximum design normal load from the cover soils and the actual boundary materials intended for the geonet. A granular layer at least 12 inches thick with a hydraulic conductivity of at least 1×10^{-3} cm/sec shall be placed above the geosynthetic drainage material that readily transmits leachate and provides separation between the waste and liner.

(8) Manholes within the MSWLF unit shall be designed to minimize the potential for stressing or penetrating the liner due to friction on the manhole exterior from waste settlement.

(9) The leachate drainage and collection system within the MSWLF unit shall not be used for the purpose of storing leachate. If leachate is to be stored, it shall be stored in designated storage structures outside of the MSWLF unit.

(10) All of the facility's leachate storage and management structures outside of the MSWLF unit and operations shall have containment structures or countermeasures adequate to prevent seepage to groundwater or surface water. The containment structures and countermeasures for leachate storage shall be at least as protective of groundwater at the liner of the MSWLF unit on a performance basis.

(11) Unless alternative design requirements are approved as part of the permit under 101.102(11) (relating to equivalency review procedure), the leachate storage structures shall be able to store at least seven days of accumulated leachate at the maximum generation rate used in designing the leachate collection system. Such minimum storage capacity may be constructed in phases over time so long as the seven-day accumulation capacity is maintained. The storage facility shall also have the ability to load tanker trucks in case sanitary sewer service is unavailable for longer than seven days.

(12) The leachate collection system shall be equipped with valves or devices similar in effectiveness so that leachate can be controlled during maintenance.

(13) The leachate collection system shall be accessible for maintenance at all times and under all weather conditions.

(14) The permit holder shall annually submit a Leachate Control System Performance Evaluation (LCSPE) Report as a supplement to the facility Annual Water Quality Report, as defined in 101.110(10). The report shall include an evaluation of the effectiveness of the system in controlling the leachate, leachate head levels and elevations, the volume of leachate collected and transported to the treatment works or discharged under any National Pollutant Discharge Elimination System (NPDES) permits, records of leachate contaminants testing required by the treatment works, proposed additional leachate control measures, and an implementation schedule in the event that the constructed system is not performing effectively.

101.107(4) *Quality control and assurance program (QC&A).* MSWLF units shall be constructed under the supervision of a QC&A program to ensure that MSWLF units are constructed in accordance with the requirements of 567—101.107(455B) and the approved plans and specifications. At a minimum, such QC&A program shall consist of the following.

a. The owner or operator shall designate a QC&A officer. The QC&A officer shall be an Iowa-licensed professional engineer. The QC&A officer shall not be an employee of the facility, the construction company or construction contractor. The owner or operator shall notify the department of the designated QC&A officer and provide the department with that person's contact information. The QC&A officer may delegate another person or persons who are not employees of the facility to supervise or implement aspects of the QC&A program.

b. The QC&A officer shall document compliance with 567—101.107(455B), and the approved plans and specifications, for the following aspects of construction:

(1) The MSWLF unit's subgrade.

(2) The liner system, as follows:

1. For a flexible membrane liner, destructive testing of the flexible membrane liner shall be kept to side slopes when continuous seams are utilized. Patches over destructive testing areas shall be checked with nondestructive methods.

2. For the compacted clay component of the liner system, a minimum of five field moisture density tests per eight-inch lift per acre shall be performed to verify that the correct density, as correlated to permeability by a laboratory analysis, has been achieved. Laboratory hydraulic conductivity testing of Shelby tube samples from the constructed soil liner or test pad, field hydraulic conductivity testing of

the constructed soil liner or test pad, or other methods approved by the department shall be utilized as a QC&A test.

(3) The leachate collection, conveyance, and storage systems.

(4) Any other aspect of construction as required by the department.

c. A sampling and testing program shall be implemented by the QC&A officer as part of the QC&A program. The sampling and testing program shall:

(1) Verify full compliance with the requirements of 567—101.107(455B) and the approved plans and specifications.

(2) Be approved by the department prior to construction of the MSWLF unit.

(3) Detail how each stage of construction will be verified for full compliance with the requirements of 567—101.107(455B) and the approved plans and specifications.

(4) Be based on statistically significant sampling techniques and establish criteria for the acceptance or rejection of materials and constructed components of the MSWLF unit.

(5) Detail what actions will take place to remedy and verify any material or constructed component that is not in compliance with the requirements of 567—101.107(455B) and the approved plans and specifications.

d. The QC&A officer shall document the QC&A program. Upon completion of the MSWLF unit construction, the QC&A officer shall submit a final report to the department that verifies compliance with the requirements of 567—101.107(455B) and the department-approved plans and specifications. A copy of the final report shall also be maintained by the facility in the operating record. At a minimum, the final report shall include the following.

(1) A title page and index.

(2) The name and permit number of the facility.

(3) Contact information for the QC&A officer and persons delegated by the QC&A officer to supervise or implement an aspect of the QC&A program.

(4) Contact information for all construction contractors.

(5) Copies of daily reports containing the following information:

1. The date.
2. Summary of weather conditions.
3. Summary of locations on the facility where construction was occurring.
4. Summary of equipment, materials, and personnel utilized in construction.
5. Summary of meetings held regarding the construction of the MSWLF unit.
6. Summary of construction progress.
7. Photographs of the construction progress, with descriptions of the time, subject matter, and location of each photograph.
8. Details of sampling and testing program for that day. At a minimum, this report shall include details of where sampling and testing occurred, the methods utilized, personnel involved, and test results.
9. Details of how any material or constructed component that was found not to be in compliance via the sampling and testing program was remedied.

(6) A copy of detailed as-built drawings with supporting documentation and photographic evidence. This copy shall also include a narrative explanation of changes from the original department-approved plans and specifications.

(7) A signed and sealed statement by the QC&A officer that the MSWLF unit was constructed in accordance with the requirements of 567—101.107(455B) and the approved plans and specifications.

101.107(5) *Vertical and horizontal expansions of MSWLF units.* All vertical and horizontal expansions of disposal airspace over existing and new MSWLF units shall comply with the following:

a. Horizontal expansions shall, at a minimum, comply with the following requirements:

(1) Horizontal expansions are new MSWLF units and, at a minimum, shall be designed and constructed in accordance with 101.107(4), 101.107(5) and 101.107(6).

(2) The slope stability of the horizontal expansion between the existing unit and new MSWLF unit shall be analyzed. The interface between two MSWLF units shall not cause a slope failure of either of the MSWLF units.

(3) A horizontal expansion may include a vertical elevation increase of an existing MSWLF unit, pursuant to 101.107(7)*"b,"* if approved by the department.

b. Vertical expansions shall, at a minimum, comply with the following:

(1) A vertical expansion of an MSWLF unit shall not be allowed if the MSWLF unit does not have an approved leachate collection system and a composite liner or a leachate collection system and an alternative liner modeled at an approved point of compliance.

(2) An analysis of the structural impacts of the proposed vertical expansion on the liner and leachate collection system shall be completed. The vertical expansion shall not contribute to the structural failure of the liner and leachate collection system.

(3) An analysis of the impact of the proposed vertical expansion on leachate generation shall be completed. The vertical expansion shall not overload the leachate collection system or contribute to excess head on the liner.

(4) An analysis of the effect of the proposed vertical expansion on run-on, runoff, and discharges into waters of the state shall be completed. The vertical expansion shall not cause a violation of 101.107(8).

(5) The proposed vertical expansion shall be in compliance with the final slopes required at closure pursuant to 101.112(1)*"e."*

101.107(6) *Run-on and runoff control systems.*

a. Owners or operators of MSWLF units must design, construct, and maintain the following:

(1) A run-on control system to prevent flow onto the active portion of the landfill during the peak discharge from a 25-year storm;

(2) A runoff control system from the active portion of the landfill to collect and control at least the water volume resulting from a 25-year 24-hour storm.

b. Runoff from the active portion of the MSWLF unit must be handled in accordance with 101.110(1)*"a."*

567—101.108(455B) Operating requirements. The requirements of this rule shall be consolidated in a DOPs pursuant to 101.108(4).

101.108(1) *Prohibited operations and activities.* For the purposes of this subrule, "regulated hazardous waste" means a solid waste that is a hazardous waste as defined in Iowa Code section 455B.411.

a. Waste screening for prohibited materials. Owners or operators of MSWLF units must implement a program at the facility for detecting and preventing the disposal of regulated hazardous wastes, polychlorinated biphenyls (PCB) wastes, and other prohibited wastes listed in 101.108(1)*"b."* This program must include, at a minimum:

(1) Random inspections of incoming loads unless the owner or operator takes other steps to ensure that incoming loads do not contain regulated hazardous wastes, PCB wastes or other prohibited wastes listed in 101.108(1)*"b"*;

(2) Records of any inspections;

(3) Training of facility personnel to recognize regulated hazardous wastes, PCB wastes and other prohibited wastes listed in 101.108(1)*"b"*; and

(4) Notification of the EPA regional administrator if regulated hazardous wastes or PCB wastes are discovered at the facility.

b. Materials prohibited from disposal. The following wastes shall not be accepted for disposal by an MSWLF.

(1) Waste that is a chemical compound specifically listed by U.S. Environmental Protection Agency (EPA) as a regulated hazardous waste or that is a characteristic hazardous waste pursuant to the following characteristics:

1. Ignitable in that the waste has a flash point of less than 140°F.
2. Corrosive in that the waste has a pH less than 2 or greater than 12.5.

3. Reactive in that the waste is normally unstable, reacts violently with water, forms an explosive mixture with water, contains quantities of cyanide or sulfur that could be released into the air in sufficient quantity to be a danger to human health, or can easily be detonated or exploded.

4. Toxicity characteristic leaching procedure (TCLP) (EPA Method 1311) toxic, in that a TCLP listed chemical constituent exceeds the EPA-assigned concentration standard in 40 CFR Part 261 or the department-assigned concentration standard in Table I of 567—101.107(455B). Waste from a residential building that is contaminated by lead-based paint (i.e., the waste fails the TCLP test for lead only) may be disposed of in an MSWLF unit. The purpose of this exclusion is to help prevent the exposure of children to lead-based paint. Therefore, the meaning of "residential building" in regard to this TCLP exclusion shall be interpreted broadly and include any building that children or parents may utilize as a residence (temporarily or permanently). Such residential buildings include but are not limited to single-family homes, apartment buildings, townhomes, condominiums, public housing, military barracks, nursing homes, hotels, motels, bunkhouses, and campground cabins.

(2) Polychlorinated biphenyl (PCB) wastes with a concentration equal to or greater than 50 parts per million (ppm).

(3) Free liquids, liquid waste and containerized liquids. However, free liquids and containerized liquids may be placed in MSWLF units if:

1. The containerized liquid is household waste other than septic waste. The container must be a small container similar in size to that normally found in household waste;

2. The waste is leachate or gas condensate derived from the MSWLF unit, whether it is a new or existing MSWLF unit or lateral expansion, and is designed with a composite liner and leachate collection system as described in 101.107(5)*"a."* The owner or operator must demonstrate compliance with this subparagraph and place the demonstration in the operating record; or

3. The MSWLF unit is a RD&D project in which the department has authorized the addition of liquids and meets the applicable requirements of 101.104(2).

(4) Septage, which is the raw material, liquids, and pumpings from a septic system, unless treated pursuant to 567—Chapter 68.

(5) Appliances as defined pursuant to 567—Chapter 102, Division VII, unless there is documentation that the appliance has been demanufactured pursuant to 567—Chapter 102, Division VII.

(6) Radioactive waste, excluding luminous timepieces and other items using very small amounts of tritium.

(7) Infectious waste unless managed and disposed of pursuant to 567—Chapter 102, Division VI.

(8) Hot loads, meaning solid waste that is smoking, smoldering, emitting flames or hot gases, or otherwise indicating that the solid waste is in the process of combustion or close to igniting. Ash that has not been fully quenched or cooled is considered a hot load. Such wastes may be accepted at the gate but shall be segregated and completely extinguished and cooled in a manner as safe and responsible as practical before disposal.

(9) Asbestos-containing material (ACM) waste with greater than 1 percent asbestos unless managed and disposed of pursuant to 567—Chapter 102, Division VI.

(10) Grit and bar screenings, grease skimmings, and sewage sludge unless managed and disposed of pursuant to 567—Chapter 102, Division VI.

(11) Waste tires unless each tire is processed into pieces no longer than 18 inches on any side.

(12) Yard waste, except in the circumstances given in Iowa Code section 455D.9(1).

(13) Lead-acid batteries.

(14) Waste oil and materials containing free-flowing waste oil. Materials contaminated with waste oil may be disposed of if no free-flowing oil is retained in the material and the material is not a hazardous waste.

(15) Baled solid waste unless the waste is baled on site after the waste has been visually inspected for prohibited materials.

c. Open burning and fire hazards. No open burning of any type shall be allowed within the permitted boundary of an MSWLF facility. The fueling of vehicles and equipment, and any other activity that may produce sparks or flame, shall be conducted at least 50 feet away from the working face.

d. Scavenging and salvaging. Scavenging shall not be allowed at the MSWLF facility. However, salvaging by MSWLF operators may be allowed by the permitted or other authorized entity.

e. Animal feeding and grazing. Feeding animals municipal solid waste shall not be allowed at an MSWLF facility. The grazing of domestic animals on fully vegetated areas of the MSWLF facility not used for disposal, including closed MSWLF units, may be allowed by the department so long as the animals do not cause damage or interfere with operations, inspections, environmental monitoring, and other required activities. Hoofed animals shall not be allowed on closed MSWLF units.

101.108(2) *Disposal operations and activities.* MSWLFs shall comply with the following requirements.

a. Survey controls and monuments. Survey controls and monuments shall be maintained as follows.

(1) The property boundary, the permitted boundary, and the boundaries of MSWLF units shall be surveyed and marked by a professional land surveyor at least once prior to closure.

(2) Prior to waste placement, all new MSWLF unit boundaries shall be surveyed and staked by an Iowa-licensed professional engineer or land surveyor.

(3) Survey monuments shall be established and maintained by an Iowa-licensed professional land surveyor to provide vertical and horizontal control.

(4) An Iowa-licensed professional engineer or land surveyor shall check vertical elevations and the progression of fill sequencing.

(5) All survey stakes and monuments shall be clearly marked.

(6) An Iowa-licensed professional engineer or land surveyor shall biennially inspect all survey monuments. Any missing or damaged survey monuments shall be replaced by a professional land surveyor.

b. First lift. The first lift and initial placement of MSW over a new MSWLF unit liner and leachate collection system shall comply with the following requirements.

(1) Waste shall not be placed in the new MSWLF unit until the QC&A officer has submitted a signed and sealed final report to the department pursuant to 101.107(4)*"d"* and that report has been approved by the department.

(2) Construction and earth-moving equipment shall not operate directly on the liner and leachate management system. Waste disposal operations shall begin at the edge of the new MSWLF unit by pushing MSW out over the liner and leachate collection system. Compactors and other similarly heavy equipment shall not operate directly on the leachate collection system until a minimum of four feet of waste has been mounded over the top of the leachate collection system.

(3) Construction and demolitions (C&D) debris waste and materials clearly capable of spearing through the leachate collection system and liner shall not be placed in the first four feet of waste over the top of the leachate collection system. The first four feet of waste shall consist of select waste that is unlikely to damage the liner and performance of the leachate collection system.

(4) The owner or operator must place documentation in the operating record and submit a copy to the department that adequate cover material was placed over the top of the leachate collection system in the MSWLF unit or that freeze/thaw effects had no adverse impact on the compacted clay component of the liner.

c. Fill sequencing. The rate and phasing of disposal operations shall comply with the following requirements.

(1) The fill sequencing shall be planned and conducted in a manner and at a rate that does not cause a slope failure, lead to extreme differential settlement, or damage the liner and leachate collection system.

(2) The fill sequencing shall be planned and conducted in a manner compliant with the run-on and runoff requirements of 101.107(8) and surface water requirements of 567—101.110(455B).

d. Working face. The working face shall comply with the following requirements.

(1) The working face shall be no larger than necessary to accommodate the rate of disposal in a safe and efficient manner.

(2) The working face shall not be so steep as to cause heavy equipment and solid waste collection vehicles to roll over or otherwise lose control.

(3) Litter control devices of sufficient size to help prevent blowing litter shall be utilized at the working face. The operation of the working face shall attempt to minimize blowing litter.

(4) The operation of the working face shall prevent the harborage of vectors and attempt to minimize the attraction of vectors.

(5) Employees at the working face shall be trained to visually recognize universal symbols, markings and indications of prohibited wastes pursuant to 101.108(1)*"b."*

e. Special wastes. Special wastes shall be managed and disposed of pursuant to 567—Chapter 102, Division VI.

f. Cover material and alternative cover material. Alternative cover material of an alternative thickness (e.g., tarps, spray covers) may be authorized if the owner or operator demonstrates to the department that the alternative material and thickness control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment. Cover material or alternative cover material shall be available for use during all seasons in all types of weather. Cover material and alternative cover material shall be utilized as follows.

(1) Daily cover. Six inches of cover material or an approved depth or application of alternative cover material shall be placed and maintained over waste at the end of each operating day, or at more frequent intervals if necessary, to control vectors, fires, odors, blowing litter, and scavenging.

(2) Intermediate cover. At least one foot of compacted cover material or an approved depth or application of alternative cover material shall be placed and maintained over waste in the active portion that has not or will not receive more waste for at least 30 days. At least two feet of compacted cover material or alternative cover material shall be placed and maintained over waste that has not or will not receive waste for at least 180 days. Such active portions shall be seeded if they will not receive waste for a full growing season.

(3) Scarification of cover. To help prevent leachate seeps by aiding the downward flow of leachate, cover material or alternative cover material that prevents the downward flow of leachate and is at least five feet from the outer edge of the MSWLF unit shall be scarified prior to use of that area as a working face. Cover material or alternative cover material that does not impede the downward flow of leachate, as approved by the department, does not require scarification. Scarification may be as simple as the spearing or breaking up of a small area of the cover. Areas of intermediate cover may require removal of some of the cover material or alternative cover material to aid the downward flow of leachate.

(4) Final cover. Final cover over an MSWLF unit that is to be closed shall be constructed and maintained according to the closure and post-closure requirements of 567—101.112(455B) and 567—101.113(455B).

g. Leachate seeps. Leachate seeps shall be contained and plugged upon being identified. Leachate seeps shall not be allowed to reach waters of the state. Soils outside of the MSWLF unit that are contaminated by a leachate seep shall be excavated and then disposed of within the MSWLF unit. Such soils may be used for daily cover material.

h. Leachate recirculation. The department must approve an MSWLF unit for leachate recirculation. The primary goal of the leachate recirculation system is to help stabilize the waste in a more rapid, but controlled, manner. The leachate recirculation system shall not contaminate waters of the state, contribute to erosion, damage cover material, harm vegetation, or spray persons at the MSWLF facility. Leachate recirculation shall be limited to MSWLF units constructed with a composite liner.

i. Differential settlement. Areas of differential settlement sufficient to interfere with runoff and run-on shall be brought back up to the contours of the surrounding active portion. Differential settlement shall not be allowed to cause ponding of water on the active portion.

101.108(3) *Universally approved beneficial use determinations for alternative cover material.* The following alternative cover materials may be beneficially used as daily cover material at MSWLF in the manner and volume specified below. However, MSWLFs shall amend their sanitary landfill permits

by notifying the department, and the department field office with jurisdiction over the facility, of their intent to utilize solid by-products pursuant to this rule at least 30 days prior to actual utilization of the by-products as alternative cover material.

a. Asphalt shingles. Asphalt shingles that are certified, consistent with federal regulations (Reference: Appendix E, Subpart E, 40 CFR Part 763, Section 1, Polarized Light Microscopy), as not containing more than 1 percent asbestos and are ground to an average size of three inches or less in any dimension may be mixed with soil in a 50/50 volume.

b. Compost. One hundred percent cured or finished compost, including compost overs, may be used.

c. Diatomaceous earth. Diatomaceous earth may be mixed with soil in a 50/50 volume.

d. Foundry sand. Foundry sand may be mixed with soil in a 50/50 volume.

e. Glass. Glass that has been ground to an average size of one-half inch or less in any dimension may be mixed with soil in a 10 percent glass and 90 percent soil by volume mixture.

f. Gypsum and gypsum wallboard. Gypsum and gypsum wallboard that have been ground to an average size of three inches or less in any dimension may be mixed with soil in a 50/50 volume.

g. Paper mill sludge. Uncontaminated, dewatered paper mill sludge may be mixed with soil in a 50/50 volume.

h. Sandblasting abrasive. Sandblasting abrasive and residuals may be mixed with soil in a 50/50 volume.

i. Tire chips. Tire chips that are an average size of three inches or less in any dimension may be mixed with soil in a 50/50 volume.

101.108(4) *Beneficial use determination application requirements for alternative cover material.* Unless the alternative cover material beneficial use is approved pursuant to 101.108(3), the applicant shall submit the following application information to the department to amend the MSWLF permit. The department may request that additional information be submitted in order to make a beneficial use determination. The department may also require specific beneficial use determination conditions and issue a temporary beneficial use determination on a trial basis.

If the department finds the application information to be incomplete, then it shall notify the applicant in writing of that fact and of the specific deficiencies and return the application materials to the applicant within 30 days of such notification. The applicant may reapply without prejudice.

a. The name, address, and telephone number of:

(1) Owner of the site where the project will be located.

(2) Applicant for the beneficial use determination.

(3) Official responsible for the operation of the project.

(4) Professional engineer licensed by the state of Iowa and retained for the project, if any. The department may, at its sole discretion, require the applicant to retain a professional engineer for the project or specific parts thereof.

(5) Agency to be served by the project, if any.

(6) Responsible official of agency to be served.

b. A description of the proposed alternative cover material and whether it is to be used as daily, intermediate, or final cover.

c. The chemical and physical characteristics of the alternative cover material.

d. The proposed volume ratio of the alternative cover material(s) to soil or other alternative cover material(s).

e. A demonstration that there is a known or reasonably probable suitability of the alternative cover material as cover material by provision of previous case studies of the alternative cover material being utilized as cover material or information on the ability of the alternative cover material to do the following:

(1) Reduce or maintain current odor levels.

(2) Reduce or deter vectors.

(3) Reduce or maintain the current risk of fire.

(4) Control litter and dust.

(5) Impede the infiltration of liquids and precipitation.

(6) Control landfill gas migration.

(7) Provide a safe and effective working surface.

(8) Provide effective growing media.

(9) Other documentation that the alternative cover material is suitable for cover material.

(10) A demonstration that the proposed use of the alternative cover material will not adversely affect human health or the environment. The demonstration may include but is not limited to a toxicity characteristics leaching procedure (TCLP, EPA Method 1311) analysis of a representative sample of the alternative cover material.

101.108(5) *Beneficial use of alternative cover material and state goal progress.* Alternative cover material placed at no more than the thickness required by MSWLF rules shall be exempt from landfill tonnage measurements used for state goal progress and waste diversion calculations.

101.108(6) *Development and operations plan (DOPs).* An MSWLF unit shall maintain a DOPs. At a minimum, the DOPs shall detail how the facility will operate and how compliance with the requirements of this rule will be maintained. The DOPs shall contain at least the following components:

a. A title page and table of contents.

b. Telephone number and email address of the official responsible for the operation of the facility and an emergency contact person if different.

c. Service area of the facility and political jurisdictions included in that area.

d. Days and hours of operation of the facility.

e. Details of how the site will comply with the prohibited operations and activity requirements of 101.108(1) and any related permit conditions.

f. Details of how the site will comply with the disposal operation and activity requirements of 101.108(2) and any related permit conditions.

g. Details of how the site will comply with the facility operations and activity requirements of 101.108(3), any related permit conditions, and any leachate and wastewater treatment requirements.

567—101.109(455B) Environmental monitoring and corrective action requirements for air quality and landfill gas. MSWLFs shall comply with the following environmental monitoring and corrective action requirements for air quality and landfill gas.

101.109(1) *Air criteria.* Owners or operators of MSWLFs must ensure that the units do not violate any applicable requirements developed under a state implementation plan (SIP) approved or promulgated by the department pursuant to Section 110 of the Clean Air Act.

101.109(2) *Landfill gas.* MSWLFs shall comply with the following requirements for landfill gas. For purposes of this subrule, "lower explosive limit" means the lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at 25°C and atmospheric pressure.

a. Owners or operators of MSWLF units must ensure that:

(1) The concentration of methane gas generated by the facility does not exceed 25 percent of the lower explosive limit for methane in facility structures (excluding gas pipeline, control or recovery system components), and

(2) The concentration of methane gas does not exceed the lower explosive limit for methane at the facility property boundary.

b. Owners or operators of MSWLF units must implement a routine methane-monitoring program to ensure that the standards of 101.109(2)*"a"* are met. Such a program shall include routine subsurface methane monitoring (e.g., at select groundwater wells, at gas monitoring wells).

(1) The type and frequency of monitoring must be determined based on the following factors:

1. Soil conditions;

2. The hydrogeologic conditions surrounding the facility;

3. The hydraulic conditions surrounding the facility;

4. The location of facility structures (including potential subsurface preferential pathways such as but not limited to pipes, utility conduits, drain tiles, and sewers) and property boundaries; and

5. The locations of structures near the outside of the facility to which or along which subsurface migration of methane gas may occur. Examples of such structures include but are not limited to houses, buildings, basements, crawl spaces, pipes, utility conduits, drain tiles, and sewers.

(2) The minimum frequency of monitoring shall be quarterly.

c. If methane gas levels exceeding the limits specified in 101.109(2)*"a"* are detected, the owner or operator must:

(1) Immediately take all necessary steps to ensure protection of human health and notify the department and department field office with jurisdiction over the MSWLF;

(2) Within seven days of detection, place in the operating record and notify the department and department field office with jurisdiction over the MSWLF of the methane gas levels detected and a description of the steps taken to protect human health; and

(3) Within 60 days of detection, implement a remediation plan for the methane gas releases, place a copy of the plan in the operating record, and notify the department and department field office with jurisdiction over the MSWLF that the plan has been implemented. The plan shall describe the nature and extent of the problem and the proposed remedy.

d. The owner or operator shall submit an annual report to the department detailing the gas monitoring sampling locations and results, any action taken, and the results of steps taken to address gas levels exceeding the limits of 101.109(2)*"a"* during the previous year. This report shall include a site map that delineates all structures, perimeter boundary locations, and other monitoring points where gas readings were taken. The site map shall also delineate areas of landfill gas migration outside the MSWLF units, if any. The report shall contain a narrative explaining and interpreting all of the data collected during the previous year. The report shall be due each year at a date specified by the department in the facility's permit.

567—101.110(455B) Environmental monitoring and corrective action requirements for groundwater and surface water. MSWLFs shall comply with the following environmental monitoring and corrective action requirements for groundwater and surface water.

101.110(1) *General requirements for environmental monitoring and corrective action for groundwater and surface water.*

a. MSWLF units shall not:

(1) Cause a discharge of pollutants into waters of the United States, including wetlands, that violates any requirements of the Clean Water Act, including but not limited to NPDES requirements, pursuant to Section 402 of the Clean Water Act.

(2) Cause the discharge of a nonpoint source of pollution into waters of the United States, including wetlands, that violates any requirement of an areawide or statewide water quality management plan that has been approved under Section 208 or 319 of the Clean Water Act.

b. A new MSWLF unit must be in compliance with the groundwater monitoring requirements specified in 101.110(2), 101.110(4), 101.110(5) and 101.110(6) before waste can be placed in the unit unless the department establishes an alternative schedule for demonstrating compliance with:

(1) Subparagraph 101.110(2)*"c"*(3), pertaining to notification of placement of certification in operating record;

(2) Subparagraph 101.110(5)*"c"*(1), pertaining to notification that statistically significant increase (SSI) notice is in operating record;

(3) Subparagraphs 101.110(5)*"c"*(2) and *"c"*(3), pertaining to an assessment monitoring program;

(4) Paragraph 101.110(6)*"b,"* pertaining to sampling and analyzing 40 CFR Part 258, Appendix II, constituents;

(5) Subparagraph 101.110(6)*"d"*(1), pertaining to placement of notice (40 CFR Part 258, Appendix II, constituents detected) in record and notification of placement of notice in record;

(6) Subparagraph 101.110(6)*"d"*(2), pertaining to sampling for 40 CFR Part 258;

(7) Paragraph 101.110(6)*"g,"* pertaining to notification (and placement of notice in record) of SSI above groundwater protection standard;

(8) Numbered paragraph 101.110(6)*"g"*(1)"4" and paragraph 101.110(7)*"a,"* pertaining to assessment of corrective measures;

(9) Paragraph 101.110(8)*"a,"* pertaining to selection of remedy and notification of placement in record;

(10) Paragraph 101.110(9)*"f,"* pertaining to notification of placement in record (certification of remedy completed).

c. Once established at an MSWLF unit, groundwater monitoring shall be conducted throughout the active life and post-closure care period of that MSWLF unit.

101.110(2) *Groundwater monitoring systems.* MSWLFs shall have a groundwater monitoring system that complies with the following requirements:

a. Objectives. A groundwater monitoring system must be installed that meets the following objectives:

(1) Yields groundwater samples from the uppermost aquifer that represent the quality of background groundwater that has not been affected by leakage from a unit. A determination of background quality may include sampling of wells that are not hydraulically upgradient of the waste management area where either:

1. Hydrogeologic conditions do not allow the owner or operator to determine which wells are hydraulically upgradient; or

2. Sampling at other wells will provide an indication of background groundwater quality that is as representative as or more representative than that provided by the upgradient wells.

(2) Yields groundwater samples from the uppermost aquifer that represent the quality of groundwater passing the relevant point of compliance specified by the department under 101.107(5)*"a"*(2)"2." A downgradient monitoring system must be installed at the relevant point of compliance specified by the department under 101.107(5)*"a"*(2)"2" that ensures detection of groundwater contamination in the uppermost aquifer. When physical obstacles preclude installation of groundwater monitoring wells at the relevant point of compliance at existing units, the downgradient monitoring system may be installed at the closest practicable distance, hydraulically downgradient from the relevant point of compliance specified by the department under 101.107(5)*"a"*(2)"2," that ensures detection of groundwater contamination in the uppermost aquifer.

(3) Provides a high level of certainty that releases of contaminants from the site can be promptly detected. Downgradient monitoring wells shall be placed along the site perimeter, within 50 feet of the planned liner or waste boundary unless site conditions dictate otherwise, downgradient of the facility with respect to the hydrologic unit being monitored. Each groundwater underdrain system shall be included in the groundwater detection monitoring program under 101.110(5). The maximum drainage area routed through each outfall shall not exceed ten acres unless it can be demonstrated that site-specific factors such as drain flow capacity or site development sequencing require an alternative drainage area. If contamination is identified in the groundwater underdrain system pursuant to 101.110(5), the owner or operator shall manage the underdrain discharge as leachate in lieu of assessment monitoring and corrective action.

(4) Be designed and constructed with the theoretical release evaluation pursuant to 101.106(3)*"e"*(6) taken into consideration.

b. Long-term, multiphase operations. For those facilities that are long-term, multiphase operations, the department may establish temporary waste boundaries in order to define locations for monitoring wells. The convergence of groundwater paths to minimize the overall length of the downgradient dimension may be taken into consideration in the placement of downgradient monitoring wells provided that the multiphase unit groundwater monitoring system meets the requirements of 101.8(2), 101.8(3), and 101.110(2)*"a"* and *"c"* and will be as protective of human health and the environment as the individual monitoring systems for each MSWLF unit, based on the following factors:

(1) Number, spacing, and orientation of the MSWLF units;

(2) Hydrogeologic setting;

(3) Site history;

(4) Engineering design of the MSWLF units; and

(5) Type of waste accepted at the MSWLF units.

c. Hydrologic monitoring system plan (HMSP). Unless otherwise approved by the department in writing, the number, spacing, and depth of groundwater monitoring points shall be:

(1) Determined based upon site-specific technical information, including but not limited to the soil and hydrogeologic investigation pursuant to 101.106(3) and the site exploration and characterization report pursuant to 101.106(3), that must include thorough characterization of:

1. Aquifer thickness, groundwater flow rate, and groundwater flow direction including seasonal and temporal fluctuations in groundwater flow;

2. Saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer, including but not limited to thicknesses, stratigraphy, lithology, hydraulic conductivities, porosities and effective porosities; and

3. Projected paths and rates of movement of contaminants found in leachate pursuant to 101.106(3)*"e"*(6).

(2) Designed and constructed with a maximum of 300 feet between downgradient groundwater monitoring wells unless it is demonstrated by site-specific analysis or modeling that an alternative well spacing is justified. The convergence of groundwater paths to minimize the overall length of the downgradient dimension may be taken into consideration in the placement of downgradient monitoring wells provided that the groundwater monitoring system meets the requirements of 101.8(2), 101.8(3), and 101.110(2)*"a"* and *"c."*

(3) Certified by a qualified groundwater scientist and approved by the department. Within 14 days of this certification and approval by the department, the owner or operator must notify the department that the certification has been placed in the operating record.

d. Monitoring well maintenance and performance reevaluation plan. A monitoring well maintenance and performance reevaluation plan shall be included as part of the HMSP. The plan shall ensure that all monitoring points remain reliable. The plan shall provide for the following:

(1) A biennial examination of high and low water levels accompanied by a discussion of the acceptability of well location (vertically and horizontally) and exposure of the screened interval to the atmosphere.

(2) A biennial evaluation of water level conditions in the monitoring wells to ensure that the effects of waste disposal or well operation have not resulted in changes in the hydrologic setting and resultant flow paths.

(3) Measurements of well depths to ensure that wells are physically intact and not filling with sediment. Measurements shall be taken annually in wells that do not contain dedicated sampling pumps and every five years in wells containing dedicated sampling pumps.

(4) A biennial evaluation of well recharge rates and chemistry to determine if well deterioration is occurring.

101.110(3) *Surface water monitoring systems.* The department may require an MSWLF facility to implement a surface water monitoring program if there is reason to believe that a surface water of the state has been impacted as a result of facility operations (i.e., leachate seeps, sediment pond discharge) or a groundwater SSI over background has occurred.

a. A surface water monitoring program must be developed that consists of a sufficient number of monitoring points, designated at appropriate locations, to yield surface water samples that provide a representative sample of:

(1) The upstream quality of a surface water of the state if the surface water being monitored is a flowing body of water.

(2) The downstream quality of a surface water of the state if the surface water being monitored is a flowing body of water.

b. Surface water levels must be measured at a frequency specified in the facility's permit, within 1/10 of a foot at each surface water monitoring point immediately prior to sampling, each time surface water is sampled. The owner or operator must determine the rate and direction of surface water flow, if any, each time surface water is sampled. Surface water level and flow measurements for the same surface

water of the state must be measured on the same day to avoid temporal variations that could preclude accurate determination of surface water flow and direction.

c. The owner or operator must notify and receive approval from the department for the designation or decommission of any surface water monitoring point and must place that approval in the operating record.

d. A surface water monitoring point shall be designated to maintain sampling at that monitoring point throughout the life of the surface water monitoring program.

e. Each surface water monitoring point must have a unique and permanent number, and that number must never change or be used again at the MSWLF. Surface water monitoring points shall be identified by "SW# (insert unique and permanent number)".

f. The number, spacing, and location of the surface water monitoring points shall be determined based upon site-specific technical information, including:

(1) Water level, including seasonal and temporal fluctuations in water level; and

(2) Flow rate and flow direction, including seasonal and temporal fluctuations in flow.

g. The MSWLF may discontinue the surface water monitoring program if monitoring data indicates that facility operations are not impacting surface water.

101.110(4) *Groundwater sampling and analysis requirements.*

a. The groundwater monitoring program must include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of groundwater quality at the background and downgradient wells installed in compliance with 101.110(2). Analyses for a contaminant regulated under this division must be performed by a laboratory certified for the analyte(s) and applicable method pursuant to 567—Chapter 83. The owner or operator must notify the department that the sampling and analysis program documentation has been placed in the operating record, and the program must include procedures and techniques for:

(1) Sample collection;

(2) Sample preservation and shipment;

(3) Analytical procedures;

(4) Chain of custody control; and

(5) Quality assurance and quality control.

b. The groundwater monitoring programs must include sampling and analytical methods that are appropriate for groundwater sampling and that accurately measure hazardous constituents and other monitoring parameters in groundwater samples. Groundwater samples shall not be field-filtered prior to laboratory analysis.

c. The sampling procedures and frequency must be protective of human health and the environment and consistent with 101.110(5).

d. Groundwater elevations must be measured at a frequency specified in the facility's permit, within 1/100 of a foot in each well immediately prior to purging, each time groundwater is sampled. The owner or operator must determine the rate and direction of groundwater flow each time groundwater is sampled. Groundwater elevations in wells that monitor the same waste management area must be measured within a period of time short enough to avoid temporal variations in groundwater flow that could preclude accurate determination of groundwater flow rate and direction.

e. The owner or operator must establish background groundwater quality in a hydraulically upgradient or background well(s) for each of the monitoring parameters or constituents required in the particular groundwater monitoring program that applies to the MSWLF unit, as determined under 101.110(5)*"a"* or 101.110(6)*"a."* Background groundwater quality may be established at wells that are not located hydraulically upgradient from the MSWLF unit if the wells meet the requirements of 101.110(2)*"a"*(1).

f. The number of samples collected to establish groundwater quality data must be consistent with the appropriate statistical procedures determined pursuant to 101.110(4)*"g."* The sampling procedures shall be those specified under 101.110(5)*"b"* for detection monitoring, 101.110(6)*"b"* and 101.110(6)*"d"* for assessment monitoring, and 101.110(7)*"b"* for corrective action.

g. The owner or operator must specify in the operating record which of the following statistical methods will be used in evaluating groundwater monitoring data for each hazardous constituent. The statistical test chosen shall be conducted separately for each hazardous constituent in each well.

(1) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

(2) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

(3) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

(4) A control chart approach that gives control limits for each constituent.

(5) Another statistical test method that meets the performance standards of 101.110(4)*"h."* The owner or operator must place a justification for this alternative in the operating record and notify the department of the use of this alternative test. The justification must demonstrate that the alternative method meets the performance standards of 101.110(4)*"h."*

h. The statistical method required pursuant to 101.110(4)*"g"* shall comply with the following performance standards.

(1) The statistical method used to evaluate groundwater monitoring data shall be appropriate for the distribution of chemical parameters or hazardous constituents. If the distribution of the chemical parameters or hazardous constituents is shown by the owner or operator to be inappropriate for a normal theory test, then the data shall be transformed or a distribution-free theory test shall be used. If the distributions for the constituents differ, more than one statistical method may be needed.

(2) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a groundwater protection standard, the test shall be done at a Type I error level not less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment-wise error rate for each testing period shall be not less than 0.05; however, the Type I error level of not less than 0.01 for individual well comparisons must be maintained.

(3) If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter values shall be protective of human health and the environment. The parameters shall be determined after the number of samples in the background database, the data distribution, and the range of the concentration values for each constituent of concern have been considered.

(4) If a tolerance interval or a prediction interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, shall be protective of human health and the environment. These parameters shall be determined after the number of samples in the background database, the data distribution, and the range of the concentration values for each constituent of concern have been considered.

(5) The statistical method shall account for data below the limit of detection (LD) by recording such data at one-half the limit of detection (i.e., LD/2) or as prescribed by the statistical method. Any practical quantitation limit that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

(6) If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

i. The owner or operator must determine whether or not there is an SSI over background values for each parameter or constituent required in the particular groundwater monitoring program that applies to the MSWLF unit, as determined under 101.110(5)*"a"* or 101.110(6)*"a."*

(1) In determining whether an SSI has occurred, the owner or operator must compare the groundwater quality of each parameter or constituent at each monitoring well designated pursuant to 101.110(2) to the background value of that constituent, according to the statistical procedures and performance standards specified under 101.110(4)*"g"* and *"h."*

(2) Within 45 days after completing sampling and analysis, the owner or operator must determine whether there has been an SSI over background at each monitoring well.

101.110(5) *Detection monitoring program.*

a. Detection monitoring is required at MSWLF units at all groundwater monitoring wells defined under 101.110(2). At a minimum, a detection monitoring program must include the monitoring for the constituents listed in 40 CFR Part 258, Appendix I, and any additional parameters required by the department on a site-specific basis. An alternative list of constituents may be used if it can be demonstrated that the constituents removed are not reasonably expected to be in or derived from the waste contained in the unit and if the alternative list of constituents is expected to provide a reliable indication of leachate leakage or gas impact from the MSWLF unit.

The department may establish an alternative list of inorganic indicator parameters for an MSWLF unit within 40 CFR Part 258, Appendix I, in lieu of some or all of the heavy metals (constituents 1 through 15 in 40 CFR Part 258, Appendix I) if the alternative parameters provide a reliable indication of inorganic releases from the MSWLF unit to the groundwater. In determining alternative parameters, the department shall consider the following factors.

(1) The types, quantities, and concentrations of constituents in wastes managed at the MSWLF unit;

(2) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the MSWLF unit;

(3) The detectability of indicator parameters, waste constituents, and reaction products in the groundwater; and

(4) The concentration or values and coefficients of variation of monitoring parameters or constituents in the groundwater background.

b. The monitoring frequency for all constituents listed in 40 CFR Part 258, Appendix I, or in the alternative list approved in accordance with 101.110(5)*"a"*(1) shall be at least semiannual (i.e., every six months) during the active life of the facility (including closure) and the post-closure period. Where insufficient background data exist, a minimum of five independent samples from each well, collected at intervals to account for seasonal and temporal variation, must be analyzed for the constituents in 40 CFR Part 258, Appendix I, or in the alternative list approved in accordance with 101.110(5)*"a"*(1) during the first year. At least one sample from each well must be collected and analyzed during subsequent semiannual sampling events. The department may specify an appropriate alternative frequency for repeated sampling and analysis for constituents in 40 CFR Part 258, Appendix I, or in the alternative list approved in accordance with 101.110(5)*"a"*(1) during the active life (including closure) and the post-closure care period. The alternative frequency during the active life (including closure) shall be not less than annually. The alternative frequency shall be based on consideration of the following factors.

(1) Lithology of the aquifer and unsaturated zone;

(2) Hydraulic conductivity of the aquifer and unsaturated zone;

(3) Groundwater flow rates;

(4) Minimum distance between upgradient edge of the MSWLF unit and downgradient monitoring well screen (minimum distance of travel); and

(5) Resource value of the aquifer.

c. If the owner or operator determines, pursuant to 101.110(4)*"i,"* that there is an SSI over background for one or more of the constituents listed in 40 CFR Part 258, Appendix I, or in the alternative list approved in accordance with 101.110(5)*"a"*(1) at any monitoring well specified under 101.110(2), then the owner or operator:

(1) Must, within 14 days of this finding, place a notice in the operating record indicating which constituents have shown statistically significant changes from background levels and notify the department that this notice was placed in the operating record.

(2) Must establish within 90 days an assessment monitoring program meeting the requirements of 101.110(6), except as provided in 101.110(5)*"c"*(3).

(3) May demonstrate that a source other than an MSWLF unit caused the contamination or that the SSI resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. A report documenting this demonstration must be certified by a qualified groundwater scientist, approved by the department, and placed in the operating record. If resampling is a part of the demonstration, resampling procedures shall be specified prior to initial sampling. If a successful demonstration to the department is made and documented, the owner or operator may continue detection monitoring as specified in 101.110(5). If, after 90 days, a successful demonstration is not made, the owner or operator must initiate an assessment monitoring program as required in 101.110(6).

101.110(6) *Assessment monitoring program.*

a. Assessment monitoring is required whenever an SSI over background has been confirmed pursuant to 101.110(5)*"c"* to be the result of a release from the facility.

b. Within 90 days of triggering an assessment monitoring program, and annually thereafter, the owner or operator must sample and analyze the groundwater for all constituents identified in 40 CFR Part 258, Appendix II. A minimum of one sample from each downgradient well shall be collected and analyzed during each sampling event. For any constituent detected in the downgradient wells as a result of the complete 40 CFR Part 258, Appendix II, analysis, a minimum of four independent samples from each well must be collected and analyzed to establish background for the constituents. The department may specify an appropriate subset of wells to be sampled and analyzed for 40 CFR Part 258, Appendix II, constituents during assessment monitoring. The department may delete any of the 40 CFR Part 258, Appendix II, monitoring parameters for an MSWLF unit if it can be shown that the removed constituents are not reasonably expected to be in or derived from the waste contained in the unit.

c. The department may specify an appropriate alternate frequency for repeated sampling and analysis for the full set of 40 CFR Part 258, Appendix II, constituents required by 101.110(6)*"b"* during the active life (including closure) and post-closure care period of the unit. The following factors shall be considered:

(1) Lithology of the aquifer and unsaturated zone;

(2) Hydraulic conductivity of the aquifer and unsaturated zone;

(3) Groundwater flow rates;

(4) Minimum distance between upgradient edge of the MSWLF unit and downgradient monitoring well screen (minimum distance of travel);

(5) Resource value of the aquifer; and

(6) Nature (fate and transport) of any constituents detected in response to this paragraph.

d. After obtaining the results from the initial or subsequent sampling events required in 101.110(6)*"b,"* the owner or operator must:

(1) Within 14 days, place a notice in the operating record identifying the 40 CFR Part 258, Appendix II, constituents that have been detected and notify the department that this notice has been placed in the operating record;

(2) Within 90 days, and on at least a semiannual basis thereafter, resample all wells specified by 101.110(2) and conduct analyses for all constituents in 40 CFR Part 258, Appendix I, or in the alternative list approved in accordance with 101.110(5)*"a"*(1), and for those constituents in 40 CFR Part 258, Appendix II, that are detected in response to the requirements of 101.110(6)*"b."* Concentrations shall be recorded in the facility operating record. At least one sample from each well must be collected and analyzed during these sampling events. The department may specify an alternative monitoring frequency during the active life and the post-closure period for the constituents referred to in this subparagraph. The alternative frequency for constituents in 40 CFR Part 258, Appendix I, or in the alternative list approved in accordance with 101.110(5)*"a"*(1) during the active life shall be no less than annual. The alternative frequency shall be based on consideration of the factors specified in 101.110(6)*"c"*;

(3) Establish background concentrations for any constituents detected pursuant to 101.110(6)*"b"* or 101.110(6)*"d"*(2); and

(4) Establish groundwater protection standards for all constituents detected pursuant to 101.110(6)*"b"* or *"d."* The groundwater protection standards shall be established in accordance with 101.110(6)*"h"* or *"i."*

e. If the concentrations of all 40 CFR Part 258, Appendix II, constituents are shown to be at or below background values, using the statistical procedures in 101.110(4)*"g"* for two consecutive sampling events, the owner or operator must notify the department of this finding and may return to detection monitoring.

f. If the concentrations of any 40 CFR Part 258, Appendix II, constituents are above background values, but all concentrations are below the groundwater protection standard established under 101.110(6)*"h"* or *"i,"* using the statistical procedures in 101.110(4)*"g,"* the owner or operator must continue assessment monitoring in accordance with this subrule.

g. If one or more 40 CFR Part 258, Appendix II, constituents are detected at statistically significant levels above the groundwater protection standard established under 101.110(6)*"h"* or *"i"* in any sampling event, the owner or operator must, within 14 days of this finding, place a notice in the operating record identifying the 40 CFR Part 258, Appendix II, constituents that have exceeded the groundwater protection standard and notify the department and all other appropriate local government officials that the notice has been placed in the operating record. The owner or operator also:

(1) Must, within 90 days of this finding, comply with the requirements in 101.110(6)*"g"*(2) or the following requirements.

1. Characterize the nature and extent of the release by installing additional monitoring wells as necessary until the horizontal and vertical dimensions of the plume have been defined to background concentrations;

2. Install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well in accordance with 101.110(6)*"g"*(2);

3. Notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off site when indicated by sampling of wells in accordance with 101.110(6)*"g"*(1); and

4. Initiate an assessment of corrective measures as required by 101.110(7).

(2) May demonstrate that a source other than an MSWLF unit caused the contamination or that the SSI resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. A report documenting this demonstration must be certified by a qualified groundwater scientist, approved by the department, and placed in the operating record. If a successful demonstration is made, the owner or operator must continue monitoring in accordance with the assessment monitoring program pursuant to 101.110(6) and may return to detection monitoring if the 40 CFR Part 258, Appendix II, constituents are at or below background as specified in 101.110(6)*"e."* Until a successful demonstration is made, the owner or operator must comply with 101.110(6)*"g,"* including initiating an assessment of corrective measures.

h. The owner or operator must establish a groundwater protection standard for each 40 CFR Part 258, Appendix II, constituent detected in the groundwater. The groundwater protection standard shall be:

(1) For constituents for which a maximum contaminant level (MCL) has been promulgated under Section 1412 of the Safe Drinking Water Act (codified) under 40 CFR Part 141, the MCL for that constituent;

(2) For constituents for which MCLs have not been promulgated, the background concentration for the constituent established from wells in accordance with 101.110(2); or

(3) For constituents for which the background concentration is higher than the MCL identified under 101.110(6)*"h"*(1) or health-based concentrations identified under 101.110(6)*"i,"* the background concentration.

i. The department may establish an alternative groundwater protection standard for constituents for which MCLs have not been established. These groundwater protection standards shall be appropriate health-based concentrations that comply with the statewide standards for groundwater established pursuant to 567—Chapter 137.

j. In establishing alternative groundwater protection standards under 101.110(6)*"i,"* the department may consider the following:

(1) The policies set forth by the Groundwater Protection Act;

(2) Multiple contaminants in the groundwater with the assumption that the effects are additive regarding detrimental effects to human health and the environment;

(3) Exposure threats to sensitive environmental receptors; and

(4) Other site-specific exposure or potential exposure to groundwater.

101.110(7) *Assessment of corrective measures.*

a. Within 90 days of finding that any of the constituents listed in 40 CFR Part 258, Appendix II, have been detected at a statistically significant level exceeding the groundwater protection standards defined under 101.110(6)*"h"* or *"i,"* the owner or operator must initiate an assessment of corrective measures. Such an assessment must be completed and submitted to the department for review and approval within 180 days of the initial finding unless otherwise authorized or required by the department.

b. The owner or operator must continue to monitor in accordance with the assessment monitoring program as specified in 101.110(6).

c. The assessment shall include an analysis of the effectiveness of potential corrective measures in meeting all of the requirements and objectives of the remedy as described under 101.110(8), addressing at least the following:

(1) The performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;

(2) The time required to begin and complete the remedy;

(3) The costs of remedy implementation; and

(4) The institutional requirements such as state or local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedy(ies).

d. Within 60 days of approval from the department of the assessment of corrective measures, the owner or operator must discuss the results of the corrective measures assessment, prior to the selection of a remedy, in a public meeting with interested and affected parties. The department may establish an alternative schedule for completing the public meeting requirement. Notice of public meeting shall be sent to all owners and occupiers of property adjacent to the permitted boundary of the facility, the department, and the department field office with jurisdiction over the facility. A copy of the minutes of this public meeting and the list of community concerns must be placed in the operating record and submitted to the department.

101.110(8) *Selection of remedy.*

a. Based on the results of the corrective measures assessment conducted under 101.110(7), the owner or operator must select a remedy within 60 days of holding the public meeting that, at a minimum, meets the standards listed in 101.110(8)*"b."* The department may establish an alternative schedule for selecting a remedy after holding the public meeting. The owner or operator must submit a report to the department within 14 days of selecting a remedy describing the selected remedy, stating that the report has been placed in the operating record, and explaining how the selected remedy meets the standards in 101.110(8)*"b."*

b. Remedies must:

(1) Be protective of human health and the environment;

(2) Attain the groundwater protection standards specified pursuant to 101.110(6)*"h"* or *"i"*;

(3) Control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of 40 CFR Part 258, Appendix II, constituents into the environment that may pose a threat to human health or the environment; and

(4) Comply with standards for management of wastes as specified in 101.110(9)*"d."*

c. In selecting a remedy that meets the standards of 101.110(8)*"b,"* the owner or operator shall consider the following evaluation factors.

(1) The long-term and short-term effectiveness and protectiveness of the potential remedy(ies), along with the degree of certainty that the remedy will prove successful based on consideration of the following:

1. Magnitude of reduction of existing risks;
2. Magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;
3. The type and degree of long-term management required, including monitoring, operation, and maintenance;
4. Short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, redisposal, or containment;
5. Time period until full protection is achieved;
6. Potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;
7. Long-term reliability of the engineering and institutional controls; and
8. Potential need for replacement of the remedy.

(2) The effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the following factors:

1. The extent to which containment practices will reduce further releases; and
2. The extent to which treatment technologies may be used.

(3) The ease or difficulty of implementing a potential remedy(ies) based on consideration of the following factors:

1. Degree of difficulty associated with constructing the technology;
2. Expected operational reliability of the technology;
3. Necessity of coordination with and obtaining necessary approvals and permits from other agencies;
4. Availability of necessary equipment and specialists; and
5. Available capacity and location of needed treatment, storage, and disposal services.

(4) Practicable capability of the owner or operator, including a consideration of technical and economic capabilities.

(5) The degree to which community concerns, including but not limited to the concerns identified at the public meeting required pursuant to 101.110(7)*"d,"* are addressed by a potential remedy(ies).

d. The owner or operator shall specify as part of the selected remedy a schedule(s) for initiating and completing remedial activities. Such a schedule must require the initiation of remedial activities within a reasonable period of time taking into consideration the factors set forth in 101.110(8)*"d"*(1) through *"d"*(8). The owner or operator must consider the following factors in determining the schedule of remedial activities:

(1) Extent and nature of contamination;

(2) Practical capabilities of remedial technologies in achieving compliance with groundwater protection standards established under 101.110(6)*"h"* or *"i"* and other objectives of the remedy;

(3) Availability of treatment or disposal capacity for wastes managed during implementation of the remedy;

(4) Desirability of utilizing alternative or experimental technologies that are not widely available but that may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;

(5) Potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;

(6) Resource value of the aquifer, including:

1. Current and future uses;
2. Proximity and withdrawal rate of users;
3. Groundwater quantity and quality;

4. The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

5. The hydrogeologic characteristics of the facility and surrounding land;

6. Groundwater removal and treatment costs; and

7. The cost and availability of alternative water supplies;

(7) Practicable capability of the owner or operator; and

(8) Other relevant factors.

101.110(9) *Implementation of the corrective action plan.*

a. Based on the schedule established under 101.110(8)*"d"* for initiation and completion of remedial activities, the owner or operator must:

(1) Establish and implement a corrective action groundwater monitoring program that:

1. At a minimum, meets the requirements of an assessment monitoring program under 101.110(6);

2. Indicates the effectiveness of the corrective action remedy; and

3. Demonstrates compliance with groundwater protection standards pursuant to 101.110(9)*"e"*;

(2) Implement the corrective action remedy selected under 101.110(8); and

(3) Take any interim measures necessary to ensure the protection of human health and the environment. Interim measures should, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required pursuant to 101.110(8). The following factors must be considered by an owner or operator in determining whether interim measures are necessary.

1. Time period required to develop and implement a final remedy;

2. Actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;

3. Actual or potential contamination of drinking water supplies or sensitive ecosystems;

4. Further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;

5. Weather conditions that may cause hazardous constituents to migrate or be released;

6. Risk of fire or explosion or potential for exposure to hazardous constituents as a result of an accident or the failure of a container or handling system; and

7. Other factors that may pose threats to human health and the environment.

b. An owner or operator may determine, based on information developed after implementation of the remedy has begun or other information, that compliance with the requirements of 101.110(8)*"b"* is not being achieved through the remedy selected. In such cases, the owner or operator must notify the department and implement other methods or techniques that could practicably achieve compliance with the requirements unless the owner or operator makes the determination under 101.110(9)*"c."* The notification shall explain how the proposed alternative methods or techniques will meet the standards in 101.110(8)*"b,"* or the notification shall indicate that the determination was made pursuant to 101.110(9)*"c."* The notification shall also specify a schedule(s) for implementing and completing the remedial activities to comply with 101.110(8)*"b"* or the alternative measures to comply with 101.110(9)*"c."* Within 90 days of approval by the department for the proposed alternative methods or techniques or the determination of impracticability, the owner or operator shall implement the proposed alternative methods or techniques meeting the standards of 101.110(8)*"b"* or implement alternative measures meeting the requirements of 101.110(9)*"c"*(2) and *"c"*(3).

c. If the owner or operator determines that compliance with requirements under 101.110(8)*"b"* cannot be practicably achieved with any currently available methods, the owner or operator must:

(1) Obtain certification of a qualified groundwater scientist and approval by the department that compliance with requirements under 101.110(8)*"b"* cannot be practicably achieved with any currently available methods.

(2) Implement alternate measures to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment.

(3) Implement alternate measures for control of the sources of contamination or for removal or decontamination of equipment, units, devices, or structures that are:

1. Technically practicable; and
2. Consistent with the overall objective of the remedy.

(4) Notify the department within 14 days that a report justifying the alternate measures prior to implementation has been placed in the operating record.

d. All solid wastes that are managed pursuant to a remedy required under 101.110(8), or an interim measure required under 101.110(9)*"a"*(3), shall be managed in a manner that:

(1) Is protective of human health and the environment; and

(2) Complies with applicable RCRA, state, and local requirements.

e. Remedies selected pursuant to 101.110(8) shall be considered complete when:

(1) The owner or operator complies with the groundwater protection standards established under 101.110(6)*"h"* or *"i"* at all points within the plume of contamination that lie beyond the groundwater monitoring well system established under 101.110(2).

(2) Compliance with the groundwater protection standards established under 101.110(6)*"h"* or *"i"* has been achieved by demonstrating that concentrations of 40 CFR Part 258, Appendix II, constituents have not exceeded the groundwater protection standard(s) for a period of three consecutive years using the statistical procedures and performance standards 101.110(4)*"g"* and *"h."* The department may specify an alternative length of time during which the owner or operator must demonstrate that concentrations of 40 CFR Part 258, Appendix II, constituents have not exceeded the groundwater protection standard(s), taking into consideration:

1. The extent and concentration of the release(s);
2. The behavior characteristics of the hazardous constituents in the groundwater;
3. The accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variables that may affect accuracy; and
4. The characteristics of the groundwater.

(3) All actions required by the department to complete the remedy have been satisfied.

f. Upon completion of the remedy, the owner or operator must notify the department within 14 days that a certification has been placed in the operating record verifying that the remedy has been completed in compliance with the requirements of 101.110(9)*"e."* The certification must be signed by the owner or operator and by a qualified groundwater scientist and approved by the department.

g. When, upon completion of the certification, the owner or operator determines that the corrective action remedy has been completed in accordance with the requirements under 101.110(9)*"e,"* the owner or operator shall be released from the requirements for financial assurance for corrective action pursuant to 101.114(5).

101.110(10) *Annual water quality reports (AWQR).* The owner or operator shall submit an annual report to the department detailing the water quality monitoring sampling locations and results, assessments, selection of remedies, implementation of corrective action, and results of corrective action remedies to address SSIs, if any, during the previous year. This report shall include a site map that delineates all monitoring points where water quality samples were taken and plumes of contamination, if any. The report shall contain a narrative explaining and interpreting all of the data collected during the previous year. The report shall be due each year on a date set by the department in the facility's permit.

567—101.111(455B,455D) Recordkeeping and reporting requirements. The purpose of the recordkeeping and reporting activities is to verify compliance with this division and to document the construction and operations of the facility. The department can set alternative schedules for recordkeeping and notification requirements as specified in 101.111(1) and 101.111(2), except for the notification requirements in 101.106(2)*"a"* and 101.110(6)*"g"*(1)"3." MSWLFs shall comply with the following recordkeeping and reporting requirements.

101.111(1) *Recordkeeping.* The owner or operator of an MSWLF unit must record and retain near the facility in an operating record or in an alternative location approved by the department the following information as it becomes available.

a. Permit application, permit renewal, and permit modification application materials pursuant to 567—101.105(455B);

b. Site exploration and characterization reports pursuant to 101.106(3);

c. Design and construction plans and specifications, and related analyses and documents, pursuant to 567—101.107(455B). The QC&A final reports, and related analyses and documents, pursuant to 101.107(4)*"d"*;

d. Inspection records, training procedures, and notification procedures required in 567—101.108(455B);

e. Any MSWLF unit design documentation for placement of leachate or gas condensate in an MSWLF unit as required under 101.108(1)*"b"*(3)"2" and "3";

f. Gas monitoring results from monitoring and any remediation plans required by 567—101.109(455B);

g. Any demonstration, certification, finding, monitoring, testing, or analytical data required by 567—101.110(455B);

h. Closure and post-closure care plans and any monitoring, testing, or analytical data as required by 567—101.112(455B) and 567—101.113(455B); and

i. Any cost estimates and financial assurance documentation required by this chapter.

101.111(2) *Reporting.* The owner or operator must notify the department when the documents required in 101.111(1) have been placed in the operating record. All information contained in the operating record must be furnished upon request to the department for inspection.

567—101.112(455B) Closure criteria. MSWLFs shall comply with the following closure requirements.

101.112(1) Owners or operators of MSWLF units must install a final cover system that is designed to minimize infiltration and erosion. The final cover system must be designed and constructed to:

a. Have a permeability less than or equal to the permeability of any bottom liner system (for MSWLFs with some type of liner) or have a permeability no greater than 1×10^{-7} cm/sec, whichever is less;

b. Minimize infiltration through the closed MSWLF by the use of an infiltration layer that contains a minimum of 18 inches of compacted earthen material;

c. Minimize erosion of the final cover by the use of an erosion layer that contains a minimum of 24 inches of earthen material that is capable of sustaining native plant growth;

d. Have an infiltration layer and erosion layer that are a combined minimum of 42 inches of earthen material at all locations over the closed MSWLF unit; and

e. Have a slope between 5 percent and 25 percent. Steeper slopes may be used if it is demonstrated that a steeper slope is unlikely to adversely affect final cover system integrity.

101.112(2) The department may approve an alternative final cover design that includes:

a. An infiltration layer that achieves reduction in infiltration equivalent to the infiltration layer specified in 101.112(1)*"a"* and *"b"*; and

b. An erosion layer that provides protection from wind and water erosion equivalent to the erosion layer specified in 101.112(1)*"c"* and *"d."*

101.112(3) The owner or operator must prepare a written closure plan that describes the steps necessary to close all MSWLF units at any point during the active life in accordance with the cover design requirements in 101.112(1) or 101.112(2), as applicable. The closure plan, at a minimum, must include the following information.

a. A description of the final cover including source, volume, and characteristics of cover material designed in accordance with 101.112(1) or 101.112(2) and the methods and procedures to be used to install the cover;

b. An estimate of the largest area of the MSWLF unit requiring a final cover, as required under 101.112(1) or 101.112(2), at any time during the active life;

c. An estimate of the maximum inventory of wastes on site over the active life of the landfill facility; and

d. A schedule for completing all activities necessary to satisfy the closure criteria in 567—101.112(455B).

101.112(4) The owner or operator must notify the department that the closure plan has been placed in the operating record no later than the initial receipt of waste in a new MSWLF unit.

101.112(5) At least 180 days prior to beginning closure of each MSWLF unit as specified in 101.112(6), an owner or operator must notify the department of the intent to close the MSWLF unit and that a notice of the intent to close the unit has been placed in the operating record. If the MSWLF facility will no longer be accepting MSW for disposal, then the owner or operator must also notify all local governments utilizing the facility and post a public notice of the intent to close and no longer to accept MSW.

101.112(6) The owner or operator must begin closure activities of each MSWLF unit:

a. No later than 30 days after the date on which the MSWLF unit receives the known final receipt of wastes; or

b. If the MSWLF unit has remaining capacity and there is a reasonable likelihood that the MSWLF unit will receive additional wastes, no later than one year after the most recent receipt of wastes. Extensions beyond the one-year deadline for beginning closure may be granted by the department if the owner or operator demonstrates that the MSWLF unit has the capacity to receive additional wastes and the owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed MSWLF unit.

101.112(7) The owner or operator must complete closure activities of each MSWLF unit in accordance with the closure plan within 180 days following the beginning of closure as specified in 101.112(6). Extensions of the closure period may be granted by the department if the owner or operator demonstrates that closure will, of necessity, take longer than 180 days and that the owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed MSWLF unit.

101.112(8) Following closure of each MSWLF unit, the owner or operator must submit to the department certification, signed by an independent professional engineer registered in Iowa, verifying that closure has been completed in accordance with the closure plan. Upon approval by the department, the certification shall be placed in the operating record.

101.112(9) Following closure of all MSWLF units, the owner or operator must record a notation on the deed to the landfill facility property, or some other instrument that is normally examined during title search in lieu of a deed notification, and notify the department that the notation has been recorded and a copy has been placed in the operating record. The notation on the deed must in perpetuity notify any potential purchaser of the property that:

a. The land has been used as a landfill facility, and

b. Its use is restricted under 101.113(3)*"c."*

101.112(10) The owner or operator may request permission from the department to remove the notation from the deed if all wastes are removed from the facility.

567—101.113(455B) Post-closure care requirements. MSWLFs shall comply with the following post-closure care requirements.

101.113(1) Following closure of each MSWLF unit, the owner or operator must conduct post-closure care. Post-closure care must be conducted for 30 years, except as provided under 101.113(2), and consist of at least the following.

a. Maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and runoff from eroding or otherwise damaging the final cover;

b. Maintaining and operating the leachate collection system in accordance with the requirements in 101.107(5)*"b"* and 101.105(9), if applicable. The department may allow the owner or operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment;

c. Monitoring the groundwater in accordance with the requirements of 567—101.110(455B) and maintaining the groundwater monitoring system; and

d. Maintaining and operating the gas monitoring system in accordance with the requirements of 567—101.109(455B).

101.113(2) The length of the post-closure care period may be:

a. Decreased by the department if the owner or operator demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the department; or

b. Increased if the department determines that the lengthened period is necessary to protect human health and the environment.

101.113(3) The owner or operator of all MSWLF units must prepare a written post-closure plan that includes, at a minimum, the following information:

a. A description of the monitoring and maintenance activities required in 101.113(1) for each MSWLF unit and the frequency at which these activities will be performed;

b. Name, address, email, and telephone number of the person or office to contact about the facility during the post-closure period; and

c. A description of the planned uses of the property during the post-closure period. Post-closure use of the property shall not disturb the integrity of the final cover, liner(s), or any other components of the containment system or the function of the monitoring systems unless necessary to comply with the requirements in this division. The department may approve any other disturbance if the owner or operator demonstrates that disturbance of the final cover, liner, or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment.

101.113(4) The owner or operator must notify the department that a post-closure plan has been prepared and placed in the operating record by the date of initial receipt of waste.

101.113(5) Following completion of the post-closure care period for each MSWLF unit, the owner or operator must submit to the department a certification, signed by an independent Iowa-licensed professional engineer, verifying that post-closure care has been completed in accordance with the post-closure plan. Upon department approval, the certification shall be placed in the operating record.

567—101.114(455B) Financial assurance requirements. The owner or operator of an MSWLF must establish financial assurance for closure, post-closure care and corrective action, if applicable, in accordance with Division VIII of this chapter.

567—101.115(455B) Waiver limitations. Some provisions of this division are minimum standards required by federal law (including but not limited to 40 CFR 258), and waivers to such provisions shall not be granted unless they are as protective as the applicable minimum federal standards.

These rules are intended to implement Iowa Code section 455B.304.

567—101.116 to **101.199** Reserved.

DIVISION III
INDUSTRIAL LANDFILLS

567—101.200(455B) Purpose. The purpose of this division is to implement Iowa Code chapter 455B, subchapter IV (solid waste disposal), for the siting, designing, and operating of a sanitary landfill accepting only industrial solid waste or a sanitary landfill accepting only C&D.

567—101.201(455B) Applicability.

101.201(1) This division shall apply to sanitary landfills that are constructed and operated exclusively for the final deposition of industrial solid waste or C&D, known for purposes of this chapter as industrial landfills.

101.201(2) Pursuant to Iowa Code section 455B.305(1), an industrial landfill shall not be constructed or operated without first obtaining a permit from the department pursuant to this division, the requirements set forth in 567—Chapter 100, and Division I of this chapter.

101.201(3) The issuance of a permit to an industrial landfill pursuant to this chapter in no way relieves the applicant of the responsibility of complying with all other local; state; or federal statutes, ordinances, and rules or other requirements applicable to the construction and operation of an industrial landfill.

101.201(4) All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—101.202(455B) Definitions. For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code section 455B.301 shall apply.

567—101.203(455B) Permits. For purposes of this division, the permit requirements in 567—Chapter 100 shall apply.

567—101.204(455B) Permit applications. Unless otherwise authorized by the department, a permit applicant shall submit on a form prescribed by the department the requirements in 567—Chapter 100 and Division I of this chapter, as well as the following information.

101.204(1) A detailed description of the disposal process to be used. The department may request additional details to ensure compliance with all operation requirements.

101.204(2) A table listing the equipment to be used, its design capacities, and expected loads.

101.204(3) A closure/post-closure plan that:

a. Details how and when the facility will be closed in accordance with applicable requirements of this division.

b. Describes the proposed groundwater monitoring plan, leachate control system, and site inspection and maintenance activities necessary to comply with this division.

c. States the name, address, and telephone number of the person or office to serve as a contact with regard to the facility during the post-closure period.

101.204(4) Such other information as may be required by the director.

567—101.205(455B) Soil and hydrogeologic investigations. An industrial landfill shall have a qualified groundwater scientist conduct a soil investigation, hydrogeologic investigation, and evaluation of hydrogeologic conditions. The purpose of these investigations is to obtain data to determine potential routes of contaminant migration via groundwater. Such information is vital for development of the hydrologic monitoring system plan and design. This division sets forth the minimum requirements for this work, including reporting. An industrial landfill shall comply with this division unless the department issues written approval due to specific site conditions.

567—101.206(455B) Soil investigation.

101.206(1) *Soil borings.*

a. Number of borings. A sufficient number of soil borings shall be made to accurately identify the hydrogeologic variations of the landfill site. For new landfill sites, the minimum number of borings required is 10 for landfill sites of less than 10 acres, 20 for landfill sites of 10 to 50 acres, and 20 plus an additional boring for every 10 acres above 50 acres for landfill sites larger than 50 acres. Fewer borings may be needed for existing landfill sites, depending on previous work done at the landfill site. Also, no borings will be required in existing fill areas. The department may require additional borings based on the geological complexity of the landfill site.

b. Depth of borings. All borings must extend a minimum of 25 feet deep and at least 10 feet deep below the water table; however, borings in proposed fill areas shall be terminated 10 feet above the uppermost aquifer or be grouted to provide such separation. At least half the borings located outside the

existing or proposed fill area shall extend either 10 feet into the uppermost aquifer, 50 feet below the water table, or 10 feet into bedrock. At least one boring shall extend 10 feet into bedrock or 100 feet below the lowest ground surface elevation.

c. Boring method. Borings shall comply with the applicable portions of this chapter. The preferred boring method is hollow stem auger, although it may be necessary to use other methods at greater depths and in bedrock. When wet drilling methods are used for boring in which monitoring wells or piezometers are installed, the drilling fluid and methods and development procedures shall be approved by and documented with the department.

d. Assurance that soil boring samples have been taken at the landfill site. The soil boring samples must be kept by the permit applicant until the permit is issued and must be made available to the department if the department requests them.

101.206(2) *Soil samples.* Samples shall be collected at five-foot intervals and at every change in stratum. These samples shall be obtained using a split spoon sampler and the procedures of the standard penetration test. A minimum of one undisturbed Shelby tube sample shall be obtained in the uppermost cohesive stratum at or below the lowest depth at which solid waste will be disposed of. Samples shall be clearly marked, preserved, and maintained for future inspection. Samples selected for laboratory analysis shall be properly preserved.

101.206(3) *Laboratory test of discrete soil samples.* Laboratory tests of discrete soil samples shall be conducted to correlate strata between soil borings, obtain permeability data on each stratum, and design monitoring wells.

a. Hydraulic conductivity tests. Tests using a constant-head or falling-head permeameter shall be run on a minimum of one sample from each Shelby tube sample. Each sample shall be from a different soil boring representing a different area of the landfill site.

b. Grain size distribution. Grain size distribution tests shall be conducted on a minimum of one sample from each distinct stratum.

567—101.207(455B) Hydrogeologic investigation.

101.207(1) *Groundwater level measurements.* The elevation of the water table shall be determined at or near the location of each soil boring that penetrates the water table. The water table may be determined using a completed water table monitoring well, or piezometer. The bottom of a piezometer used to measure water table elevation shall be no more than five feet below the water table. The apparent horizontal groundwater flow direction shall be determined based on water table measurements. Vertical groundwater flow shall then be assessed in at least two profiles approximately parallel to the apparent horizontal flow direction. Vertical groundwater flow shall be assessed using at least two well clusters per profile. Each well cluster shall contain a water table monitoring well or piezometer and additional water level monitoring points based on landfill site conditions as follows.

a. If the water table is in the uppermost aquifer, one additional water level monitoring point shall be located near the base of the aquifer or at least 20 feet below the base of the water table monitoring point. This additional monitoring point may not be required if the aquifer is less than 20 feet thick.

b. If the uppermost aquifer is less than 50 feet below the water table, an additional water level monitoring point shall be located at the top of the aquifer.

c. If the uppermost aquifer is more than 50 feet below the water table, additional water level monitoring points shall be placed at depths of 30 feet and 50 feet below the water table.

d. If required, the one deeper soil boring into bedrock shall be used as a landfill site for one well cluster. Water table monitoring points in this cluster shall correspond to the other well cluster used for a profile. In addition, water level monitoring points shall be placed at the bottom of the boring and, if possible, at the top and bottom of the uppermost aquifer. Groundwater level measurements shall be made after the water levels have stabilized in the monitoring point and at least 24 hours after completion and bailing of the monitoring well or installation of the piezometer. The water level in existing wells shall be observed and recorded prior to bailing. Each set of water level measurements shall be made in as short a time frame as possible not to exceed eight hours.

101.207(2) *In situ permeability tests.* In situ permeability tests shall be conducted on each monitoring well and piezometer in each well cluster.

a. Pumping test.

(1) If more than one monitoring point is located in the uppermost aquifer, a pumping test shall be conducted at one or more upper aquifer monitoring points. A pumping test involves pumping at a constant rate from one well while observing water levels in other wells. The pumping rate shall be as high as possible without dewatering the well. Water level measurements in other uppermost aquifer wells shall be measured at frequent intervals near the start of the test and then at progressively longer intervals. Continuous water level recording is preferable.

(2) Water levels in wells not located in the uppermost aquifer shall be recorded throughout the test at regular intervals. Water levels in all wells shall be measured 24 hours prior to the test and just before the test. The test duration shall be at least four hours and continue until a stabilized drawdown condition is observed. Longer tests may be necessary if other uppermost aquifer monitoring points are slow to respond. Water level readings shall be recorded through the recovery phase of the water table.

b. Bail and slug tests. Monitoring wells and piezometers located in materials with low hydraulic conductivities shall be tested using a bail or slug test. These tests involve rapidly removing or adding a known volume of water to a well and then recording water levels in the well as the well recovers to its original level. Typically, the necessary frequency of measurements will be similar to that required of a pumping test. In materials of very low hydraulic conductivities, less frequent measurements are necessary. In materials of higher hydraulic conductivities, more frequent measurements may be necessary.

101.207(3) *Existing well research.* A reasonable effort to inventory all active, unused, and abandoned water wells within one mile of the facility and the identification of all water wells within three miles of the permitted waste boundary shall be conducted. Well logs, other available information on well construction, static water levels, and usage shall be obtained. The well inventory shall be based on thorough reviews of state and local collections of well logs and, when possible, interviews or surveys of well owners. Also to be included are maps showing the location of soil borings, other field tests and measurements, and existing wells.

567—101.208(455B) Evaluation of hydrogeologic conditions.

101.208(1) Based on soil boring and other available information, a description of the landfill site geology shall be made. This description shall include preparation of geologic cross sections of sufficient number and spacing (no fewer than four at every landfill site) to adequately define all areas of the landfill site and of sufficient detail to adequately depict major stratigraphic and structural trends and reflect geologic structural features in relation to groundwater flow. Each pair of cross sections must be as near to perpendicular as possible to adequately portray the landfill site geology.

101.208(2) A description of the hydrogeologic unit(s) within the saturated zone shall be made, including thickness; depth; hydraulic properties, such as transmissivity and storage coefficient or specific yield; description of the role of each as confining bed, aquifer, or perched saturated zone; and its actual or potential use as a water supply aquifer.

101.208(3) All groundwater flow paths from the landfill site shall be identified, including both horizontal and vertical components of flow. A contour map of the water table shall be presented showing horizontal flow paths. A potentiometric surface map of the uppermost aquifer showing horizontal flow paths shall also be presented, if different from the water table. Vertical flow paths shall be shown in at least two profiles approximately parallel to the direction of horizontal flow. Vertical flow paths shall be determined by water level measurements from clustered wells at different depths if possible. An evaluation of vertical groundwater flow based on the hydrologic properties of the various strata encountered at the landfill site, estimated groundwater flow and recharge rates, and known information on hydraulic head shall also be made.

101.208(4) The seasonal, temporal, and artificially induced variations in groundwater flow shall be evaluated. Temporal variations occur due to natural events, such as rainfall. The addition of tile lines, removal of overburden, or deposition of wastes would constitute artificially induced variations.

101.208(5) Surface water flow paths from the landfill site shall be identified on topographic contour maps.

567—101.209(455B) Monitoring system plan. A hydrologic monitoring system shall be designed to intercept the groundwater and surface water flow paths from the landfill site, including proposed locations and depths for monitoring wells in accordance with monitoring well siting criteria in 567—101.212(455B). The surface water monitoring plan shall include monitoring points on all standing and flowing bodies of water that will receive surface runoff or groundwater discharge from the landfill site. For streams, sampling points upstream and downstream of areas of potential impact from the landfill site shall be selected. The monitoring system plan shall also include sampling protocols and monitoring well maintenance and performance reevaluation procedures.

567—101.210(455B) Sampling protocol. At a minimum, the sampling protocol must include the following.

101.210(1) Order in which monitoring points are to be sampled, all tests and procedures needed at each monitoring point and the order in which these procedures will be carried out, equipment and containers to be used, procedures and precautions for their use, precautions to avoid introducing contaminants from outside sources into monitoring wells or samples, and how equipment must be cleaned between uses;

101.210(2) Procedures for evacuating, if applicable, each monitoring well prior to each water quality sampling;

101.210(3) Procedures for handling field blanks and other quality assurance samples at the facility and in transit to and from the laboratory;

101.210(4) Procedures for sample preservation;

101.210(5) Procedures for sample collection, labeling and handling at the facility and during transport to the laboratory;

101.210(6) Procedures for recording field observations and measurements;

101.210(7) Procedures for records maintenance and data analysis; and

101.210(8) Procedures for sampling surface water monitoring points, including exact sampling locations and depths.

567—101.211(455B) Monitoring well maintenance and performance reevaluation plan.

101.211(1) A monitoring well maintenance and performance reevaluation plan shall be included as part of the hydrologic monitoring system plan. The plan shall ensure that all monitoring points remain reliable.

101.211(2) The plan shall provide for the following.

a. A biennial examination of high and low water levels accompanied by a discussion of the acceptability of well location (vertically and horizontally) and exposure of the screened interval to the atmosphere.

b. A biennial evaluation of water level conditions in the monitoring wells to ensure that the effects of waste disposal or well operation have not resulted in changes in the hydrologic setting and resultant flow paths.

c. Annual measurement of well depths to ensure that wells are physically intact and not filling with sediment.

d. An in situ permeability test to be conducted every five years on monitoring wells to compare test data with those collected originally to determine if well deterioration is occurring or other methods approved by the department.

567—101.212(455B) Monitoring well siting requirements.

101.212(1) *Downgradient monitoring wells.* Downgradient monitoring wells must be located to provide a high level of certainty that releases of contaminants from the landfill site can be promptly detected. Downgradient monitoring wells shall be placed along the landfill site perimeter, within 50 feet of the planned liner or waste boundary unless landfill site conditions dictate otherwise, downgradient of

the facility with respect to the hydrologic unit being monitored. For those facilities that are long-term, multiphase operations, the department may establish temporary waste boundaries in order to define locations for monitoring wells. The convergence of groundwater paths to minimize the overall length of the downgradient dimension may be taken into consideration in the placement of downgradient monitoring wells.

101.212(2) *Water table wells.* At least three downgradient water table monitoring wells shall be installed at each facility. The maximum spacing between wells shall be 600 feet.

101.212(3) *Uppermost aquifer monitoring wells.* If different from water table monitoring wells, at least three uppermost aquifer monitoring wells shall be installed at each facility. Uppermost aquifer monitoring wells shall be spaced no more than 600 feet apart. If the uppermost aquifer is located more than 50 feet below the water table, the requirement for three wells may be relaxed, although at least one downgradient uppermost aquifer monitoring well will be required.

101.212(4) *Other downgradient monitoring wells.* Additional downgradient monitoring wells will be required if the water table and uppermost aquifer monitoring wells do not intercept most vertical flow paths from the landfill site. In such situations, monitoring wells shall be placed at the appropriate depths to intercept the remaining flow paths and shall be spaced at no more than 600 feet apart.

101.212(5) *Upgradient monitoring wells.* Upgradient monitoring wells shall not be affected by the landfill site. At least one upgradient monitoring well shall be installed into each stratum being monitored by downgradient monitoring wells. If it is not possible to actually locate a monitoring well upgradient of the landfill site, the well shall be placed as near the landfill site as feasible without being affected by the landfill site.

567—101.213(455B) General requirements.

101.213(1) *Plan requirements.* The plans for industrial landfills shall include the following.

a. The map and aerial photograph of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcroppings, roads, and other applicable details including topography and drainage patterns. All wells shall be identified on the map or aerial photograph, and a benchmark shall be indicated.

b. A plot drawing in appropriate scale of the landfill site and the immediately adjacent area showing dimensions, topography with appropriate contour intervals, drainage patterns, known existing drainage tiles, locations where any geologic samples were taken, all water wells with their uses, and present and planned pertinent features including but not limited to roads, fencing, and borrow areas.

c. Detailed engineering drawing of the landfill site showing all initial and permanent roads, buildings, and equipment to be installed; unloading and holding areas; fences and gates; landscaping and screening devices; personnel and maintenance facilities; and sewer and water lines.

d. CCR landfills shall have a soil liner consisting of at least four feet of recompacted soil. The description, source and volume of the material to be used for the landfill liner, including the method of installation, must be provided. The hydraulic conductivity must be $1 \times 10E^{-7}$ cm/sec (0.00028 ft/day) or less as determined by appropriate laboratory analysis. The percent of standard or modified proctor density at moisture contents consistent with expected field conditions and corresponding to a measured hydraulic conductivity equal to or less than $1 \times 10E^{-7}$ cm/sec shall be determined in the laboratory. The soil shall be placed in lifts not to exceed eight inches in thickness. A minimum of one field moisture and density test shall be performed per lift per acre to verify that the moisture and density determined by the laboratory analysis as correlated to permeability has been achieved. Results of field moisture and density tests shall be submitted to the department prior to the placement of solid waste.

e. Alternative liner systems. An alternative liner system may be approved by the director if the design of the liner system is equivalent to the soil liner required in 101.213(1)*"d"* in performance, longevity, and protection of the groundwater, or, based on the specific type of waste to be disposed of, the design of the liner system offers equivalent protection of the groundwater. Undisturbed soil shall not be used as a liner.

f. Diversion and drainage structures designed to prevent ponding, infiltration, inundation, erosion, slope failure, and washout from surface runoff due to a 25-year 24-hour rainfall event.

g. A leachate collection, storage and treatment and disposal system designed to protect the soils, surface water, and groundwater from leachate contamination. This system shall also be designed to operate during the active life of the landfill site and during the post-closure period.

(1) The design and construction of the system must be in accordance with 101.213(10) and be coordinated with the planned phase development of the landfill site and the timing of leachate generation.

(2) The potential for leachate generation shall be evaluated in determining the design for the facility.

(3) The plan must include proposed quality assurance and quality control testing to be performed during installation and operation of the system. This plan shall include procedures that will be followed during installation of the leachate collection system and during normal landfill operations to ensure the system's integrity and design standards.

h. A drawing of the scheme of development shown progressively with time. The methods to be used to ensure compliance with the scheme and to provide vertical and horizontal controls shall be described.

i. Cross-sectional drawings showing progressively with time the original and proposed elevation of excavating, trenching, and fill.

j. An ultimate land use proposal, including intermediate stages, with time schedules indicating the total and complete land use. Final elevations, grades, permanent drainage structures, monitoring or treatment facilities, and permanent improvements of the completed landfill shall be included. Any supporting drawings to the ultimate land use proposal shall be in appropriate scale.

k. Information describing:

(1) Source, volume, and characteristics of cover material;

(2) Area of landfill site in acres.

l. A report consisting of information verifying that the portion of the landfill site to be filled is:

(1) Situated to obviate any predictable lateral movement of significant quantities of leachate from the landfill site to standing or flowing surface water or to shallow aquifers that are in actual use or are deemed to be of potential use as a water resource.

(2) At least 50 feet from the adjacent property line unless there is a written agreement with the owner of the abutting property. The report shall verify that the portion to be filled is at least 50 feet from the adjacent property line. The written agreement shall be filed with the county recorder and shall become a permanent record of the property.

(3) Beyond 500 feet from any existing habitable residence unless there is written agreement with the owner of the residence and the landfill site is screened by natural objects, plantings, or fences or by other appropriate means. The residence must be in existence on the date of application for the original permit from the department. The written agreement shall be filed with the county recorder and recorded for abstract of title purposes and a copy submitted to the department.

m. Such additional data and information as may be deemed necessary by the director to evaluate a proposed industrial landfill.

n. When a new landfill or lateral expansion is located within 200 feet of a fault that has had displacement in Holocene time, the plan must contain a notice that the facility's official files will include demonstration that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the landfill site and will be protective of human health and the environment.

o. When a new landfill or a lateral expansion is located in seismic impact zones, the plan must contain a notice that the facility's official files will include the following demonstration: that all containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in the lithified earth material for the landfill site.

p. When a new landfill or lateral expansion is located in an unstable area, the plan must contain a notice that the facility's official files will include the following demonstration: that engineering measures have been incorporated into the landfill site design to ensure that the integrity of the structural components of the landfill site will not be disrupted. The demonstration must consider the on-site

or local soil conditions that may result in significant differential settling, on-site or local geologic or geomorphologic features, and on-site or local human-made features or events (both surface and subsurface). For existing facilities located in an unstable area, the owner or operator must prepare the above demonstration required in this paragraph and notify the director that it has been placed in the facility's official files.

101.213(2) *Operating requirements.* The plan submitted shall detail how the industrial landfill will comply with these requirements.

a. Solid waste shall be unloaded at the working face only when an operator is on duty at that area. Solid waste may be deposited in storage containers inside the facility under the supervision of an attendant or operator.

b. A copy of the permit, engineering plans, and reports shall be kept at the facility at all times.

c. Each landfill site shall be graded and provided with drainage facilities to minimize flow of surface water onto and into the portion of the landfill site being filled and to prevent soil erosion and ponding of water.

d. The finished surface of the landfill site shall be repaired as required, covered with soil, and seeded with native grasses or other suitable vegetation immediately upon completion or promptly in the spring on areas terminated during winter conditions. If necessary, seeded slopes shall be covered with straw or similar material to prevent erosion.

e. Each industrial landfill shall be staked as necessary and inspected annually, or as otherwise specified in the permit, by an Iowa-licensed professional engineer. A brief report by the engineer indicating areas of conformance or nonconformance with the approved plans and specifications shall be submitted to the department by the permit holder within 30 days of the inspections. In specifying alternate inspection frequencies or schedules, the department shall consider the types and quantities of waste disposed of, the rate of development of the landfill site, the degree of control over landfill site development inherent in the design and topography of the landfill site, and the quality of prior operation.

f. If any pockets, seams or layers of sand or other highly permeable material are encountered at the industrial landfill, the permit holder shall promptly notify the department and shall ensure that a professional engineer registered in Iowa has certified that all sands encountered were totally excavated or sealed off properly or otherwise handled as explicitly provided for in the permit before solid waste is disposed of in that area of the landfill site.

g. The total volume of leachate collected for each month shall be recorded, and the elevation and thickness of leachate in the landfill shall be provided to the department in accordance with the schedule specified in the permit.

101.213(3) *Hydrologic monitoring system.* The owner or operator of a solid waste disposal facility shall operate and maintain a hydrologic monitoring system that includes a sufficient number of groundwater monitoring wells and surface water monitoring points to determine the impact, if any, that the sanitary disposal project is having on the groundwater and surface water.

The hydrologic monitoring systems shall enable early detection of the escape of pollutants from an industrial landfill. The hydrologic monitoring system shall be planned, designed, and constructed in accordance with the provisions of 101.213(3) through 101.213(9), and implemented in accordance with the following schedule.

a. A hydrologic monitoring system plan shall be submitted to the department for review and approval with any application for a new permit. Installation of the approved system shall be completed prior to the deposition of solid waste into the landfill.

b. A hydrologic monitoring system plan shall be submitted with applications for permit renewal.

c. Upon notice by the department, a hydrologic monitoring system plan may be required to be submitted within six months of such notification.

d. Completion of installation and operation of the approved plan shall be completed within one year of the date of department approval.

101.213(4) *Hydrologic monitoring system operating requirements.*

a. Operational sampling requirements. All sampling shall be conducted in accordance with an approved sampling protocol, components of which are described in 567—101.210(455B).

b. Groundwater levels. The elevation of water in each monitoring well shall be measured during sampling events and recorded to the nearest 0.01 foot. Level measurements must be made before a well is evacuated for sample collection.

c. Surface water levels. The water level or flow rate of each surface water body sampled shall be measured and recorded at the time of sample collection.

d. First-year water sampling. During the first year of operation of the hydrologic monitoring system, a sample shall be collected quarterly from each groundwater monitoring well and surface water monitoring point. The purpose of this sample is to determine baseline water quality information and enable initial estimation of water quality variability. Each sample shall be analyzed for the following parameters in addition to the parameters listed in 101.213(4)*"e"* and any additional parameter deemed necessary by the department.

(1) Arsenic.
(2) Barium.
(3) Cadmium.
(4) Chromium, total.
(5) Lead.
(6) Mercury.
(7) Magnesium.
(8) Zinc.
(9) Copper.
(10) Benzene.
(11) Carbon tetrachloride.
(12) 1,2-Dichloroethane.
(13) Trichloroethylene.
(14) 1,1,1-Trichloroethane.
(15) 1,1-Dichloroethylene.
(16) Paradichlorobenzene.

e. Routine semiannual water sampling. After the first year, each monitoring point must be sampled semiannually as specified in the facility's operation permit and analyzed for the following parameters.

(1) Chloride.
(2) Specific conductance (field measurement).
(3) pH (field measurement).
(4) Ammonia nitrogen.
(5) Iron, dissolved.
(6) Chemical oxygen demand.
(7) Temperature (field measurement).
(8) Any additional parameters deemed necessary by the department.

f. Routine annual water sampling. One sample per year from each monitoring point collected in a quarter specified in the facility's operation permit must be analyzed for the following parameters.

(1) Total organic halogen.
(2) Phenols.
(3) Any additional parameters deemed necessary by the department.

101.213(5) *Laboratory procedures.* Analyses for a contaminant regulated under this division must be performed by a laboratory certified for the analyte(s) and applicable method pursuant to 567—Chapter 83.

a. All analyses of parameters not covered in the Safe Drinking Water Act (SDWA) must be performed according to methods specified in SW-846 or approved by the United States Environmental Protection Agency. Any analytical method used on non-SDWA parameters deviating from those specified in SW-846 or approved by EPA must be approved by the department.

b. All analyses must be recorded on forms that, in addition to the analytical results, show the precision of the data set, bias, and limit of detection.

101.213(6) *Analysis of sampling data.* For each parameter analyzed during the first year of operation of the hydrologic monitoring system, as listed in 101.213(4)*"d,"* the mean and standard deviation for each upgradient monitoring well shall be determined using the first year of data. For routine semiannual monitoring parameters, as listed in 101.213(4)*"e,"* mean and standard deviation shall be recalculated annually using all available analytical data. If the analytical results for a downgradient monitoring point do not fall within the control limits of two standard deviations above the mean parameter(s) level in a corresponding upgradient monitoring point, the owner or operator shall submit this information to the department within 30 days of receipt of the analytical results. If the analytical results from an upgradient monitoring point do not fall within two standard deviations of the mean parameter(s) level for that monitoring point, the department shall also be notified within 30 days.

101.213(7) *Additional sampling.* The department will determine if additional sampling is warranted after receipt of information indicating a possible release as required in 101.213(6). The department may require any additional samples to be split and analyzed to determine whether the values obtained outside the control limits were the result of laboratory or sampling error. Any additional analytical results shall be submitted to the department by the owner or operator within seven days of receipt. The department will review the information and determine if additional monitoring or preparation of a groundwater quality assessment plan, in accordance with 101.213(9), is necessary.

101.213(8) *Recordkeeping and recording.*

a. The persons conducting the sampling must record the procedures, measurements, and observations at the time of sampling. The field records must be sufficient to document whether the procedures and requirements specified in the sampling protocol have been followed. The records must also contain the names of the persons conducting the sampling, the time and date each monitoring point was sampled, and the required field measurement or test result. The owner or operator must submit copies of these field records to the department upon request.

b. The owner or operator shall keep records of analyses and the associated groundwater surface elevations for the active life and post-closure period of the facility. These records shall be kept at the landfill site or in the administrative files of the owner or operator and shall be available for review by the department.

c. The owner or operator shall provide the department with copies of the quarterly monitoring analytical results by the dates specified in the facility's operation permit.

d. An annual report summarizing the effect of the facility on groundwater and surface water quality shall be submitted to the department by November 30 each year. The summary is to be prepared by qualified groundwater scientist and incorporated in the November annual engineer inspection report. The contents of this summary are to include the following items.

(1) A narrative describing the effects of the facility on surrounding surface water and groundwater quality and any changes made or maintenance needed in the monitoring network.

(2) Graphs showing concentrations versus time for all monitoring parameters for each well for as long as records exist for that parameter. Control limits (two standard deviations from the initial background value) must be shown in each graph.

(3) Results of activities and tests required by the well maintenance and performance reevaluation plan described in 567—101.211(455B).

101.213(9) *Groundwater quality assessment plan.*

a. If leachate migration occurs, the owner or operator shall develop and submit for approval a specific plan to conduct a groundwater quality assessment study at the facility to determine the rate of migration and the extent and constituent composition of the leachate release. At a minimum, the assessment monitoring plan must contain the following elements.

(1) Discussion of the hydrogeologic conditions at the landfill site with an identification of potential contaminant pathways.

(2) Description of the present detection monitoring system.

(3) A description of the approach the owner or operator will take to substantiate any contention that the contamination may have been falsely indicated.

(4) Description of the investigatory approach used to characterize the rate and extent of leachate migration.

(5) Discussion of the number, location, and depth of wells that will be initially installed, as well as a strategy for installing more wells in subsequent investigatory phases.

(6) Information on well design and construction.

(7) Description of the sampling and analytical program used to obtain and analyze groundwater monitoring data.

(8) Description of data collection and analysis procedures.

(9) Schedule for the implementation of each phase of the assessment study.

b. After the plan has been approved by the department, the owner or operator shall implement the plan according to the schedule in the plan.

c. Within 90 days after the activities prescribed in the groundwater assessment plan have been completed, the owner or operator shall submit a written groundwater quality assessment report to the department.

d. If the department determines that no waste or waste constituents from the facility have entered the groundwater, the owner or operator shall reinstate the routine monitoring program.

e. If the department determines that waste or waste constituents have been released from the facility and have entered the groundwater, the owner or operator shall continue to make the determinations described by the assessment plan and develop a remedial action/mitigation plan to alleviate or reduce contamination to the fullest extent possible.

101.213(10) *Leachate control system and liner design.* New industrial landfills or expansions of existing industrial landfills must have a leachate collection, storage, and treatment and discharge system in place prior to accepting waste. This system shall be operated in conformance with the approved design during the active life of the landfill site and during the post-closure period.

a. Leachate collection system.

(1) The leachate collection system shall be designed to allow not more than one foot of head above the top of the landfill liner. The collection system must include a method for measuring the leachate head in the landfill at the lowest area(s) of the collection system.

(2) The landfill liner must be graded toward the leachate collection pipe at a minimum slope of two percent and not to exceed 10 percent. The side slopes of the landfill liner must be less than 25 percent.

(3) A drainage layer must be placed immediately above the landfill liner. This drainage layer shall consist of a minimum of 1 foot of soil with a coefficient of permeability of 1 x $10E^{-3}$ cm/sec (2.8 ft/day) or greater.

(4) Leachate collection pipe shall be surrounded by a gravel protection and drainage layer.

(5) The collection pipe must be perforated of a sufficient internal diameter to handle the expected flow but not less than four inches in diameter; capable of being cleaned throughout the active life of the landfill site and during the post-closure period; chemically resistant to the wastes and the expected leachate; and of sufficient strength to support maximum static and dynamic loads imposed by the overlying wastes, cover materials, and equipment used during the construction and operation of the landfill site. Documentation shall be submitted that includes methods and specifications for cleaning of the pipes, chemical compatibility of the pipes, and calculations and specifications for pipe strength.

(6) The leachate collection system shall be equipped with valves to enable the flow of leachate from the facility to be shut off during periods of maintenance.

(7) The leachate collection system shall be cleaned out once every three years or more frequently if conditions warrant. A report of the methods and results of the cleanout shall be submitted at the time of permit renewal.

b. Leachate storage system. The leachate storage system must be:

(1) Capable of storing at least seven days' accumulation of leachate;

(2) Constructed of materials that are compatible with the expected leachate; and

(3) Accessible at all times of the year and under all weather conditions.

c. Leachate recirculation. The primary goal of the leachate recirculation system is to help stabilize the waste. The leachate recirculation system shall not contaminate waters of the state, contribute to

erosion, damage cover material, harm vegetation, or spray persons. Leachate recirculation shall be limited to areas satisfying the requirements of 101.213(10). The department shall approve areas for leachate recirculation.

d. Construction certification report. Prior to inspection and startup, a construction certification report must be submitted discussing quality assurance and quality control testing done to ensure that all materials and equipment for the leachate control system have been placed in accordance with the approved engineering plans, reports, and specifications. The results of all testing must be included, along with documentation of any failed tests, a description of the procedures used to correct the failures, and results of any retesting performed.

101.213(11) *Closure requirements.* The owner or operator of the industrial landfill must close the landfill site in a manner that minimizes the potential for post-closure release of pollutants to the air, groundwater, and surface waters.

a. A minimum of two permanent surveying monuments must be installed by a registered land surveyor from which the location and elevation of wastes, containment structures, and monitoring facilities can be determined throughout the post-closure period.

b. Contents of final cover.

(1) The final cover of an industrial landfill shall consist of:

1. Not less than two feet of compacted soil. The hydraulic conductivity must be $1 \times 10E^{-7}$ cm/sec or less as determined by appropriate laboratory analysis. The percent of standard or modified proctor density at moisture content consistent with expected field conditions and corresponding to a measured hydraulic conductivity equal to or less than $1 \times 10E^{-7}$ cm/sec shall be determined in the laboratory. The soil shall be placed in lifts not to exceed eight inches in thickness. A minimum of one field moisture and density test shall be performed per lift per acre to verify that the density determined by the laboratory analysis as correlated to the hydraulic conductivity has been achieved. Results of field moisture and density tests shall be submitted to the department. The compacted soil shall be keyed into the bottom liner at the waste cell boundary.

2. Not less than two feet of uncompacted soil, containing sufficient organic matter to support vegetation. The thickness of this soil layer must be at least the root depth of the planned vegetative cover to prevent root penetration into the underlying soil layers. This layer shall be placed as soon as possible to prevent desiccation, cracking, and freezing of the compacted soil layer described in 101.213(11)*"b"*(1)"1."

(2) A layer of compacted soil, incinerator ash, or similar material permitted by the department may be used to prepare the landfill site for placement of the compacted soil layer described in 101.213(11)*"b"*(1)"1." The use of such material will not serve as a replacement for the compacted soil layer described in 101.213(11)*"b"*(1)"1."

(3) Alternate methods and materials may be permitted if shown to provide equivalent or superior performance.

c. The final cover shall be designed and graded to meet the drainage requirements of 101.213(11)*"c."* The final cover must have a minimum slope of 5 percent and shall not exceed a slope of 25 percent. Those portions of existing landfills demonstrating placement of final cover in conformance with previously approved plans and specifications shall not be required to reconstruct the cover to meet either the minimum or maximum slope established by this subrule.

d. The final cover shall be seeded with native grasses or other suitable vegetation as soon as practical upon completion to prevent soil erosion. If seeding must be delayed due to summer or winter conditions, silt fences or other structures shall be used to minimize erosion of the final cover until the next season suitable for planting. The placement of cover in conformance with 101.213(13)*"b"* shall not be delayed due to season and shall be placed as soon as the solid waste has reached its maximum design elevation within the cell. Vegetation type shall be based on density and root depth, nutrient availability, soil thickness, and soil type. Alternatives to vegetative cover may be considered to control erosion and promote runoff.

101.213(12) *Post-closure care.* Industrial landfills shall comply with the following post-closure care requirements for 30 years.

a. The diversion and drainage system must be maintained to approved specifications to prevent run-on and runoff from eroding or otherwise damaging the final cover.

b. The integrity and effectiveness of the final cover must be maintained by making repairs as necessary to correct the effects of settling, subsidence, erosion, or other events. If damage to the compacted soil layer described in 101.213(11)*"b"*(1)"1" occurs, repairs shall be made to correct the damage and return it to its original specifications.

c. The vegetative cover shall be reseeded as necessary to maintain good vegetative growth. Any invading vegetation whose root system could damage the compacted soil layer shall be removed or destroyed immediately.

d. The groundwater monitoring system shall be operated and maintained.

e. The leachate collection, removal and treatment systems shall be operated and maintained.

f. The landfill gas monitoring and collection systems shall be operated and maintained.

g. Semiannual reports shall be submitted to the department. These reports shall contain information concerning the general conditions at the landfill site, groundwater monitoring results, amount of leachate collected and treated, information concerning the landfill gas monitoring and collection system, and other information as may be required by the closure permit. In addition, locations and elevations of all permanent monuments, required in 101.213(11)*"a,"* shall be determined at least once every three years or more frequently in the event of obvious disturbance of the monument. The reports are due by April 30 and October 31 for the preceding six-month period.

h. The permanent surveying monuments required in 101.213(11)*"a"* shall be maintained.

101.213(13) *Landfill gas.* This subrule shall not apply to industrial landfills that do not pose a risk to generating explosive gases.

a. Owners or operators of industrial landfills must ensure that:

(1) The concentration of explosive gases generated by the facility does not exceed 25 percent of the lower explosive limit for methane gas in facility structures (excluding gas control or recovery system components); and

(2) The concentration of methane gas does not exceed the lower explosive limit for methane gas at the facility property boundary.

b. Owners or operators of industrial landfills must monitor quarterly for compliance with 101.213(13)*"a."* An annual report shall be submitted by November 30 summarizing the methane gas monitoring results and any action taken resulting from gas levels exceeding the limits during the previous year.

c. If methane gas levels exceeding the limits specified in 101.213(13)*"a"* are detected, the owner or operator must:

(1) Immediately take all necessary steps to ensure protection of human health and notify the director;

(2) Within seven days after detection, submit to the director a report stating the methane gas levels detected and a description of the steps taken to protect human health;

(3) Within 60 days of detection, implement a plan for remediation of the methane gas releases and send a copy of the remediation plan to the director. The plan shall describe the nature and extent of the problem and the proposed remedy.

567—101.214(455B) Operating requirements.

101.214(1) Open burning shall be prohibited within the permitted boundary.

101.214(2) No free liquids or waste containing free liquids shall be disposed of in an industrial landfill.

101.214(3) Each permit issued by the department will contain facility-specific operating requirements consistent with the type of solid waste and the disposal process.

101.214(4) Closure requirements.

a. The owner or operator shall notify the department in writing at least 180 days prior to closure of the facility or suspension of operations.

b. Notice of closure shall be posted at the facility at least 180 days prior to closure indicating the date of closure and alternative solid waste management facilities. Notice of closure shall also be published at least 180 days prior to closure in a newspaper of local circulation. This notice shall include the date of closure and alternative solid waste management facilities if the facility is open to the public.

c. Implementation of the closure/post-closure plan shall be completed within 90 days of the closure of the facility. The owner and an Iowa-licensed professional engineer shall certify that the closure/post-closure plan has been implemented in compliance with the rules, the closure/post-closure plan, and the permit.

d. Upon completion of closure activities, a construction certification report must be submitted discussing quality assurance and quality control testing done to ensure that all materials for the cap have been placed in accordance with the approved engineering plans, reports, and specifications. The results of all testing must be included, along with documentation of any failed tests, a description of the procedures used to correct the failures, and results of any retesting performed. In addition, the following documentation shall be submitted: as-built plans showing changes from the original design plans, a copy of the notation filed with the county recorder, and other forms of documentation as required.

567—101.215(455B) Financial assurance requirements. The owner or operator of an industrial landfill pursuant to this division must establish financial assurance for closure, post-closure, and corrective action, if applicable, in accordance with Division VIII of this chapter.

These rules are intended to implement Iowa Code section 455B.304.

567—101.216 to **101.299** Reserved.

DIVISION IV
COAL COMBUSTION RESIDUAL LANDFILLS

567—101.300(455B) Purpose. The purpose of this division is to implement Iowa Code chapter 455B, subchapter IV (solid waste disposal), for the siting, designing, and operating of a solid waste sanitary landfill accepting only coal combustion residuals.

567—101.301(455B) Applicability.

101.301(1) This division shall apply to sanitary landfills that are constructed and operated exclusively for the final deposition of coal combustion residuals, known for purposes of this chapter as CCR landfills.

101.301(2) Pursuant to Iowa Code section 455B.305(1), a CCR landfill shall not be constructed or operated without first obtaining a permit from the department pursuant to this division, the requirements set forth in 567—Chapter 100, and Division I of this chapter.

101.301(3) The issuance of a permit to a CCR landfill in no way relieves the applicant of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules or other requirements applicable to the construction and operation of a CCR landfill.

101.301(4) All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—101.302(455B) Definitions. For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code section 455B.301 shall apply.

567—101.303(455B) Permits. For purposes of this division, the permit requirements in 567—Chapter 100 shall apply.

567—101.304(455B) Permit applications. Unless otherwise authorized by the department, a permit applicant shall submit on a form prescribed by the department the requirements in 567—Chapter 100, Division I of this chapter, and the following information.

101.304(1) A copy of the written agreement under 567—101.306(455B), if any, and documentation that it has been filed with the county recorder.

101.304(2) A topographic map of the site extending a minimum of 300 feet beyond the permitted property, with contour intervals not exceeding 10 feet, that shows the location of existing conditions, including but not limited to structures, wells, lakes, roads, drain tiles, or similar items.

101.304(3) A minimum of three soil borings for sites of ten acres or less with one additional boring for each additional three acres to determine the hydrogeologic conditions and establish the direction of groundwater flow, the depth to groundwater, and potential contaminant pathways throughout the site.

101.304(4) An adequate number of representative groundwater sample results to fully characterize the groundwater quality both temporally and spatially at the site and establish baseline levels for the following analytical parameters: arsenic, barium, beryllium, cobalt, copper, iron, lead, magnesium, manganese, selenium, zinc, chlorides, and sulfate.

101.304(5) A groundwater monitoring network that includes sufficient upgradient and downgradient monitoring wells that adequately monitor the potential contaminant pathways throughout the life of the site and the post-closure period.

101.304(6) Plans and specifications detailing how the CCR landfill will be constructed, operated, and closed.

101.304(7) An operations plan and a post-closure plan in accordance with the rules and the permit.

567—101.305(455B) Design requirements. In addition to the provisions in 567—100.5(455B,455D) and Division I of this chapter, the design shall include a liner and leachate collection system to protect groundwater and surface water.

567—101.306(455B) Operating requirements. Unless otherwise specified within a permit, a CCR landfill shall be operated in accordance with the provisions of 567—100.9(455B,455D). No wastes shall be deposited within 300 feet of an inhabitable residence or a commercial enterprise unless there is a written agreement with the property owner(s) allowing a lesser distance that has been filed with the local county recorder under the adjoining property or within 50 feet of the property boundary under any circumstances. An operations plan shall be prepared and submitted to the department that includes the following.

101.306(1) An identification of the area(s) to be filled during the period for which a permit is being requested.

101.306(2) The method(s) that will be utilized to prevent illicit municipal or putrescible solid wastes from being deposited as a result of mixing with authorized waste brought to the site.

101.306(3) The frequency, extent, and method of spreading and compacting the waste; the optimum layer thickness; and the size and slope of the operating face.

101.306(4) A description of the operating procedures from the arrival of waste to the site through unloading, placing, and closure to control fugitive dust, erosion, and contact water. If the methods used do not adequately control dust, contact water, and erosion, the department may require site-specific controls including a soil cover.

101.306(5) Detailed procedures for the removal of waste from the CCR landfill for beneficial reuse, if applicable.

101.306(6) Operating procedures for stormwater, contact water, and leachate management systems.

567—101.307(455B) Groundwater monitoring and reporting. Unless otherwise specified within a permit, the groundwater at a CCR landfill shall be monitored and reported in accordance with this rule.

101.307(1) For all new solid waste units, the groundwater monitoring network shall be installed before waste placement.

101.307(2) Quarterly sampling of all monitoring wells and analysis for the parameters specified in 101.304(4) shall commence within one year of initiating waste placement for the purpose of establishing the average baseline concentrations for each well.

101.307(3) Annual sampling of all monitoring wells for the parameters specified in 101.304(4) shall commence within one year of completing the quarterly baseline monitoring.

101.307(4) Additional sampling or a site assessment may be required by the department when there is an exceedance of any primary or secondary Maximum Contaminant Level (MCL), the Health Advisory Level (HAL), or the Drinking Water Standards and Health Advisories of the federal Environmental Protection Agency.

101.307(5) When an MCL or HAL does not exist for a parameter, then the statewide standard for a protected drinking water source shall be used. If no statewide standard exists, then an analysis of available groundwater data for the parameter of concern must be prepared and submitted to the department to determine whether additional sampling or site assessment is required. The analysis shall include a comparison of the most recent sample result to the average of the most recent two years of data or utilize an alternative method approved by the department.

101.307(6) A report of the groundwater monitoring results, including a site inspection, shall be submitted to the department by the end of the first year's operation and annually thereafter.

101.307(7) A minimum of one sample from each monitoring well shall be collected annually during the post-closure period and analyzed for the parameters specified in the permit. The results shall be included in the annual report.

567—101.308(455B) Closure and post-closure requirements. Unless otherwise specified within a permit, a CCR landfill shall close in accordance with the following.

101.308(1) A closure and post-closure plan shall be prepared and submitted to the department and include the actions that will be taken to close the site, final site contours and final cover design, stormwater controls and management, groundwater monitoring and reporting, permanent survey control, annual inspections, and contact information for post-closure monitoring and maintenance.

101.308(2) The final cover shall consist of not less than two feet of compacted soil and one foot of uncompacted soil capable of sustaining the growth of native vegetation. The slope of the final cover after closure shall be not less than 3 percent nor more than 25 percent.

567—101.309(455B) Financial assurance requirements. The owner or operator of a CCR landfill must establish financial assurance for closure, post-closure, and remedial action/mitigation plan, if applicable, in accordance with Division VIII of this chapter.

These rules are intended to implement Iowa Code section 455B.304.

567—101.310 to **101.399** Reserved.

DIVISION V
SOLID WASTE TRANSFER STATIONS

567—101.400(455B) Purpose. The purpose of this division is to implement Iowa Code chapter 455B, subchapter IV (solid waste disposal), for the collection, temporary storage, and transfer of solid waste prior to final disposition.

567—101.401(455B) Applicability. This division applies to all solid waste transfer stations and solid waste collection and transport vehicles. The registration of a solid waste transfer station or issuance of a solid waste transfer station permit by the department in no way relieves the registrant or applicant of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules or other requirements applicable to the construction and operation of a solid waste transfer station. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these

rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—101.402(455B) Definitions. For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code section 455B.301 shall apply.

567—101.403(455B) Location restrictions.

101.403(1) *Floodplains.* A solid waste transfer station shall not be located within a 100-year floodplain unless the design includes structures to prevent floodwater inundation from a 100-year flood of any area that comes into contact with solid waste or washwater.

101.403(2) *Inhabitable structure and sensitive populations.* A solid waste transfer station shall not be located within 500 feet of the property line of an educational or health care facility or permanent residence unless screening is utilized to minimize noise and visibility of operations. Such screening shall utilize natural components to the maximum extent possible. This requirement shall not apply if construction of the educational or health care facility or permanent residence began after the department received the solid waste transfer station permit application.

101.403(3) *Property line setback.* A solid waste transfer station building or solid waste receptacle (e.g., dumpster, roll-off box) shall be at least 50 feet from an adjacent property line unless otherwise approved by the department in writing.

567—101.404(455B) Registration in lieu of permit.

101.404(1) *Exemption requirements.* A person may construct and operate a solid waste transfer station without a permit issued pursuant to this division if all of the following criteria apply.

a. The person registers the facility pursuant to this rule;

b. The facility only receives solid waste from citizens and small businesses that do not utilize solid waste collection vehicles or satellite solid waste collection vehicles;

c. Solid waste will not be processed at the facility;

d. The facility will not be used by anyone who has been contracted to do any hauling or disposal of solid waste;

e. Solid waste will not be placed on the ground or tipping floor of a building as part of the facility's operation; and

f. The department has not notified the registrant that a permit pursuant to this division is required to protect human health and the environment.

101.404(2) *Notification requirements.* A person registering a solid waste transfer station pursuant to this rule shall provide the following, on a form prescribed by the department, prior to accepting waste and shall notify the department in writing at least 30 days prior to any operational change.

a. The physical location of the solid waste transfer station.

b. The name, address, email address, and phone number of the site owner.

c. The name, address, email address, and phone number of the responsible official.

d. The solid waste comprehensive planning area of the facility and political jurisdictions included within the facility's service area.

e. The sanitary disposal project(s) designated for final disposal of the collected waste.

f. An emergency response and remedial action plan pursuant to 567—100.14(455B).

g. Proof of the applicant's ownership of the site or legal entitlement to use the site as a solid waste transfer station.

h. Proof that the site complies with local zoning.

i. A closure cost estimate pursuant to 101.413(2) and the documents establishing financial assurance pursuant to Division VIII of this chapter or documentation of a surety bond in the amount of $15,000 pursuant to 101.413(3).

101.404(3) *Inspection prior to startup.* Registrants shall adhere to the inspection requirements of 567—100.7(455B,455D).

101.404(4) *Registration renewal.* A solid waste transfer station registration shall be issued and may be renewed for a period of no longer than five years. Renewal registrations shall be subject to the provisions of all rules of the department in effect at the time of the renewal.

101.404(5) *Operating requirements.* In addition to the provisions of 567—100.9(455B,455D), registered solid waste transfer stations shall comply with the following.

a. Solid waste shall not be accepted from solid waste collection vehicles or loaded into solid waste transport vehicles to facilitate final disposition.

b. All solid waste received shall be loaded into dumpsters, compactors, or roll-off boxes and removed by solid waste collection vehicles to facilitate final disposition.

c. Solid waste receptacles shall not be allowed to overflow, and the waste shall be removed as often as necessary to prevent a nuisance or public health hazard.

101.404(6) *Recordkeeping and reporting requirements.* Registered solid waste transfer stations that directly dispose of solid waste outside of Iowa shall, on a form prescribed by the department, report the information required in 101.404(6)*"a"* through *"c"* to the department quarterly. For registered solid waste transfer stations that directly dispose of solid waste within Iowa, the following records shall be maintained by the owner or operator for a period of three calendar years and be made available at all reasonable times for inspection by the department.

a. Tons of solid waste disposed of.

b. The solid waste comprehensive planning area(s) from which the solid waste originated.

c. Destination of all outgoing solid waste.

101.404(7) *Closure requirements.* In addition to the provisions of 567—100.10(455B,455D), registered solid waste transfer stations shall adhere to the closure requirements in 567—101.411(455B).

567—101.405(455B) Permits. Pursuant to Iowa Code section 455B.305(1), and except as provided 567—101.404(455B), no person shall construct or operate a solid waste transfer station without first obtaining a permit from the department pursuant to this division and 567—Chapter 100.

101.405(1) *Plans.* In addition to the provisions of 567—100.5(455B,455D), a solid waste transfer station permit applicant shall address the following on a form prescribed by the department.

a. Design plan. An engineering design, including applicable approvals from responsible government agencies and public entities, and engineering plans and specifications completed by the professional engineer listed in 567—subparagraph 100.5(1)*"a"*(4) detailing how the site will comply with 567—101.403(455B), 567—101.406(455B), and 567—101.408(455B).

b. Operations plan. A plan of operations detailing how the site will comply with 567—100.9(455B,455D), 567—101.407(455B), and 567—101.410(455B).

101.405(2) *Duration.* A solid waste transfer station permit shall be issued and may be renewed for a period of no longer than five years. Renewal applications shall be subject to the provisions of all rules of the department in effect at the time of the renewal.

567—101.406(455B) Design requirements. Unless registered pursuant to 567—101.404(455B) or otherwise specified within a permit, a solid waste transfer station shall be designed and constructed in accordance with this rule.

101.406(1) *Solid waste transfer station building.* A solid waste transfer station shall include a building inside which all solid waste is unloaded from solid waste collection vehicles and loaded into solid waste transport vehicles.

a. All surfaces that come into contact with solid waste shall be enclosed by walls and a roof satisfactory to:

(1) Minimize dust.

(2) Prevent litter from exiting the building.

(3) Keep precipitation out of the building.

(4) Prevent the attraction or harboring of vectors.

b. All surfaces that come in contact with solid waste or washwater shall be impervious to liquids.

c. The solid waste transfer station building shall have a drainage system that maintains a separation between stormwater and washwater.

d. The solid waste transfer station building shall have a washwater collection system that directs washwater to a storage tank for subsequent disposal, a sanitary sewer system, or equivalent as approved by the department. Unless otherwise approved by the department, storage tanks shall have high-level indicators or gauges.

e. Each area where unloaded solid waste is stored during nonoperating hours shall be clearly marked and include a fire detection system that notifies local emergency responders in case of a fire.

f. If solid waste is to be managed or stored in a surge pit, then effective odor control mechanisms are required and a sprinkler system shall be installed over the area.

g. The solid waste transfer station building shall have adequate indoor and outdoor lighting that minimizes the difference in lighting when entering or exiting the building.

h. The solid waste transfer station building shall have doors at each entrance and exit.

101.406(2) *Other site design requirements.* A solid waste transfer station shall:

a. Provide a secure perimeter fence with lockable gate(s).

b. Use a scale certified by the Iowa department of agriculture and land stewardship. A solid waste transfer station may use a certified scale located off the premises and owned by a separate entity.

c. Provide adequate queuing distance for vehicles entering and exiting the property such that lines of vehicles will not extend onto public streets during peak hours unless approved by the appropriate local or state government authority.

d. Provide signs or pavement markings indicating safe and proper on-site traffic patterns.

567—101.407(455B) Operating requirements. Unless otherwise specified within a permit, a solid waste transfer station shall be operated in accordance with the provisions of 567—100.9(455B,455D) and this rule.

101.407(1) Unless registered pursuant to 567—101.404(455B), all handling, processing, screening, open storage, loading, and similar activities or processes involving solid waste shall be performed inside the solid waste transfer station building.

101.407(2) Truck-to-truck transfer of solid waste that is not incidental solid waste transfer is not allowed outside a solid waste transfer station building. A rear-loading solid waste transport vehicle that does not have any other open access and securely abuts the solid waste transfer station building so that minimal amounts of solid waste escape during loading shall qualify as being inside the building.

101.407(3) Solid waste transfer station operators shall segregate and manage unacceptable wastes and hot loads in accordance with applicable laws and in a manner as safe and responsible as practical.

101.407(4) Solid waste receptacles shall not be allowed to overflow, and the waste shall be removed as often as necessary to prevent a nuisance or public health hazard.

101.407(5) Solid waste transfer stations shall not accept special wastes pursuant to 567—Chapter 102, Division VI.

101.407(6) Washwater management systems, if applicable, shall not be allowed to overflow and shall be inspected monthly and maintained in proper operating condition.

101.407(7) Any breach of a surface that prevents washwater from entering the ground and groundwater shall be repaired within 24 hours to make that surface impervious to liquids. If such repairs cannot be made within 24 hours, the facility shall not allow solid waste or washwater to come into contact with the breached area until repairs are complete. If the facility cannot prevent solid waste or washwater from coming into contact with the breached area, the department may require the facility to shut down until repairs are completed.

101.407(8) Unless registered pursuant to 567—101.404(455B), site access shall be controlled and limited to a time when a solid waste transfer station operator is on site and:

a. Has read, understands, and is able to implement the operational requirements of 567—101.407(455B).

b. Has read, understands, and is able to implement the emergency response and remedial action plan pursuant to 567—100.14(455B).

c. Is able to visually recognize universal symbols and markings and indications of unacceptable materials pursuant to 101.407(9).

101.407(9) All solid waste accepted by a solid waste transfer station shall, at a minimum, be visually inspected by personnel capable of identifying hot loads and hazardous, infectious, radioactive, and other wastes not acceptable for disposal in a sanitary landfill.

567—101.408(455B) Temporary solid waste storage requirements. Unless otherwise specified within a permit, a solid waste transfer station shall comply with the following storage requirements.

101.408(1) *Areas permitted for storage.* Solid waste shall be stored in the following manner.

a. Inside a solid waste transfer station building in a clearly marked designated area;

b. Inside a solid waste transfer station building in a surge pit;

c. Inside a secure solid waste transport vehicle, including intermodal container systems, protected from precipitation and vectors; or

d. Inside dumpsters, compactors, roll-off boxes, and other solid waste receptacles adequate to prevent the accidental discharge of its contents and the attraction or harborage of vectors.

101.408(2) *Storage time requirements.* Solid waste shall be stored no longer than the following periods of time unless shorter storage times are required by the local government authority to prevent a nuisance or public health hazard.

a. Inside a solid waste transfer station building without a surge pit or similar operational structure for not more than four days, excluding Sundays and national holidays.

b. Inside a solid waste transfer station building in a surge pit for not more than seven days, including Sundays and national holidays.

c. Inside a solid waste transport vehicle designated to travel only via roadway for not more than four days, excluding Sundays and national holidays.

d. Inside a solid waste transport vehicle designated to travel via rail or navigable waterway, including intermodal container systems, for not more than seven days, including Sundays and national holidays.

e. Inside dumpsters, roll-off boxes, and other solid waste receptacles at registered solid waste transfer stations for not more than four days, excluding Sundays and national holidays.

567—101.409(455B) Recordkeeping and reporting requirements.

101.409(1) Unless registered pursuant to 567—101.404(455B) or otherwise specified within a permit, a solid waste transfer station shall comply with the following recordkeeping requirements.

a. A solid waste transfer station shall maintain a copy of the following documents on site:

(1) Current operating permit.

(2) Design plan pursuant to 101.405(1)*"a."*

(3) Operations plan pursuant to 101.405(1)*"b."*

(4) Emergency response and remedial action plan pursuant to 567—100.14(455B).

(5) Proof of financial assurance pursuant to 567—101.413(455B).

b. A solid waste transfer station shall maintain records of the following information for a period of three calendar years:

(1) Tons of all solid waste disposed of quarterly.

(2) Destination of all outgoing solid waste.

(3) Washwater management system inspection log, if applicable.

(4) Hot loads and hazardous, infectious, radioactive, or other unacceptable wastes found.

101.409(2) Unless registered pursuant to 567—101.404(455B) and directly disposing of solid waste within Iowa, or otherwise specified within a permit, a solid waste transfer station shall report the following information, on a form prescribed by the department, to the department on a quarterly basis:

a. Tons of solid waste disposed of.

b. The solid waste comprehensive planning area(s) from which the solid waste originated.

c. Destinations of all outgoing solid waste.

567—101.410(455B) Solid waste collection and transport vehicle construction and operation requirements. Unless otherwise specified within a permit, solid waste collection vehicles and solid waste transport vehicles shall comply with the following requirements.

101.410(1) The portion of a solid waste collection or transport vehicle that contains solid waste shall be designed to prevent the accidental discharge of its contents, the attraction or harborage of vectors, and the infiltration of precipitation. This design shall include a suitable cover, where applicable, that is not easily torn, shredded, broken, or otherwise breached under normal use.

101.410(2) Any solid waste collection or transport vehicle that fails to comply the requirements of this rule shall be repaired before it is utilized in the transport or storage of solid waste.

101.410(3) A solid waste collection or transport vehicle's openings shall be securely closed before transport and during solid waste storage so as to prevent the loss of solid waste.

101.410(4) A solid waste transport vehicle shall be loaded with solid waste inside a solid waste transfer station building and in a manner that minimizes the spilling of materials. Solid waste spilled from a solid waste transport vehicle during loading shall be collected as often as necessary to minimize litter, dust, or other fugitive debris.

101.410(5) All solid waste collection and transport vehicles shall be cleaned at intervals frequent enough to prevent the attraction or harborage of vectors, so as not to create a nuisance or public health hazard.

101.410(6) Liquids generated from the cleaning of the areas of solid waste collection or transport vehicles that hold solid waste shall be considered washwater and managed accordingly.

101.410(7) If solid waste is spilled from a solid waste collection or transport vehicle during transport to a solid waste disposal facility, the spilled solid waste shall be collected as soon as possible. The solid waste transfer station shall immediately report the spill to the department and the department field office with jurisdiction over the facility and spill location.

567—101.411(455B) Closure requirements. Unless otherwise specified within a permit, a solid waste transfer station shall be closed in accordance with the provisions of 567—100.10(455B,455D) and this rule. Closure shall not be official until the department has given written certification of the completion of the following activities.

101.411(1) Proper disposal of all solid waste and litter at the site.

101.411(2) Cleaning of all dumpsters, compactors, roll-off boxes, and other solid waste receptacles that will remain on site, including the rinsing of all surfaces that have come in contact with solid waste.

101.411(3) Cleaning the solid waste transfer station building, if applicable, including the rinsing of all surfaces that have come in contact with solid waste or washwater.

101.411(4) Cleaning of all solid waste collection and transport vehicles that will remain on site, including the rinsing of all surfaces that have come in contact with solid waste.

101.411(5) Removal and proper management of all washwater in the washwater management system.

101.411(6) Locking all doors, gates, entrances and exits.

101.411(7) Reporting of the completion of these activities to the local political jurisdictions, the department, and the department field office with jurisdiction over the solid waste transfer station.

567—101.412(455B) Emergency solid waste transfer permit. If a primary sanitary disposal project in a solid waste comprehensive planning area becomes inoperable, the department may issue an emergency solid waste transfer permit (also known as temporary debris management site or TDMS) for a period of time no longer than necessary for a sanitary disposal project that provides replacement capacity to be constructed and become operational. The department may also issue an emergency solid waste transfer permit for a period of time no longer than necessary for a sanitary disposal project to return to operation or if more solid waste is produced by an extraordinary event (e.g., unforeseen disasters such as storms, fires, floods, tornadoes) than can be managed by a sanitary disposal project. The conditions of an emergency solid waste transfer permit shall be determined by the department and may be used as an alternative to the requirements of this division. The department shall issue an emergency solid

waste transfer permit only if the department has determined that solid waste must be transferred from the impacted area(s) in order to protect human health and the environment.

567—101.413(455B) Financial assurance requirements. The owner or operator of a solid waste transfer station must establish financial assurance for the costs of site closure in accordance with the criteria pursuant to this rule and Division VIII of this chapter.

101.413(1) Except as provided in 101.413(3), the owner or operator shall submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer, of the cost of hiring a third party to properly close the solid waste transfer station in accordance with the closure criteria in 567—101.411(455B).

101.413(2) The detailed written estimate shall account for at least the following factors determined by the department to be minimal necessary costs for site closure.

a. Third-party labor and transportation costs and total tip fees to properly dispose of all solid waste and litter at the facility equal to twice the maximum storage capacity of the facility. If materials are temporarily stored on site in solid waste collection or transport vehicles or waste receptacles, then this estimate shall include disposal costs for the maximum number of solid waste collection or transport vehicles and waste receptacles that can be on site at any one time.

b. The cost of hiring a third party to properly clean and decontaminate all equipment, storage facilities, holding areas and drainage collection systems. This estimate shall include the cost of properly disposing of a one-week volume of washwater from the facility. If the facility utilizes a washwater storage tank, then this estimate shall assume that the storage tank is full and add that volume to the one-week volume.

c. The cost associated in maintaining financial assurance pursuant to this rule and Division VIII of this chapter.

101.413(3) The owner or operator of a solid waste transfer station that is permitted for or manages no more than 5,000 tons of solid waste annually shall have the option to comply with the financial assurance requirements of this rule and Division VIII of this chapter by executing a surety bond in the sum of $15,000 pursuant to 567—subrule 101.707(2). In electing this option, the owner or operator shall not be required to submit a detailed written cost estimate for site closure pursuant to 101.413(1). This surety bond shall be unique to the solid waste transfer station and shall not be combined or used to meet the financial assurance obligations of any other permitted facility or activity.

These rules are intended to implement Iowa Code section 455B.304.

567—101.414 to **101.499** Reserved.

DIVISION VI
SOLID WASTE INCINERATOR OPERATOR CERTIFICATION

567—101.500(455B) Purpose. The purpose of this division is to implement Iowa Code section 455B.304(12) by providing the criteria for establishing the certification of operators of solid waste incinerators.

567—101.501(455B) Applicability. The requirements of this division apply to all operators of solid waste incinerators. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—101.502(455B) Solid waste incinerator operator certification. Solid waste incinerator operators shall be trained, tested, and certified by a department-approved certification program.

101.502(1) *Operator on duty.* A solid waste incinerator operator shall be on duty during all hours of operation of a solid waste incinerator, consistent with the respective certification.

101.502(2) *Training course; reciprocity.* To become a certified operator, an individual shall complete a basic operator training course that has been approved by the department or alternative, equivalent training approved by the department and shall pass a departmental examination as specified by this division. An operator certified by another state may have reciprocity subject to approval by the department.

101.502(3) *Biennial certification.* A solid waste incinerator operator certification is valid from the date of issuance until June 30 of the following even-numbered year.

101.502(4) *Basic operator training course.* The required basic operator training course for a certified solid waste incinerator operator shall have at least eight contact hours and shall address the following areas at a minimum.

a. Description of types of wastes;

b. Incinerator design;

c. Interpreting and using engineering plans;

d. Incinerator operations and safety;

e. Combustion controls and monitoring;

f. Applicable laws and regulations;

g. Permitting processes;

h. Incinerator maintenance; and

i. Ash and residue disposal.

101.502(5) *Alternative basic operator training.* Alternative basic operator training must be approved by the department. It shall be the applicant's responsibility to submit any documentation the department may require to evaluate the equivalency of alternative training.

101.502(6) *Fees.*

a. The examination fee for each examination is $20.

b. The initial certification fee is $8 for each one-half year of a two-year period from the date of issuance to June 30 of the next even-numbered year.

c. The certification renewal fee is $24.

d. The penalty fee is $12.

101.502(7) *Examinations.*

a. The operator certification examinations will be based on the basic operator training course curriculum in 101.502(4).

b. All persons wishing to take the examination required to become a certified operator of a solid waste incinerator shall complete an operator certification examination application on a form prescribed by the department. A listing of dates and locations of examinations is available from the department upon request. The application form requires the applicant to indicate the basic operator training course taken. Evidence of training course completion must be submitted with the application for certification. The completed application and the application fee shall be sent to the Iowa Department of Natural Resources, 6200 Park Avenue, Des Moines, Iowa 50321. Application for examination must be received by the department prior to the date of examination.

c. A properly completed application for examination shall be valid for one year from the date the application is approved by the department.

d. Upon failure of the first examination, the applicant may be reexamined at the next scheduled examination. Upon failure of the second examination, the applicant shall be required to wait a period of 180 days before taking a third examination. If the third examination occurs beyond the one year time frame in 101.502(7)*"c,"* a new operator certification examination application is required.

e. Upon each reexamination when a valid application is on file, the applicant shall submit to the department the examination fee prior to the date of examination.

f. Failure to successfully complete the examination within one year from the date of approval of the application shall invalidate the application.

g. Oral examinations may be given at the discretion of the department.

101.502(8) *Certification.*

a. All operators will be required to take the basic operator training course and pass the examination in order to become certified.

b. Application for certification must be received by the department within 30 days of the date the applicant receives written notification of successful completion of the examination. All applications for certification shall be made on a form prescribed by the department and be accompanied by the certification fee.

c. Applications for certification by examination that are received more than 30 days but less than 60 days after notification of successful completion of the examination shall be accompanied by the certification fee and the penalty fee. Applicants who do not apply for certification within 60 days of notice of successful completion of the examination will not be certified on the basis of that examination.

d. For applicants who have been certified under a mandatory certification program in another state, the equivalency of which has been previously reviewed and accepted by the department, certification without examination will be recommended.

e. For applicants who have been certified under voluntary certification programs in another state, certification will be considered. The applicant must have successfully completed a basic operator training course and an examination generally equivalent to the Iowa examination. The department may require the applicant to successfully complete the Iowa examination.

f. Applicants who seek Iowa certification pursuant to 101.502(8)*"d"* or *"e"* shall submit an application for examination accompanied by a letter requesting certification pursuant to this subrule. Application for certification pursuant to this subrule shall be received by the department in accordance with 101.502(8)*"b"* and *"c."*

101.502(9) *Duration and renewal of certification.* All certificates shall expire every two years, on even-numbered years, and must be renewed every two years to maintain certification. The renewal application and fee are due prior to expiration of certification.

a. Late application for renewal of a certification may be made, provided that such late application shall be received by the department or postmarked within 30 days of the expiration of the certification. Such late application shall be on a form prescribed by the department and accompanied by the penalty fee and the certification renewal fee.

b. If a certificate holder fails to apply for renewal within 30 days following expiration of the certification, the right to renew the certification automatically terminates. Certification may be allowed at any time following such termination, provided that the applicant successfully completes the examination. The applicant must then apply for certification in accordance with 101.502(8).

c. An operator shall not continue to operate a solid waste incinerator after expiration of a certification without renewal thereof.

d. Continuing education credits must be earned during the two-year certification period. All certified operators must earn six contact hours per certification during each two-year period. The two-year period will begin upon issuance of certification.

e. Only those operators fulfilling the continuing education requirements before the end of each two-year period will be allowed to renew their certifications. The certifications of operators not fulfilling the continuing education requirements shall be void upon expiration unless an extension is granted.

f. All activities for which continuing education credit will be granted must be related to the subject matter of the particular certification to which the credit is being applied.

g. The department may, in individual cases involving hardship or extenuating circumstances, grant an extension of time of up to three months within which the applicant may fulfill the minimum continuing education requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the certified operator that prevent attendance at the required activities. All requests for extensions must be made prior to expiration of certification.

h. The certified operator is responsible for notifying the department of the continuing education credits earned during the period. The continuing education credits earned during the period shall be shown on the application for renewal.

i. A certified operator shall be deemed to have complied with the continuing education requirements of this division during periods that the operator serves honorably on active duty in military service, during periods that the operator is a resident of another state or district having a continuing education requirement for operators and meets all the requirements of that state or district for practice there, during periods that the person is a government employee working as an operator and is assigned to duty outside of the United States, or during other periods of active practice and absence from the state approved by the department.

567—101.503(455B) Discipline of certified operators.

101.503(1) Disciplinary action may be taken on any of the following grounds.

a. Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator. Duties of certified operators include compliance with rules and permit conditions applicable to solid waste incinerator operation.

b. Failure to submit required records of operation or other reports required under applicable permits or rules of the department, including failure to submit complete records or reports.

c. Knowingly making any false statement, representation, or certification on any application, record, report, or document required to be maintained or submitted under any applicable permit or rule of the department.

101.503(2) The following disciplinary sanctions are allowable.

a. Revocation of a certification.

b. Probation under specified conditions relevant to the specific grounds for disciplinary action. Additional education or training or reexamination may be required as a condition of probation.

101.503(3) The procedure for discipline is as follows.

a. The department shall initiate disciplinary action. The commission may direct that the department investigate any alleged factual situation that may be grounds for disciplinary action under 101.503(1) and report the results of the investigation to the commission.

b. A disciplinary action may be prosecuted by the department.

c. Written notice shall be given to an operator against whom disciplinary action is being considered and, as appropriate, to the responsible official of the permitted solid waste incinerator. The notice shall state the informal and formal procedures available for determining the matter. The operator shall be given 20 days to present any relevant facts and indicate the operator's position in the matter and to indicate whether informal resolution of the matter may be reached.

d. An operator who receives notice shall communicate in writing or in person with the department, and efforts shall be made to clarify the respective positions of the operator and department.

e. The applicant's failure to communicate facts and positions relevant to the matter by the required date may be considered when appropriate disciplinary action is determined.

f. If agreement as to appropriate disciplinary sanction, if any, can be reached with the operator and the commission concurs, a written stipulation and settlement between the department and the operator shall be entered into. The stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the operator, and the reasons for the particular sanctions imposed.

g. If an agreement as to appropriate disciplinary action, if any, cannot be reached, the department may initiate formal hearing procedures. Notice and formal hearing shall be in accordance with 561—Chapter 7 related to contested and certain other cases pertaining to licensee discipline.

101.503(4) Upon revocation of a certificate, application for certification may be allowed after two years from the date of revocation. Any such applicant must successfully complete the examination and be certified in the same manner as a new applicant.

567—101.504(455B) Temporary operator designation. A temporary operator of a solid waste incinerator may be designated for a period of six months when an existing certified operator is no longer available to the facility. The facility must make application to the department, explain why a temporary certification is needed, identify the temporary operator, and identify the efforts that will be made to obtain a certified operator. A temporary operator designation shall not be approved for greater

than a six-month period except for extenuating circumstances. In any event, not more than one six-month extension to the temporary operator designation may be granted. Approval of a temporary operator designation may be rescinded for cause as set forth in 567—101.503(455B).

These rules are intended to implement Iowa Code section 455B.304(12).

567—101.505 to **101.699** Reserved.

DIVISION VII
RESERVED

DIVISION VIII
FINANCIAL ASSURANCE

567—101.700(455B) Purpose. The purpose of this division is to implement Iowa Code sections 455B.304(8) and 455B.306(9) by providing the criteria for establishing financial assurance for closure, post-closure care, and corrective action at sanitary disposal projects, whichever is applicable.

567—101.701(455B) Applicability.

101.701(1) The requirements of this division apply to all owners and operators of sanitary disposal projects, except owners or operators who are state or federal government entities, whose debts and liabilities are the debts and liabilities of a state or the United States.

101.701(2) This division does not apply to municipal solid waste sanitary landfills regulated pursuant to Division II of this chapter that ceased accepting solid waste by August 24, 1994, nor to industrial sanitary landfills and coal combustion residual sanitary landfills regulated pursuant to Divisions III and IV of this chapter, respectively, that ceased accepting waste by October 31, 2007.

101.701(3) This division does not apply to sanitary disposal projects that are not sanitary landfills and that have completed proper site closure nor to sanitary landfills that have completed post-closure care obligations prior to [the effective date of this rule].

101.701(4) All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—101.702(455B) Definitions. For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code section 455B.301 shall apply.

567—101.703(455B) Financial assurance for closure of sanitary disposal projects that are not sanitary landfills. The owner or operator of a sanitary disposal project must establish financial assurance for the costs of site closure in accordance with the criteria in this division. The owner or operator must provide continuous coverage for site closure until released from this requirement by demonstrating compliance with the closure criteria expressed within each sanitary disposal project's applicable division. Proof of compliance pursuant to 101.703(1) through 101.703(3) shall be submitted to the department by the owner or operator at the time of application for a permit, and with each renewal thereafter, until the owner or operator is released from this requirement by the department.

101.703(1) The owner or operator shall submit, on a form prescribed by the department, the amount of the financial assurance required and the current value of the financial assurance instrument(s) at the time of submittal as required by Iowa Code section 455B.306(9).

101.703(2) The owner or operator shall submit a copy of the documents establishing the financial assurance instrument(s) in an amount equal to or greater than the amount specified in 567—101.710(455B). Documentation for the instrument(s) used to demonstrate financial assurance shall contain, at a minimum, the items required to be submitted as specified in 567—101.707(455B).

101.703(3) The owner or operator shall submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer, of the cost of hiring a third party to properly close the sanitary disposal project in accordance with the closure criteria expressed within each sanitary disposal project's applicable division.

a. The cost estimate must equal the cost of closing the sanitary disposal project at any time during its permitted life when the extent and manner of its operation would make closure the most expensive.

b. The costs contained in the estimate for site closure must be accurate and reasonable when compared to the cost estimates used by other similarly situated sanitary disposal projects in Iowa.

c. The owner or operator must, at the time of permit renewal or at the time of application for a permit modification that increases closure costs, whichever occurs first, have an Iowa-licensed professional engineer update the closure cost estimate, and update the amount of financial assurance provided if changes to the closure plan or sanitary disposal project conditions increase the maximum cost of closure at any time during the remaining active life of the site.

d. The owner or operator may reduce the amount of financial assurance for proper closure of the site if the most recent estimate of the maximum cost of closure at any time during the active life of the site is less than the amount of financial assurance currently provided. Prior to the reduction, the owner or operator must submit to the department the justification for the reduction of the closure cost estimate and the updated documentation required by 101.703(1) through 101.703(3) and receive department approval for the reduction.

567—101.704(455B) Financial assurance for closure of sanitary landfills. The owner or operator of a sanitary landfill must establish financial assurance for the costs of site closure in accordance with the criteria in this division. The owner or operator must provide continuous coverage for site closure until released from this requirement by demonstrating compliance with the approved closure plan and the closure permit. Proof of compliance pursuant to 101.704(1) through 101.704(5) shall be submitted to the department by the owner or operator yearly by April 1 and approved by the department.

101.704(1) The owner or operator shall submit, on a form prescribed by the department, the amount of the financial assurance required, the annual financial statement required by Iowa Code section 455B.306(9)*"e,"* and the current value of the financial assurance instrument(s) as required by Iowa Code section 455B.306(9).

101.704(2) The owner or operator shall submit a copy of the documents establishing the financial assurance instrument(s) in an amount equal to or greater than the amount specified in 567—101.710(455B). Documentation for the instruments(s) used to demonstrate financial assurance shall contain, at a minimum, the items required to be submitted as specified in 567—101.707(455B).

101.704(3) The owner or operator shall, except for the allowance granted in 101.704(3)*"c,"* submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer, of the cost of hiring a third party to close the sanitary landfill in accordance with the approved closure plan and the closure permit.

a. The cost estimate must equal the cost of closing the sanitary landfill at the time the cost estimate is prepared.

b. The costs contained in the estimate for closure must be accurate and reasonable when compared to the cost estimates used by other similarly situated sanitary landfills in Iowa.

c. During the active life of the sanitary landfill, the owner or operator may, for the duration of the permit cycle or five years, whichever is less, have an Iowa-licensed professional engineer adjust the certified closure cost estimate for inflation by using an inflation factor derived from the most recent annual Implicit Price Deflator for Gross Domestic Product published by the United States Department of Commerce. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year. After applying the inflation factor for the duration of the permit cycle, or five years, whichever is less, the owner or operator shall again submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer pursuant to 101.704(3).

d. The owner or operator must annually or at the time of permit renewal, at the time of application for a permit modification, or due to other requirements that increase closure costs have an Iowa-licensed

professional engineer update the detailed written closure cost estimate and update the amount of financial assurance provided if changes to the closure plan or sanitary landfill conditions increase the cost of closure.

e. The owner or operator may reduce the amount of financial assurance for proper closure of the site if the most recent estimate is less than the amount of financial assurance currently provided. Prior to the reduction, the owner or operator must submit to the department the justification for the reduction of the closure cost estimate and the updated documentation required by 101.704(1) through 101.704(5) and receive department approval for the reduction.

f. The estimate submitted to the department must include the site area subject to closure (in acres) and account for at least the following factors determined by the department to be the minimal necessary costs for closure.

(1) Closure and post-closure plan document revisions;
(2) Site preparation, earthwork, and final grading;
(3) Drainage control culverts, piping, and structures;
(4) Erosion control structures, sediment ponds, and terraces;
(5) Final cap construction;
(6) Cap vegetation soil placement;
(7) Cap seeding, mulching, and fertilizing;
(8) Monitoring well, piezometer, and gas control modifications;
(9) Leachate system cleanout and extraction well modifications;
(10) Monitoring well installations and abandonments;
(11) Facility modifications to effect closed status;
(12) Engineering and technical services;
(13) Legal, financial, and administrative services; and
(14) Closure compliance certifications and documentation.

101.704(4) For publicly owned sanitary landfills, the owner or operator shall submit to the department a copy of the owner's or operator's most recent annual audit report in the form prescribed by the office of the auditor of the state of Iowa. In addition to the annual audit report, the owner or operator of a publicly owned sanitary landfill may submit financial institution statements to document the current balance of a trust fund or local government dedicated fund established pursuant to 101.707(1) and 101.707(9) or the closure and post-closure care account(s) pursuant to 567—101.709(455B).

101.704(5) Privately owned sanitary landfills shall submit an affidavit from the owner or operator indicating that a yearly review has been performed by an Iowa-licensed certified public accountant to determine whether the privately owned sanitary landfill is in compliance with this division. The affidavit shall state the name of the Iowa-licensed certified public accountant, the dates and conclusions of the review, and the steps taken to rectify any deficiencies identified by the accountant.

567—101.705(455B) Financial assurance for post-closure care of sanitary landfills. The owner or operator of a sanitary landfill must establish financial assurance for the costs of post-closure care in accordance with the criteria in this division. The owner or operator must provide continuous coverage for post-closure care until released from this requirement by demonstrating compliance with the approved post-closure plan and the closure permit. Proof of compliance pursuant to 101.705(1) through 101.705(5) shall be submitted to the department by the owner or operator yearly by April 1 and approved by the department.

101.705(1) The owner or operator shall submit, on a form prescribed by the department, the amount of the financial assurance required, the annual financial statement required by Iowa Code section 455B.306(9)*"e,"* and the current value of the financial assurance instrument(s) as required by Iowa Code section 455B.306(9).

101.705(2) The owner or operator shall submit a copy of the documents establishing the financial assurance instrument(s) in an amount equal to or greater than the amount specified in 567—101.710(455B). Documentation for the instrument(s) used to demonstrate financial assurance shall contain, at a minimum, the items required to be submitted as specified in 567—101.707(455B).

101.705(3) The owner or operator shall, except for the allowance granted in 101.705(3)*"c,"* submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer, of the cost of hiring a third party to conduct post-closure care for the sanitary landfill in accordance with the approved post-closure plan and the closure permit.

a. The cost estimate must account for the total cost of conducting post-closure care, as described in the plan, for the entire post-closure care period.

b. The costs contained in the estimate for post-closure care must be accurate and reasonable when compared to the cost estimates used by other similarly situated sanitary landfills in Iowa.

c. During the active life of the sanitary landfill and during the post-closure care period, the owner or operator may, for the duration of the permit cycle or five years, whichever is less, have an Iowa-licensed professional engineer adjust the certified post-closure cost estimate for inflation by using an inflation factor derived from the most recent annual Implicit Price Deflator for Gross Domestic Product published by the United States Department of Commerce. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year. After applying the inflation factor for the duration of the permit cycle, or five years, whichever is less, the owner or operator shall again submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer pursuant to 101.705(3).

d. The owner or operator must, annually or at the time of application for a permit modification, or due to other requirements that increase post-closure care costs, have an Iowa-licensed professional engineer increase the detailed written post-closure cost estimate and update the amount of financial assurance provided if changes in the post-closure plan or sanitary landfill conditions increase the cost of post-closure care.

e. The owner or operator may reduce the amount of financial assurance for post-closure care if the most recent estimate of post-closure care is less than the amount of financial assurance currently provided. Prior to the reduction, the owner or operator must submit to the department the justification for the reduction of the post-closure cost estimate and the updated documentation required by 101.705(1) through 101.705(5) and receive department approval for the reduction.

f. The estimate submitted to the department must include the site area subject to post-closure care and account for at least the following factors determined by the department to be the minimal necessary costs for post-closure care.

(1) General site facilities, access roads, and fencing maintenance;
(2) Cap and vegetative cover maintenance;
(3) Drainage and erosion control systems maintenance;
(4) Groundwater to waste separation systems maintenance;
(5) Gas control systems maintenance, if applicable;
(6) Gas control systems monitoring and reports, if applicable;
(7) Groundwater and surface water monitoring systems maintenance;
(8) Groundwater and surface water quality monitoring and reports;
(9) Groundwater monitoring systems performance evaluations and reports;
(10) Leachate control systems maintenance;
(11) Leachate management, transportation, and disposal;
(12) Leachate control systems performance evaluations and reports;
(13) Facility inspections and technical reports;
(14) Engineering and technical services;
(15) Legal, financial, and administrative services; and
(16) Financial assurance, accounting, audits, and reports.

101.705(4) For publicly owned sanitary landfills, the owner or operator shall submit to the department a copy of the owner's or operator's most recent annual audit report in the form prescribed by the office of the auditor of the state of Iowa. In addition to the annual audit report, the owner or operator of a publicly owned sanitary landfill may submit financial institution statements to document the current balance of a trust fund or local government dedicated fund established pursuant to 101.707(1) and 101.707(9), or the closure and post-closure care account(s) pursuant to 567—101.709(455B).

101.705(5) Privately owned sanitary landfills shall submit an affidavit from the owner or operator indicating that a yearly review has been performed by an Iowa-licensed certified public accountant to determine whether the privately owned sanitary landfill is in compliance with this division. The affidavit shall state the name of the Iowa-licensed certified public accountant, the dates and conclusions of the review, and the steps taken to rectify any deficiencies identified by the accountant.

567—101.706(455B) Financial assurance for corrective action at sanitary landfills.

101.706(1) An owner or operator required to undertake corrective action must have a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer, of the cost of hiring a third party to perform the required corrective action. The cost estimate must account for the total cost of conducting the activities described in the corrective action plan for the entire corrective action period. The owner or operator must submit to the department for approval the cost estimate and financial assurance documentation prior to implementation of the corrective action remedy. Proof of continued compliance pursuant to 101.706(1) and 101.706(2) shall be submitted to the department by the owner or operator yearly by April 1 and approved by the department.

a. The owner or operator shall submit, on a form prescribed by the department, the amount of the financial assurance required to complete the corrective action remedy and the current value of the financial assurance instrument(s).

b. The owner or operator may, for up to three consecutive years, have an Iowa-licensed professional engineer adjust the certified corrective action cost estimate for inflation by using an inflation factor derived from the most recent annual Implicit Price Deflator for Gross Domestic Product published by the United States Department of Commerce. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year. After three consecutive years of applying the inflation factor, the owner or operator shall again submit a detailed written estimate, in current dollars, certified by an Iowa-licensed professional engineer pursuant to this subrule.

c. The owner or operator must increase the detailed written corrective action cost estimate and update the amount of financial assurance provided if changes in the corrective action remedy or sanitary landfill conditions increase the maximum cost of corrective action.

d. The owner or operator may reduce the amount of the cost estimate and the amount of financial assurance provided if the cost estimate exceeds the maximum remaining costs of the remaining corrective action. Prior to the reduction, the owner or operator must submit to the department the justification for the reduction of the corrective action cost estimate and the updated documentation required by 101.706(1) through 101.706(2) and receive department approval for the reduction.

101.706(2) The owner or operator of a sanitary landfill required to undertake corrective action must establish financial assurance for the corrective action remedy by one of the instruments prescribed in 567—101.707(455B). The owner or operator must provide continuous coverage for corrective action until released from financial assurance requirements by demonstrating compliance with the following.

a. Upon completion of the corrective action remedy, the owner or operator must submit to the department a certification of compliance with the corrective action plan. The certification must be signed by the owner or operator and by a qualified groundwater scientist.

b. Upon department approval of completion of the corrective action remedy, the owner or operator shall be released from the requirement for financial assurance for corrective action pursuant to 567—101.706(455B).

567—101.707(455B) Allowable financial assurance instruments. The instruments used to demonstrate financial assurance, as required by Iowa Code sections 455B.304(8) and 455B.306(9), must ensure that the funds necessary to meet the costs of closure, post-closure care, and corrective action for known releases will be available whenever the funds are needed. The instruments used shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. Owners or operators must choose from options in 101.707(1) through 101.707(9), as provided for in Iowa Code section 455B.301(9)*"c."*

101.707(1) *Trust fund.*

a. An owner or operator may demonstrate financial assurance for closure, post-closure care and corrective action, whichever is applicable, by establishing a trust fund that conforms to the requirements of this subrule. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The owner or operator must submit to the department a copy of the executed trust agreement.

b. For a trust fund used to demonstrate financial assurance for proper closure at a sanitary disposal project that is not sanitary landfill, there is no pay-in period as defined in 101.707(1)*"c."* Instead, the trust fund shall be in an amount equal to or greater than the amount specified in 101.703(3).

c. Payments into the trust fund must be made annually by the owner or operator over ten years or over the remaining permitted life of the sanitary landfill, whichever is shorter, in the case of a trust fund for closure and post-closure care, or over one-half of the estimated length of the corrective action remedy in the case of response to a known release. This period is referred to as the pay-in period.

d. For a trust fund used to demonstrate financial assurance for closure and post-closure care at a sanitary landfill, the first payment into the fund must be at least equal to the amount specified in 567—101.710(455B) for closure and post-closure care, divided by the number of years in the pay-in period, as defined in 101.707(1)*"c."* The amount of subsequent payments must be determined by the following formula.

$$\text{Next Payment} = \frac{CE - B}{Y}$$

Where:

"CE" is the amount specified in 567—101.710(455B) for closure and post-closure care (updated for inflation or other changes).

"B" is the balance of the trust fund at the close of the previous fiscal year.

"Y" is the number of years remaining in the pay-in period.

e. Unless otherwise authorized by the department, for a trust fund used to demonstrate financial assurance for corrective action at a sanitary landfill, the first payment into the trust fund must be at least equal to one-half of the amount specified in 101.706(1) for corrective action, divided by the number of years in the corrective action pay-in period, as defined in 101.707(1)*"c."* The amount of subsequent payments must be determined by the following formula.

$$\text{Next Payment} = \frac{RB - V}{Y}$$

Where:

"RB" is the most recent estimate of the required trust fund balance for corrective action.

"V" is the current value of the trust fund at the close of the previous fiscal year.

"Y" is the number of years remaining in the pay-in period.

f. The initial payment into the trust fund must be made prior to the initial receipt of solid waste at the sanitary landfill or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care; or no later than 120 days after the selection of the corrective action remedy.

g. The owner or operator, or other person authorized to conduct closure, post-closure care, and corrective action activities, may request reimbursement from the trustee for these expenditures, including partial closure, as they are incurred. The owner or operator must submit to the department documentation of the justification for reimbursement and verification that reimbursement has been received.

h. After the pay-in period has been completed for a sanitary landfill, the trust fund shall be adjusted annually to correct any deficiency of the fund with respect to the updated cost estimates and may be adjusted annually should the balance in the fund exceed the updated cost estimates.

i. The trust fund may be terminated by the owner or operator only if the owner or operator substitutes alternative financial assurance as specified in this rule or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

101.707(2) *Surety bond guaranteeing payment or performance.*

a. An owner or operator may demonstrate financial assurance for closure and post-closure care by obtaining a payment or performance surety bond, which conforms to the requirements of this subrule. An owner or operator may demonstrate financial assurance for corrective action by obtaining a performance bond, which conforms to the requirements of this subrule. The bond must be effective and all required submissions made to the department prior to the initial receipt of solid waste or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or, in the case of corrective action, no later than 120 days after the selection of the corrective action remedy. The owner or operator must submit to the department a copy of the executed surety bond and subsequent proof of continuance in accordance with 567—101.703(455B) through 567—101.706(455B). The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

b. The penal sum of the bond must be in an amount at least equal to the amount specified in 567—101.710(455B) for closure, post-closure care, and corrective action, whichever is applicable.

c. Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond and also upon notice from the department pursuant to 101.707(2)*"f."*

d. The owner or operator must also establish a standby trust fund. The standby trust fund must meet the requirements of 101.707(1), except the requirements for initial payment and subsequent annual payments specified in 101.707(1)*"c"* through *"f."*

e. Payments made under the terms of the bond will be deposited by the surety directly into the standby trust fund. Payments from the trust fund must be authorized by the trustee pursuant to 101.707(1)*"g."*

f. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the department 120 days in advance of cancellation. When such notice is provided, the owner or operator shall, within 90 days, provide to the department adequate proof of alternative financial assurance, notice from the surety of withdrawal of the cancellation, or proof of a deposit into the standby trust fund of a sum equal to the amount of the bond. If the owner or operator has not complied with this paragraph within the 90-day time period, this shall constitute a failure to perform and the department shall notify the surety, prior to the expiration of the 120-day notice period, that such a failure has occurred. The provision of funds by the issuer of the surety bond shall be considered an issuance of a loan to the owner or operator, and the terms of that loan shall be governed by the surety bond or subsequent agreement between those parties.

g. The owner or operator may cancel the bond only if alternative financial assurance is substituted prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

101.707(3) *Letter of credit.*

a. An owner or operator may demonstrate financial assurance for closure, post-closure care, and corrective action, whichever is applicable, by obtaining an irrevocable standby letter of credit, which conforms to the requirements of this subrule. The letter of credit must be effective and all required submissions made to the department prior to the initial receipt of solid waste or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or, in the case of corrective action, no later than 120 days after the selection of the corrective action remedy. The owner or operator must submit to the department a copy of the executed letter of credit, and subsequent proof of continuance in accordance with 567—101.703(455B) through 567—101.706(455B). The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

b. A letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the name and address of the facility and the amount of funds assured, must be included with the letter of credit submitted to the department.

c. The owner or operator must also establish a standby trust fund. The standby trust fund must meet the requirements of 101.707(1), except the requirements for initial payment and subsequent annual payments specified in 101.707(1)*"c"* through *"f."*

d. Payments made under the terms of the letter of credit will be deposited by the issuing institution directly into the standby trust fund. Payments from the trust fund must be authorized by the trustee pursuant to 101.707(1)*"g."*

e. The letter of credit must be irrevocable and issued for a period of at least one year in an amount at least equal to the amount specified in 567—101.710(455B) for closure, post-closure care, and corrective action, whichever is applicable. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless the issuing institution has canceled the letter of credit by sending notice of cancellation by certified mail to the owner or operator and to the department 120 days in advance of cancellation. When such notice is provided, the owner or operator shall, within 90 days, provide to the department adequate proof of alternative financial assurance, notice from the issuing institution of withdrawal of the cancellation, or proof of a deposit into the standby trust fund of a sum equal to the amount of the letter of credit. If the owner or operator has not complied with this paragraph within the 90-day time period, this shall constitute a failure to perform and the department shall notify the issuer of the letter of credit, prior to the expiration of the 120-day notice period, that such a failure has occurred. The provision of funds by the issuer of the letter of credit shall be considered an issuance of a loan to the owner or operator, and the terms of that loan shall be governed by the letter of credit or subsequent agreement between those parties.

f. The owner or operator may cancel the letter of credit only if alternative financial assurance is substituted prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

101.707(4) *Insurance.*

a. An owner or operator may demonstrate financial assurance for closure and post-closure care, whichever is applicable, by obtaining insurance that conforms to the requirements of this subrule. The insurance must be effective and all required submissions made to the department prior to the initial receipt of solid waste or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care. At a minimum, the insurer must be licensed to transact the business of insurance or be eligible to provide insurance as an excess or surplus lines insurer in Iowa. The owner or operator must submit to the department a copy of the executed insurance policy and subsequent proof of continuance in accordance with 567—101.703(455B) through 567—101.706(455B).

b. The closure or post-closure care insurance policy must guarantee that funds will be available to close the sanitary disposal project whenever final closure occurs or to provide post-closure care for a sanitary landfill whenever the post-closure care period begins, whichever is applicable. The policy must also guarantee that once closure or post-closure care begins, the insurer will be responsible for the paying out of funds to the owner or operator or other person authorized to conduct closure or post-closure care, up to an amount equal to the face amount of the policy.

c. The insurance policy must be issued for a face amount at least equal to the amount specified in 567—101.710(455B) for closure and post-closure care, whichever is applicable. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

d. An owner or operator, or any other person authorized to conduct closure or post-closure care, may receive reimbursements for closure or post-closure care expenditures, including partial closure, whichever is applicable. Requests for reimbursement will be granted by the insurer only if the remaining value of the policy is sufficient to cover the remaining costs of closure or post-closure care. The owner or operator must submit to the department documentation of the justification for reimbursement and verification that the reimbursement has been received.

e. Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided that such consent is not unreasonably refused.

f. The insurance policy must provide that the insurer may not cancel, terminate, or fail to renew the policy, except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of

cancellation by certified mail to the owner or operator and to the department 120 days in advance of cancellation. When such notice is provided, the owner or operator shall, within 90 days, provide to the department adequate proof of alternative financial assurance, notice from the insurer of withdrawal of the cancellation, or proof of a deposit of a sum equal to the amount of the insurance coverage into either the closure and post-closure care account(s) established pursuant to Iowa Code section 455B.306(9)*"b"* or a standby trust fund that meets the requirements of 101.707(1), except the requirements for initial payment and subsequent annual payments specified in 101.707(1)*"c"* through *"f."* If the owner or operator has not complied with this paragraph within the 90-day time period, this shall constitute a failure to perform and shall be a covered event pursuant to the terms of the insurance policy. A failure by the owner or operator to comply with this paragraph within the 90-day time period shall make the insurer liable for the closure and post-closure care of the covered facility up to the amount of the policy limits, which shall be equal to the most recently submitted cost estimates.

g. For insurance policies providing coverage for post-closure care, commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

h. The owner or operator may cancel the insurance policy only if alternative financial assurance is substituted prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

101.707(5) *Corporate financial test.* An owner or operator that satisfies the requirements of this subrule may demonstrate financial assurance for closure, post-closure care, and corrective action, whichever is applicable, up to the amount specified below.

a. Financial component. The owner or operator must satisfy the requirements of 101.707(5)*"a"*(1) through *"a"*(3) to meet the financial component of the corporate financial test.

(1) The owner or operator must satisfy one of the following three conditions.

1. A current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard & Poor's or Aaa, Aa, A or Baa as issued by Moody's;

2. A ratio of less than 1.5 comparing total liabilities to net worth (net worth calculations may not include future permitted capacity of a subject landfill as an asset); or

3. A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion, and amortization, minus $10 million, to total liabilities.

(2) The tangible net worth (excluding future permitted capacity of a subject sanitary landfill) of the owner or operator must be greater than:

1. The sum of the current closure, post-closure care, and corrective action cost estimates, whichever is applicable, and any other environmental obligations, including guarantees covered by a financial test, except as provided in 101.707(5)*"a"*(2)"2." For sanitary landfill owners or operators, this sum shall include an additional $10 million.

2. For sanitary landfill owners or operators, a net worth of $10 million plus the amount of any guarantees that have not been recognized as liabilities on the financial statements, provided that all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements and subject to the approval of the department.

(3) The owner or operator must have located in the United States assets (excluding future permitted capacity of a subject sanitary landfill) amounting to at least the sum of current closure, post-closure care, and corrective action cost estimates, whichever is applicable, and any other environmental obligations covered by a financial test as described in 101.707(5)*"f."*

b. Recordkeeping and reporting requirements. The owner or operator must submit the following records to the department prior to the initial receipt of solid waste or before cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or no later than 120 days after the selection of the corrective action remedy.

(1) A letter signed by the owner's or operator's chief financial officer that:

1. Lists all the current cost estimates covered by a financial test, including but not limited to cost estimates required by 567—101.703(455B) through 567—101.706(455B); cost estimates required for municipal solid waste landfills pursuant to 40 CFR Part 258, if applicable; cost estimates required for UIC facilities under 40 CFR Part 144, if applicable; cost estimates required for petroleum underground storage tank facilities under 40 CFR Part 280, if applicable; cost estimates required for PCB storage facilities under 40 CFR Part 761, if applicable; and cost estimates required for hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, if applicable; and

2. Provides evidence demonstrating that the firm meets the conditions of 101.707(5)*"a."*

(2) A copy of the Iowa-licensed certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the Iowa-licensed certified public accountant. An adverse opinion or disclaimer of opinion shall be cause for disallowance of this instrument. A qualified opinion related to the demonstration of financial assurance may, at the discretion of the department, be cause for disallowance. If the department does not allow use of the corporate financial test, the owner or operator must provide alternative financial assurance that meets the requirements of 567—101.707(455B).

(3) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies 101.707(5)*"a"*(1)"2" or "3" that differs from data in the audited financial statements referred to in 101.707(5)*"b"*(2) or any other audited financial statement or data filed with the U.S. Securities and Exchange Commission, a special report from the owner's or operator's Iowa-licensed certified public accountant to the owner or operator. The special report shall be based on an agreed-upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

(4) If the chief financial officer's letter provides a demonstration that the owner or operator has assured for environmental obligations as provided in 101.707(5)*"a"*(2)"2," a report from the Iowa-licensed certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, that documents how these obligations have been measured and reported, and that verifies that the tangible net worth of the owner or operator is at least the amount of any guarantees provided. For sanitary landfill owners or operators, this sum shall include an additional $10 million.

c. Cease submission of information. The owner or operator may cease the submission of the information required by 101.707(5) only if alternative financial assurance is substituted prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

d. Financial test. The owner or operator must satisfy the requirements of the financial test at the close of each fiscal year. If the owner or operator no longer meets the requirements of the corporate financial test, the owner or operator must immediately notify the department in writing and, within 90 days following the close of the owner's or operator's fiscal year, obtain alternative financial assurance that meets the requirements of 567—101.707(455B) and submit the financial assurance documentation to the department for approval.

e. Financial condition. The department may, based on a reasonable belief that the owner or operator may no longer meet the requirements of 101.707(5)*"a,"* require at any time the owner or operator to provide reports of its financial condition in addition to, or including, current financial test documentation as specified in 101.707(5)*"b."* If the department finds that the owner or operator no longer meets the requirements of 101.707(5)*"a,"* the owner or operator must provide alternative financial assurance that meets the requirements of 567—101.707(455B) within 90 days of written notification by the department.

f. Calculation of costs to be assured. When calculating the current cost estimates for closure, post-closure care, corrective action, or the sum of the combination of such costs to be covered, and

any other environmental obligations assured by a financial test referred to in 101.707(5), the owner or operator must include cost estimates required for 567—101.703(455B) through 567—101.706(455B) and cost estimates required for the following environmental obligations, if the owner or operator assures them through a financial test: municipal solid waste landfills pursuant to 40 CFR Part 258; UIC facilities under 40 CFR Part 144; petroleum underground storage tank facilities under 40 CFR Part 280; PCB storage facilities under 40 CFR Part 761; and hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265.

101.707(6) *Local government financial test.* An owner or operator that satisfies the requirements of this subrule may demonstrate financial assurance for closure, post-closure care, and corrective action, whichever is applicable, up to the amount specified below.

a. Financial component.

(1) The local government owner or operator must satisfy one of the following conditions.

1. If the owner or operator has outstanding, rated general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, the owner or operator must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard & Poor's, on all such general obligation bonds; or

2. The owner or operator must satisfy both of the following financial ratios based on the owner's or operator's most recent audited annual financial statement: a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05 and a ratio of annual debt service to total expenditures less than or equal to 0.20.

(2) The owner or operator must prepare its financial statements in conformity with Generally Accepted Accounting Principles or Other Comprehensive Bases of Accounting for governments and have its financial statements audited by an Iowa-licensed certified public accountant or the office of the auditor of the state of Iowa. The financial statement shall be in the form prescribed by the office of the auditor of the state of Iowa.

(3) A local government is not eligible to assure its obligations under 101.707(6) if it:

1. Is currently in default on any outstanding general obligation bonds;

2. Has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard & Poor's;

3. Operated at a deficit equal to 5 percent or more of total annual revenue in each of the past two fiscal years; or

4. Receives an adverse opinion or disclaimer of opinion from the Iowa-licensed certified public accountant or office of the auditor of the state of Iowa auditing its financial statement as required under 101.707(6)*"a"*(2). A qualified opinion related to the demonstration of financial assurance may, at the discretion of the department, be cause for disallowance. If the department does not allow use of the local government financial test, the owner or operator must provide alternative financial assurance that meets the requirements of 567—101.707(455B).

b. Public notice component. The local government owner or operator must include disclosure of the closure and post-closure care costs assured through the financial test in its next comprehensive annual financial report, prior to the initial receipt of solid waste or prior to cancellation of an alternative financial assurance instrument, whichever is later. Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years, if applicable. A reference to corrective action costs must be placed in the next comprehensive annual financial report after the selection of the corrective action remedy. For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the facility's operating record until issuance of the next available comprehensive annual financial report if timing does not permit the reference to be incorporated into the most recently issued comprehensive annual financial report or budget. For closure and post-closure care costs at municipal solid waste sanitary landfills, conformance with Governmental Accounting Standards Board Statement 18 assures compliance with this public notice component.

c. Recordkeeping and reporting requirements.

(1) The local government owner or operator must submit to the department the following items.

1. A letter signed by the local government's chief financial officer that lists all the current cost estimates covered by a financial test, as described in 111.707(6)*"d,"* that provides evidence and certifies that the local government meets the conditions of 101.707(6)*"a"*(1) through *"a"*(3) and certifies that the local government meets the conditions of 101.707(6)*"b"* and *"d"*; and

2. The local government's independently audited year-end financial statements for the latest fiscal year, including the unqualified opinion of the auditor who must be an Iowa-licensed certified public accountant or the office of the auditor of the state of Iowa. The comprehensive annual financial report shall indicate compliance with the financial ratios required by 101.707(6)*"a"*(1)"2," if applicable, and the requirements of 101.707(6)*"a"*(2) and 101.707(6)*"a"*(3)"3" and "4."

(2) The items required in 101.707(6)*"c"*(1) must be submitted to the department prior to the initial receipt of solid waste or prior to the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or, in the case of corrective action, not later than 120 days after the selection of the corrective action remedy.

(3) The local government owner or operator may cease the submission of the information required by 101.707(6) only if alternative financial assurance is substituted prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

(4) The local government owner or operator must satisfy the requirements of the financial test at the close of each fiscal year. If the owner or operator no longer meets the requirements of the local government financial test, the owner or operator must immediately notify the department in writing and, within 90 days following the close of the owner's or operator's fiscal year, obtain alternative financial assurance that meets the requirements of 567—101.707(455B) and submit the financial assurance documentation to the department for approval.

(5) The department may, based on a reasonable belief that the local government owner or operator may no longer meet the requirements of 101.707(6)*"a,"* require at any time the owner or operator to provide reports of its financial condition in addition to, or including, current financial test documentation as specified in 101.707(6)*"c."* If the department finds that the owner or operator no longer meets the requirements of 101.707(6)*"a,"* the owner or operator must provide alternative financial assurance that meets the requirements of 567—101.707(455B) within 90 days of written notification by the department.

d. Calculation of costs to be assured. The portion of the closure, post-closure care, and corrective action costs for which an owner or operator may assure under this subrule is determined as follows.

(1) If the local government owner or operator does not assure other environmental obligations through a financial test, the owner or operator may assure closure, post-closure care, and corrective action costs that equal up to 43 percent of the local government's total annual revenue.

(2) If the local government owner or operator assures other environmental obligations through a financial test, including those associated with municipal solid waste landfills pursuant to 40 CFR Part 258; UIC facilities under 40 CFR Part 144.62; petroleum underground storage tank facilities under 40 CFR Part 280; PCB storage facilities under 40 CFR Part 761; and hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, the owner or operator must add those costs to the closure, post-closure care, and corrective action costs it seeks to assure under this subrule. The total that may be assured must not exceed 43 percent of the local government's total annual revenue.

(3) The owner or operator must obtain an alternative financial assurance instrument for those costs that exceed the limits set in 101.707(6)*"d"*(1) and *"d"*(2).

101.707(7) *Corporate guarantee.* An owner or operator that satisfies the requirements of this subrule may demonstrate financial assurance for closure, post-closure care, and corrective action, whichever is applicable, by obtaining a written guarantee.

a. Affiliation. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a substantial business relationship with the owner or operator. The guarantor must meet the requirements of the corporate financial test in 101.707(5) and must comply with the terms of the written guarantee. A certified copy of the executed guarantee must be placed in the facility's operating record along with copies of the letter from the guarantor's chief financial officer and the independent certified

public accountant's opinion(s). If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer must describe the value received in consideration of the guarantee. If the guarantor is a firm with a substantial business relationship with the owner or operator, this letter must describe this substantial business relationship and the value received in consideration of the guarantee.

b. Terms of the written guarantee. The guarantee must be effective and all required submissions made to the department prior to the initial receipt of solid waste or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or, in the case of corrective action, no later than 120 days after the selection of the corrective action remedy. The guarantee must provide that:

(1) If the owner or operator fails to perform closure, post-closure care, and corrective action of a facility covered by the guarantee, or fails to obtain alternative financial assurance within 90 days of notice of intent to cancel pursuant to 101.707(7)*"b"*(2) and *"b"*(3), the guarantor will:

1. Perform, or pay a third party to perform, closure, post-closure care, and corrective action as required (performance guarantee); or

2. Establish a fully funded trust fund as specified in 101.707(1) in the name of the owner or operator (payment guarantee).

(2) The guarantee will remain in force for as long as the owner or operator must comply with the applicable financial assurance requirements of this division unless the guarantor sends prior notice of cancellation by certified mail to the owner or operator and to the department. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the department, as evidenced by the return receipts.

(3) If notice of cancellation is given, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the department, provide to the department adequate proof of alternative financial assurance, notice from the guarantor of withdrawal of the cancellation, or proof of a deposit into a trust fund pursuant to 101.707(1) of a sum equal to the amount of the corporate guarantee. If the owner or operator fails to comply with the requirements of this subparagraph within the 90-day period, the guarantor must provide that alternative financial assurance prior to cancellation of the corporate guarantee.

c. Recordkeeping and reporting requirements.

(1) The owner or operator must submit to the department a certified copy of the executed guarantee along with the items required under 101.707(5)*"b."*

(2) The owner or operator shall no longer be required to submit the items specified in 101.707(7)*"c"*(1) when proof of alternative financial assurance has been submitted to the department or the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

(3) If a corporate guarantor no longer meets the requirements of 101.707(5), the owner or operator must immediately notify the department in writing and, within 90 days of notification, submit to the department proof of alternative financial assurance. If the owner or operator fails to obtain alternative financial assurance within the 90-day time period, the guarantor must provide that alternative financial assurance within the next 30 days.

101.707(8) *Local government guarantee.* An owner or operator that satisfies the requirements of this subrule may demonstrate financial assurance for closure, post-closure care, and corrective action, whichever is applicable, by obtaining a written guarantee provided by a local government or jointly provided by the members of an agency established pursuant to Iowa Code chapter 28E.

a. Financial component. The guarantor must meet the requirements of the local government financial test in 101.707(6) and must comply with the terms of the written guarantee.

b. Terms of the written guarantee. The guarantee must be effective and all required submissions made to the department prior to the initial receipt of solid waste or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or, in the case of corrective action, no later than 120 days after the selection of the corrective action remedy. The guarantee must provide that:

(1) If the owner or operator fails to perform closure, post-closure care, and corrective action of a facility covered by the guarantee, or fails to obtain alternative financial assurance within 90 days of notice of intent to cancel pursuant to 101.707(8)*"b"*(2) and *"b"*(3), the guarantor will:

1. Perform, or pay a third party to perform, closure, post-closure care, and corrective action as required (performance guarantee); or

2. Establish a fully funded trust fund as specified in 101.707(1) in the name of the owner or operator (payment guarantee).

(2) The guarantee will remain in force for as long as the owner or operator must comply with the applicable financial assurance requirements of this division unless the guarantor sends prior notice of cancellation by certified mail to the owner or operator and to the department. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the department, as evidenced by the return receipts.

(3) If notice of cancellation is given, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the department, provide to the department adequate proof of alternative financial assurance, notice from the guarantor of withdrawal of the cancellation, or proof of a deposit into a trust fund pursuant to 101.707(1) of a sum equal to the amount of the local government guarantee. If the owner or operator fails to comply with the requirements of this subparagraph within the 90-day period, the guarantor must provide that alternative financial assurance prior to cancellation of the local government guarantee.

c. Recordkeeping and reporting requirements.

(1) The owner or operator must submit to the department a certified copy of the executed guarantee along with the items required under 101.707(6)*"c"*

(2) The owner or operator shall no longer be required to submit the items specified in 101.707(8)*"c"*(1) when proof of alternative financial assurance has been submitted to the department or the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

(3) If a local government guarantor no longer meets the requirements of 101.707(6), the owner or operator must immediately notify the department in writing and, within 90 days of notification, submit to the department proof of alternative financial assurance. If the owner or operator fails to obtain alternative financial assurance within the 90-day period, the guarantor must provide that alternative financial assurance within the next 30 days.

101.707(9) *Local government dedicated fund.*

a. The owner or operator of a publicly owned sanitary disposal project, or local government serving as a guarantor, may demonstrate financial assurance for closure, post-closure care, and corrective action, whichever is applicable, by establishing a dedicated fund that conforms to the requirements of this subrule. The owner or operator must submit to the department a copy of the executed local government dedicated fund agreement.

b. The fund shall be dedicated by state constitutional provision or local government statute, charter, ordinance, resolution, or order to pay for closure, post-closure care and corrective action, whichever is applicable, arising from the operation of the sanitary disposal project, and shall be funded for the full amount of coverage or funded for part of the required amount of coverage and used in combination with another instrument(s) that provides the remaining coverage.

c. For a local government dedicated fund used to demonstrate financial assurance for proper closure at a sanitary disposal project that is not sanitary landfill, there is no pay-in period as defined in 101.707(9)*"d."* Instead, the local government dedicated fund shall be in an amount equal to or greater than the amount specified in 101.703(3).

d. Payments into the local government dedicated fund must be made annually by the owner or operator over ten years or over the remaining permitted life of the sanitary landfill, whichever is shorter, in the case of a dedicated fund for closure and post-closure care or over one-half of the estimated length of the corrective action remedy in the case of a response to a known release. This period is referred to as the "pay-in period."

e. For a local government dedicated fund used to demonstrate financial assurance for closure and post-closure care at a sanitary landfill, the first payment into the dedicated fund must be at least equal to the amount specified in 567—101.710(455B) for closure and post-closure care, divided by the number of years in the pay-in period, as defined in 101.707(9)*"d."* The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{CE - B}{Y}$$

Where:

"CE" is the amount specified in 567—101.710(455B) for closure and post-closure care (updated for inflation or other changes).

"B" is the balance of the dedicated fund at the close of the previous fiscal year.

"Y" is the number of years remaining in the pay-in period.

f. Unless otherwise authorized by the department, for a local government dedicated fund used to demonstrate financial assurance for corrective action at a sanitary landfill, the first payment into the dedicated fund must be at least equal to one-half of the amount specified in 101.706(1) for corrective action, divided by the number of years in the corrective action pay-in period, as defined in 101.707(9)*"d."* The amount of subsequent payments must be determined by the following formula:

$$\text{Next Payment} = \frac{RB - V}{Y}$$

Where:

"RB" is the most recent estimate of the required dedicated fund balance for corrective action.

"V" is the value of the dedicated fund at the close of the previous fiscal year.

"Y" is the number of years remaining in the pay-in period.

g. The initial payment into the local government dedicated fund must be made prior to the initial receipt of solid waste at a sanitary landfill or before the cancellation of an alternative financial assurance instrument, in the case of closure and post-closure care, or no later than 120 days after the selection of the corrective action remedy.

h. After the pay-in period has been completed for a sanitary landfill, the dedicated fund shall be adjusted annually to correct any deficiency of the dedicated fund with respect to the updated cost estimates and may be adjusted annually should the balance in the dedicated fund exceed the updated cost estimates.

i. The local government dedicated fund may be terminated by the owner or operator only if the owner or operator substitutes alternative financial assurance as specified in this rule or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

567—101.708(455B) General requirements.

101.708(1) *Use of multiple financial assurance instruments.* An owner or operator may satisfy the requirements of this division by establishing more than one financial assurance instrument per facility, except that instruments guaranteeing performance rather than payment may not be combined with other instruments. The instruments must be a combination of those instruments outlined in 567—101.707(455B) and 101.709(455B) and must provide financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care, and corrective action, whichever is applicable. The financial test and a guarantee provided by a corporate parent, sibling, or grandparent may not be combined if the financial statements if the two entities are consolidated.

101.708(2) *Use of one financial assurance instrument for multiple facilities.* An owner or operator may satisfy the requirements of this division for multiple sanitary disposal projects by the use of one instrument if the owner or operator ensures that the instrument provides financial assurance for an amount at least equal to the current cost estimates for closure, post-closure care, and corrective action, whichever is applicable, for all sanitary disposal projects covered. Evidence of financial assurance submitted to the department shall include, for each sanitary disposal project, the name, address, and

permit number and the amount of funds for closure, post-closure care, and corrective action assured by the instrument.

101.708(3) *Criteria.* The language of the financial assurance instruments listed in 567—101.707(455B) must ensure that the instruments satisfy the following criteria.

a. The financial assurance instrument must ensure that the amount of funds assured is sufficient to cover the costs of closure, post-closure care, and corrective action for known releases, whichever is applicable;

b. The financial assurance instrument must ensure that funds will be available in a timely fashion, not to exceed three months from department notification, when needed;

c. The financial assurance instrument must be obtained by the owner or operator prior to the initial receipt of solid waste, in the case of closure and post-closure care, or, in the case of corrective action, no later than 120 days after the selection of the corrective action remedy, until the owner or operator is released from the financial assurance requirements; and

d. The financial assurance instrument must be legally valid, binding, and enforceable under Iowa law.

101.708(4) *No permit without financial assurance.* The department shall not issue or renew a permit to an owner or operator of a sanitary disposal project pursuant to Iowa Code section 455B.305 until a financial assurance instrument(s) has been submitted to and approved by the department. The department may request that additional information be submitted for review to make a financial assurance compliance decision.

101.708(5) *Request for payment.* The department may request payment from any financial assurance provider for the purpose of completing site closure, post-closure care, and corrective action, whichever is applicable, when the owner or operator declares an economic inability to comply with this division either by sending written notification to the department or through an action such as but not limited to filing for bankruptcy.

101.708(6) *Financial assurance cancellation and permit suspension.*

a. A financial assurance instrument may be terminated by the owner or operator only if the owner or operator substitutes alternative financial assurance, as specified in 567—101.707(455B), prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this division.

b. A financial assurance instrument shall be continuous in nature until canceled by the financial assurance provider or until the department gives written notification to the owner or operator and the financial assurance provider that the covered site has demonstrated compliance with the sanitary disposal project's applicable closure, post-closure care, and corrective action requirements. The financial assurance provider shall give at least 120 days' notice in writing to the owner or operator and to the department in the event of any intent to cancel a financial assurance instrument.

c. Within 90 days of receipt of a written notice of cancellation of a financial assurance instrument, the owner or operator must provide the department with proof of alternative financial assurance or a notice from the issuing institution of withdrawal of the cancellation. If a means of continued financial assurance is not provided within the 90-day time frame, the department shall suspend the permit and call upon the financial assurance instrument(s) prior to the expiration of the 120-day notice period.

567—101.709(455B) Closure and post-closure care account(s). Except as provided in 101.709(10), the holder of a permit for a sanitary landfill shall maintain the closure and post-closure care account(s) as part of financial assurance pursuant to Iowa Code section 455B.306(9)*"b."* The accounts shall be specific to a particular facility.

101.709(1) Money in the accounts shall not be assigned for the benefit of creditors, except the state of Iowa.

101.709(2) Money in the accounts shall not be used to pay any final judgment against a permit holder arising out of the ownership or operation of the site during its active life or after closure.

101.709(3) Withdrawal of funds. Except as provided in 101.709(4), money in the accounts may be withdrawn without departmental approval only for the purpose of funding closure, including partial

closure, or post-closure care activities that are in conformance with the sanitary landfill's approved closure and post-closure plans. Withdrawals for activities not in conformance with the approved closure and post-closure plans must receive prior written approval from the department. Permit holders using a trust fund established pursuant to 101.707(1) to satisfy the requirements of this rule must comply with the requirements of 101.707(1)*"g"* prior to withdrawal.

101.709(4) Excess funds. If the balance of the closure and post-closure care account(s) exceeds the current cost estimate for closure or post-closure care at any time, the permit holder may withdraw the excess funds so long as the withdrawal does not cause the balance to be reduced below the amount of the current cost estimate.

101.709(5) Proof of establishment of account. A permit holder shall, on a form prescribed by the department, at the time of permit application and renewal, submit a statement of account signed by the permit holder, which indicates that accounts have been established pursuant to 567—101.709(455B).

101.709(6) An account established pursuant to 101.707(1) for a trust fund or 101.707(9) for a local government dedicated fund also satisfies the requirements of 567—101.709(455B), and the permit holder shall not be required to establish a closure and post-closure care account(s) in addition to said financial assurance accounts. Accounts established pursuant to 101.707(1) or 101.707(9), which are intended to satisfy the requirements of this rule, must comply with Iowa Code section 455B.306(9)*"b."*

101.709(7) Yearly deposits. Unless otherwise authorized by the department or provided for within this division (i.e., trust fund or local government dedicated fund deposit calculation), deposits into the closure and post-closure care account(s) shall be made yearly in the amount specified in this subrule by the close of the permitted facility's fiscal year. The closure and post-closure care account(s) shall be fully funded at the time of site closure. For active sanitary landfills not using a trust fund or local government dedicated fund, the minimum yearly deposit to the closure and post-closure care account(s) shall be determined using the following formula:

$$\frac{CE - AB}{RPC} \times TR = \text{Yearly Deposit}$$

Where:

"CE" is the current cost estimate of closure and post-closure care costs.

"AB" is the balance of the closure and post-closure care account(s) at the close of the previous fiscal year.

"RPC" is the remaining permitted capacity, in tons, of the sanitary landfill as of the start of the permit holder's fiscal year. RPC may include those areas that have yet to be constructed but have received written design approval from the department. Justification for RPC calculations shall be submitted annually pursuant to 567—101.704(455B) and 567—101.705(455B).

"TR" is the number of tons of solid waste disposed of at the site in the permit holder's prior fiscal year.

For closed landfills, the closure and post-closure care account(s) shall remain fully funded throughout the post-closure period. Any account balance deficiency shall be rectified by the end of the permitted facility's fiscal year in which the account balance deficiency was identified.

101.709(8) The closure and post-closure care account(s) may be commingled with other accounts so long as the amounts credited to each account balance are reported separately, pursuant to 101.704(1) and 101.705(1).

101.709(9) The department shall have full rights of access to all funds existing in a permitted facility's closure and post-closure care account(s), at the sole discretion of the department, if the permit holder fails to undertake closure and post-closure care activities after being directed to do so by a final agency action of the department. These funds shall be used only for the purposes of funding closure and post-closure care activities at the site.

101.709(10) Pursuant to Iowa Code section 455B.306(12), a sanitary landfill owned by an electric generating facility and used exclusively for the disposal of coal combustion residual shall not be required to maintain a closure and post-closure care account(s) but may demonstrate financial assurance in

accordance with this division by any of the instruments described in 567—101.707(455B) or by an alternative method acceptable to the department.

101.709(11) Pursuant to Iowa Code section 455B.306(9)*"b,"* industrial sanitary landfills permitted pursuant to Division III of this chapter and non-utility coal combustion residual sanitary landfills permitted pursuant to Division IV of this chapter prior to [the effective date of this rule], and for which closure and post-closure accounts have not been established pursuant to 101.709(5), shall submit proof of establishment within six months of the [the effective date of this rule].

567—101.710(455B) Amount of required financial assurance. A financial assurance instrument established pursuant to and in compliance with 567—101.707(455B) or 567—101.709(455B), if applicable, shall be in the amount of the third-party cost estimates required by 567—101.703(455B) through 567—101.706(455B). With regard to sanitary landfills, the amount of financial assurance may be reduced by the sum of the cash balance in a trust fund or local government dedicated fund established to comply with 567—101.709(455B), plus the current value of investments held by said trust fund or local government dedicated fund, if invested in one or more of the investments listed in Iowa Code section 12B.10(5).

567—101.711(17A,455A) Waivers. A request for a waiver to this division shall be submitted to the department in writing pursuant to 561—Chapter 10. Some provisions of this division are minimum standards required by federal law (40 CFR Part 258, Subpart G), and waivers to such provisions shall not be granted unless they are as protective as the applicable minimum federal standard.

These rules are intended to implement Iowa Code sections 455B.304(8) and 455B.306(9).

ITEM 2. Rescind and reserve **567—Chapter 106**.

ITEM 3. Rescind and reserve **567—Chapter 113**.

ITEM 4. Rescind and reserve **567—Chapter 114**.

ITEM 5. Rescind and reserve **567—Chapter 115**.

ARC 9926C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to management of solid waste through means other than sanitary disposal projects and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 102, "Permits and Rules of Practice"; to adopt a new Chapter 102, "Solid Waste Management"; and to rescind Chapter 108, "Beneficial Use Determinations: Solid By-Products as Resources and Alternative Cover Material," Chapter 116, "Registration of Waste Tire Haulers," Chapter 117, "Waste Tire Management," Chapter 118, "Discarded Appliance Demanufacturing," Chapter 120, "Landfarming of Petroleum Contaminated Soil," Chapter 121, "Land Application of Wastes," and Chapter 122, "Cathode Ray Tube Recycling," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455B.173, 455B.304, 455B.383, 455D.6, 455D.9, 455D.11 and 455D.11I.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 9 and 455D and sections 455B.173, 455B.301A, 455B.304, 455B.383, 455D.6, 455D.11 to 455D.11B and 455D.11I.

Purpose and Summary

Existing Chapters 105, 108, 109, 116, 117, 118, 120, 121, and 122 were reviewed consistent with Executive Order 10 (2023). Proposed Chapter 102 consolidates these nine chapters related to the management of solid waste through means other than sanitary disposal projects. No new programs are being proposed. All content from the original chapters was reviewed consistent with Executive Order 10 and has been revised for clarity. Obsolete, redundant, or unneeded language was removed. The proposed chapter will contain eight divisions, with summaries and purposes as follows:

Division I—Organic Materials Compost Facilities: This repromulgation of current 567—Chapter 105 ensures that composting is done in a way that produces a usable final product, does not cause a nuisance for neighbors, and prevents contamination to surface and ground water. This new chapter proposes a tiered approach to composting, based on both volume and type of material being composted. This will allow some smaller compost facilities that currently have an individual permit to instead operate under a permit-by-rule. It will also allow some compost facilities to accept limited amounts of food waste that they are currently unable to accept.

Division II—Land Application of Waste: This repromulgation of current 567—Chapter 121 allows for industrial sludge and certain solid wastes to be applied to farmland as a means of disposal. The revised chapter provides clarity and omits unneeded language.

Division III—Landfarming of Petroleum Contaminated Soil: This repromulgation of current 567—Chapter 120 establishes rules for the safe and effective remediation and disposal of petroleum contaminated soil (PCS) through landfarming.

Division IV—Beneficial Use: This repromulgation of current 567—Chapter 108 encourages the use of solid by-products when such utilization improves, or at a minimum does not adversely affect, human health and the environment. Regulations for solid by-products utilized in the manufacture of a commercial product will not be repromulgated since they are considered a raw commodity used in a manufacturing process for which the Environmental Protection Commission has no regulatory oversight.

Division V—Waste Tire Management: This repromulgation of current 567—Chapters 116 and 117 establishes guidelines for the proper management of waste tires, including collection, hauling, storage, processing, disposal, and beneficial reuse of waste tires and processed waste tire materials.

Division VI—Special Waste Authorizations: This repromulgation of current 567—Chapter 109 provides safe and proper management for disposal of wastes that present a threat to human health or the environment or waste with inherent properties that make the disposal of the waste in a municipal solid waste landfill difficult to manage.

Division VII—Discarded Appliance Demanufacturing: This repromulgation of current 567—Chapter 118 ensures that hazardous materials found in appliances are managed in a way that protects human health and the environment when the appliances are recycled or discarded.

Division VIII—Cathode Ray Tube Recycling: This repromulgation of current 567—Chapter 122 implements rules for the recycling of discarded cathode ray tubes (CRTs) and the disassembly and removal of toxic parts from discarded CRTs in a manner that is safe for human health and the environment.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 17, 2025. A public hearing was held on the following date(s):

- October 7, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 29, 2026. Comments should be directed to:

Mike Sullivan
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: EO10_solidwaste@dnr.iowa.gov

Free language access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at EO10_solidwaste@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026	Virtual Meeting (via Google Meet or Zoom)
3 p.m.	A meeting registration link will be provided prior to the hearing
January 29, 2026	Virtual Meeting (via Google Meet or Zoom)
3 p.m.	A meeting registration link will be provided prior to the hearing

Persons who wish to attend a public hearing must contact the Department at EO10_solidwaste@dnr.iowa.gov for a link to the hearing. Additionally, persons who wish to make a public comment may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at EO10_solidwaste@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.360.1671 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.360.1671 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 567—Chapter 102 and adopt the following **new** chapter in lieu thereof:

CHAPTER 102
SOLID WASTE MANAGEMENT

DIVISION I
ORGANIC MATERIALS COMPOSTING FACILITIES

567—102.1(455D) Applicability; compliance. This division shall apply to the composting of organic material, including yard wastes. Composting facilities may include turned windrows, aerated static piles, aerated in-vessel systems, or other methods approved by the department. This division does not apply to agricultural waste composted under 567—Chapter 65, materials managed under Iowa Code chapter 200A (bulk dry animal nutrient products), or to the sale or distribution of finished compost covered in Iowa Code chapter 200.

102.1(1) Compliance with this division in no way relieves the compost facility of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules and other applicable requirements.

102.1(2) For purposes of this division, tonnages may be calculated by multiplying cubic yardage by bulk density.

102.1(3) All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—102.2(455D) Definitions incorporated by reference. The definitions in Iowa Code sections 455B.301 and 455D.9 and in 567—Chapter 100 shall apply to Division I of this chapter.

567—102.3(455D) Feedstock categories. Compost feedstock are categorized as follows.

102.3(1) *Type A feedstocks.* Type A feedstocks include yard waste, clean wood waste, crop residues, and other vegetative materials determined to pose a low level of risk to human health and the environment, including from physical contaminants and human pathogens.

102.3(2) *Type B feedstocks.* Type B feedstocks include source-separated pre- and postconsumer food residuals; food processing residuals; dead animals; raw rendering material; certified compostable products; and animal excreta, manure, animal bedding and litter not regulated under 567—Chapter 65. Type B feedstocks are materials that the department determines pose a moderate level of risk to human health and the environment or have a higher level of risk from physical contaminants and human pathogens compared to Type A feedstocks.

102.3(3) *Type C feedstocks.* Type C feedstocks include industrial process waste, sludges, biosolids, diapers, solid or semi-solid material from composting toilets, and industrial by-products not covered in Type B feedstocks. Type C feedstocks consist of materials the department determines pose a higher level of risk to human health and the environment from physical and chemical contaminants and human pathogens compared to Type A and B feedstocks.

102.3(4) *Materials prohibited from use as a feedstock.* Materials prohibited from use as a feedstock include asbestos-containing material, biomedical wastes, infectious waste, human remains, petroleum-containing wastes, seed treated with pesticide and industrial waste derived from seed treated with pesticides, toxic wastes as defined in 567—109.3(455B,455D), radiological wastes, hazardous wastes as defined in Iowa Code section 455B.411, materials containing metals that exceed the concentrations listed in 102.9(5)*"b,"* and materials that have direct process stream contact with or originate from a process that may release petroleum products, organic solvents, pesticides, or polychlorinated biphenyls (PCBs).

567—102.4(455D) Exemptions. The following activities are exempt from this division. This exemption is not a defense to a nuisance action brought pursuant to Iowa Code chapter 657.

102.4(1) Type A or Type B, or both, feedstocks from a single household composted on site by the owner or tenant for use at the owner's or tenant's residence.

102.4(2) Composting of up to two tons per year of Type A or Type B, or both, feedstocks, excluding dead animals, singly or in combination, used on the same premises where it was composted. The feedstock may be generated off premises.

102.4(3) Composting of agricultural waste that is subject to 567—Chapter 65 combined with clean wood waste, straw, or cornstalks that is necessary as a bulking agent and that is free of coatings and preservatives. If agricultural waste is mixed with other wastes, including dead animals for the purpose of composting, then this division shall apply.

567—102.5(455D) General requirements for all composting activities not exempt. Any composting facility that is not exempt under 567—102.4(455D) must comply with the following provisions.

102.5(1) *Siting requirements.*

a. The composting facility shall be located:

(1) At least 500 feet from any existing inhabited residence, not including the residence of a person owning or operating the compost facility, at the time the permit application was received by the department.

(2) At least 200 feet from public wells.

(3) At least 100 feet from private wells.

(4) At least 50 feet from property lines.

(5) At least 100 feet from flowing or intermittent streams, lakes, or ponds.

(6) Outside of wetlands.

b. Composting done within a 100-year floodplain shall be in accordance with all local and department regulations, including 567—71.5(455B). Sediment ponds, engineered wetlands, or other constructed waterways for the purpose of pollution control are excluded from this subrule.

102.5(2) *Design requirements.*

a. Water shall be prevented from running onto the composting facility from adjacent land.

b. Management or disposal of contact water and stormwater shall be in accordance with 567—Chapter 60.

c. Composting facilities shall be designed, constructed, and maintained so as to minimize ponding of water or liquids. Any ponding that does occur shall be corrected through routine facility maintenance within 48 hours after the termination of the event causing the ponding.

d. Composting not done in-vessel shall be done on a surface that will permit accessibility during periods of inclement weather. The receiving, processing, production, and curing shall take place on a surface of asphalt, concrete, compacted granular aggregate, clay, or similar relatively impermeable material. Composting facilities that only compost Type A feedstocks may have a surface of compacted soil. The surface must be maintained in a condition that prevents infiltration to the groundwater.

e. In-vessel composting shall be done in a container that does not leak, prevents access by vectors, and provides adequate aeration.

f. With the exception of in-vessel composting, the high-water table shall be at least 12 inches below the ground surface.

102.5(3) *Signage.* Composting facilities shall have a sign posted at the entrance specifying:

a. Name of operation.

b. A list of materials that are accepted or the statement, "All materials must be approved prior to acceptance."

c. Telephone number of emergency contact person.

102.5(4) *Operational requirements.* Composting facilities shall be operated as follows.

a. Aerobic conditions shall be maintained.

b. Composting facilities shall be free of unsecured trash at the end of each operating day.

c. Non-compostable waste shall be removed or stored in a container or containment area and recycled or disposed of at a permitted sanitary disposal project.

d. Organic materials shall be managed to minimize odors, dust, noise, litter, contact water, fire and scavenging by vectors.

e. Composting shall be performed in a manner that minimizes the formation of contact water.

f. Storage of cured compost shall be limited to 18 months unless prior written approval from the department is granted for an extension.

g. Compost shall not be applied to land, sold, or given away unless all of the following conditions are met:

(1) Concentration of human-made inert materials such as glass, metal, and plastic is less than 1.5 percent by dry weight,

(2) The size of any human-made inert materials is less than 13 mm (0.512 inches).

567—102.6(455D) Tier 1 composting facility. A Tier 1 facility is a compost facility that composts an unlimited amount of Type A, Type B, or both feedstocks generated on the premises and up to a total of 250 tons per year of Type A, Type B, or both feedstocks generated off site.

567—102.7(455D) Tier 2 composting facility. A Tier 2 facility is a compost facility that composts an unlimited amount of Type A feedstock generated on premises, off premises, or both; an unlimited amount of Type B feedstocks generated on the premises; and up to 250 tons per year of Type B feedstocks generated off the premises. Tier 2 facilities are subject to the following provisions.

102.7(1) Before the composting facility commences operation, the facility's operator must notify the department in writing of the following:

a. The location of the composting facility.

b. The legal description of the property that contains the facility.

c. The landowner's name, telephone number, email and mailing address.

d. The name, telephone number, and email and mailing addresses of the facility's operator and responsible official.

e. The maximum throughput and capacity of the facility.

f. The method of composting to be employed at the facility.

g. The source of the feedstock.

h. Aerial photography identifying wells, streams, creeks, rivers, ponds, sinkholes, and drainage wells within one-half mile of the closest portion of the facility.

102.7(2) The facility's feedstock receiving, processing, and storage areas must be clearly defined.

102.7(3) An annual report for the previous fiscal year beginning July 1 and ending June 30 shall be submitted to the department by July 31 of each year. The annual report shall be submitted using a form prescribed by the department. The report shall include:

a. Confirm that the amount and type of feedstock accepted was within the criteria for a Tier 2 facility.

b. Method of composting used.

c. Tons of finished compost sold, given away, or used by the permit holder.

d. Name of certified operator

102.7(4) Beginning [one year following the effective date of this rule], the person responsible for daily operations shall be a certified compost operator as described in 567—102.11(455D).

567—102.8(455D) Tier 3 composting facilities. A Tier 3 composting facility is a compost facility that composts an unlimited amount of Type A feedstock generated on or off the premises, an unlimited amount of type B feedstock generated on the premises, and up to 1,000 tons per year type B feedstock generated off premises. Tier 3 facilities shall comply with the following provisions.

102.8(1) *Notification.* Before the composting facility commences operation, the department shall be notified in writing of the following.

a. The location of the composting facility.

b. Legal description of the facility.

c. Landowner's name, telephone number, email, and mailing address.

d. Responsible party's name, telephone number, email, and mailing address.

e. Maximum throughput and capacity.

f. Method of composting to be employed.

g. Source of the feedstock.

h. Aerial photograph identifying wells, streams, creeks, rivers, ponds, sinkholes, and drainage wells within one-half mile of the closest portion of the facility.

102.8(2) *Operational requirements.* In addition to the operational requirements in 102.5(4), Tier 3 composting facilities shall meet the following operational standards:

a. Tier 3 composting facilities must develop and follow an operations plan that describes operational procedures. This includes the method of composting; measures to control nuisance odors, vectors, fires, contact water, and stormwater; and plans for using or marketing finished compost. The operations plan must be reviewed annually and updated when there is a change to procedures, equipment, or feedstocks being processed. The operations plan shall be available to the department upon request.

b. The person responsible for daily operation of the facility shall be certified by a department-approved training program.

c. Feedstocks with free liquid shall be mixed with drier feedstocks, bulking material, or compost so that the liquid is promptly absorbed and not allowed to flow as free liquid from the compost piles or windrows. Free liquid that is not absorbed shall be managed as contact water.

d. Contact water shall be directed to a containment, recycling, treatment system, or any combination of the three.

e. By the end of each operating day, all incoming Type B feedstocks must be processed into the active composting pile, transferred to leak-proof containment, or mixed with bulking material and covered in a manner that minimizes nuisance odors and scavenging by vectors.

f. Beginning [one year following the effective date of this rule], the person responsible for daily operations shall be a certified compost operator as described in 567—102.11(455D).

102.8(3) *Reporting.* An annual report for the previous fiscal year beginning July 1 and ending June 30 shall be submitted to the department by July 31 of each year. The report shall be submitted using a form prescribed by the department. The report shall include:

a. Confirmation that the amount and type of feedstock accepted was within the criteria for a Tier 3 facility.

b. Method of composting used.

c. Tons of finished compost sold, given away or used by the permit holder.

d. Name of certified operator.

567—102.9(455D) Tier 4 composting facility. A Tier 4 composting facility is a compost facility that composts any amount of Type A, B, and C feedstock. Tier 4 facilities shall comply with the provisions of this rule.

102.9(1) *Permit required.* Tier 4 composting facilities shall not be operated without a permit from the department as described in 567—subrule 100.4(2). A permit application shall be on a form prescribed by the department and include the following in addition to the requirements in 567—subrule 100.5(1):

a. Aerial photography identifying wells, streams, creeks, rivers, ponds, sinkholes, and drainage wells within one-half mile of the closest portion of the facility.

b. Design documents prepared by an Iowa-licensed professional engineer that include the following:

(1) Dimensions, details, and capacities of the proposed receiving, processing, production, curing, and storage areas, as well as the contact water containment, recycling, or treatment system.

(2) Design calculations justifying the size of the composting area for the volume of material to be composted.

(3) Design plans showing compliance with design requirements in 102.9(3).

c. A stormwater management plan that prevents run-on to the operating base, as well as controls outside of the operating base for a 25-year 24-hour storm event.

d. A flow diagram of all steps in the operational procedure.

e. An operations plan addressing the following:

(1) The method of composting, including description of the aeration method and the aeration frequency to be used to maintain aerobic conditions.

(2) The duration of composting with a time frame for receiving, processing, production, curing, and storage.

(3) A description of storage of feedstock, including quantity and types.

(4) A description of the methods to minimize and manage odors, dust, vectors, noise, and litter.

(5) A description of the specific procedures to be followed in case of equipment breakdown, maintenance downtime, and fire in equipment, composting material, or buildings, including methods to be used to remove or dispose of accumulated waste and burned or damaged material.

(6) Plans for using or marketing the finished compost.

(7) The method(s) of managing collected contact water.

(8) The method(s) of maintaining contact water management systems to maintain design volume.

(9) The description of the monitoring, sampling, and analysis procedures and schedule for testing the composting, including sampling frequency, sample size and number, and sample locations.

f. A closure plan containing a description of the steps necessary to close the facility in compliance with 567—100.10(455B, 455D).

g. Documentation that the person responsible for daily operation of the facility is certified by a department-approved program.

102.9(2) *Design requirements.* In addition to the requirements of 102.5(2), Tier 4 composting facilities shall comply with the following.

a. All operations shall take place on a foundation that will permit accessibility during periods of inclement weather. The foundation shall be maintained and repaired, as needed.

b. A base/foundation used for receiving, processing, and production of feedstock must meet the following minimum design standards.

(1) The base must support the load of the equipment, vehicles, materials, and all operations for the duration of the permit period.

(2) The base must have sufficient slope to prevent surface ponding and to transmit contact water to a containment structure to prevent liquids from entering surface water or groundwater.

(3) The base must be protected with a wearing surface consisting of asphalt, concrete, compacted granular aggregate, or similar relatively impermeable material and underlain by a liner consisting of a minimum of 12 inches of recompacted clay or other approved material with a hydraulic conductivity of 1×10^{-5} cm/sec or less. The bottom of the liner shall be at least 12 inches above the high-water table.

c. The containment structure for contact water shall include a liner system consisting of a minimum of 12 inches of recompacted clay or other approved material with a hydraulic conductivity of 1×10^{-7} cm/sec or less. The bottom of the liner shall be at least five feet above the high-water table.

d. The design of the facility shall include specifications for documentation of quality control and assurance that the construction meets the minimum design standards.

e. Composting facilities permitted by the department prior to [the effective date of this rule] shall submit a compliance plan on or before [one year following the effective date of this rule] that includes a schedule to verify compliance or obtain compliance with this subrule no later than [five years following the effective date of this rule].

f. The department may approve alternatives to these design requirements that provides the same level of environmental protection.

102.9(3) *Operating requirements.* In addition, the requirements of 567—102.4(455D), Tier 4 composting facilities shall comply with the following.

a. Access to the facility shall be limited as follows.

(1) Access to the facility shall be restricted with a lockable gate at the entrance to the facility and perimeter access controlled by a fence or natural barrier approved by the department.

(2) Access to the facility shall be allowed only when an employee, agent, or representative of the facility is on duty.

(3) Emergency access to the facility shall be provided. Fire lanes shall be maintained to provide access for firefighting equipment.

b. All putrescible materials received must be incorporated into the composting process within 24 hours of receipt, unless storage of these materials is specified in the operations plan and authorized in the permit.

c. Compost processing time and temperatures shall meet Process to Further Reduce Pathogens (PFRP) requirements in B.1 of 40 CFR Part 503, Appendix B, and produce compost that meets the stability necessary for the intended use. Unless otherwise proposed in the operating plan and authorized in the permit, the permit holder shall test, at a minimum:

(1) Twice weekly temperature readings of compost piles, batches, and windrows.

(2) Weekly moisture levels of compost piles, batches, and windrows.

d. Contact water shall be directed to a containment, recycling, or treatment system that prevents prohibited discharges to the stormwater system or a surface water. A containment system shall have a minimum of one foot of freeboard at all times.

e. The person responsible for daily operations shall be a certified compost operator as described in 567—102.11(455D). The department may require as a condition in the permit that a facility retain a certified compost operator during all regular operational hours.

f. A visual inspection of the facility shall be conducted and documented on a quarterly basis at a minimum. If deficiencies are discovered during the visual inspection, actions taken to correct the deficiency shall be documented. The inspection shall at a minimum include the following.

(1) The condition of the pad. Portions of the pad that are under windrows or piles of curing or finished compost are not required to be inspected.

(2) Verification that ponding is not occurring on the pad.

(3) Verification that contact water is being directed to a containment, recycling, or treatment system and not discharging to the stormwater system or to surface water.

(4) The remaining capacity, amount of freeboard, and general condition of the contact water basin.

(5) The condition of containers and aeration equipment used for in-vessel composting if applicable.

102.9(4) *Product testing.* Prior to the use or sale, finished compost must be sampled and measurements taken for the purpose of product testing in a manner that is representative of the composting activity and consistent with Test Methods for Examination of Composting and Compost (TMECC) (2026) or other applicable standards approved by the department in the permit. Contaminants within finished compost must comply with the following:

a. The density of fecal coliform bacteria shall be less than 1,000 most probable number (MPN) per gram of total solids (dry weight basis) or the density of Salmonella sp. bacteria in compost shall be less than three MPN per four grams of total solids (dry weight basis).

b. The concentrations of all metals shall be less than the following:

Metal	Concentration mg/kg dry weight
Arsenic (As)	41
Cadmium (Cd)	39
Copper (Cu)	1500
Lead (Pb)	300
Mercury (Hg)	17
Nickel (Ni)	420
Selenium (Se)	100
Zinc (Zn)	2800

c. Compost shall be tested for stability using one of the methods listed in TMECC 5.08 (2026), Respirometry, or another method approved by the department in the permit.

102.9(5) *Recordkeeping requirements.* The following records shall be maintained by the facility for a period of three years, kept at the facility at all times, and submitted to the department upon request:

a. Analytical results described in 102.9(5).

b. Types and weight of compostable materials and bulking agent, in tons, accepted at the facility annually.

c. Weight of compost, in tons, removed from the facility annually.

d. A copy of the operations plan, the permit and annual reports.

e. Documentation of the volumes and dates of treatment, recycling, or disposal of unused contact water.

f. Documentation of visual inspections conducted pursuant to 102.9(4)*"f."*

102.9(6) *Reporting requirements.* An annual report for the previous fiscal year beginning July 1 and ending June 30 shall be submitted to the department by July 31 of each year. The report shall be submitted using a form prescribed by the department and include the following:

a. Tons of type A feedstock received.

b. Tons of type B feedstock received.

c. Tons of type C feedstock received.

d. Tons of finished compost sold, given away or used by permit holder.

e. Method of composting.

f. Name of certified operator.

g. Copy of the most recent results of the testing required in 102.9(4).

102.9(7) *Closure requirements.*

a. A schedule to implement the closure plan in 102.9(2)*"f"* shall be submitted to the department at least 30 days prior to the proposed termination date for the facility. If needed, a request to modify the closure plan may be submitted at the same time.

b. Unless an alternative schedule is approved by the department, within six months of the facility's ceasing operation, the facility shall properly dispose of all organic material, solid waste, and litter and remove all finished compost from the premises.

567—102.10(455D) Financial assurance. Tier 4 composting facilities must obtain and submit a financial assurance instrument to the department. The financial assurance instrument shall provide monetary funds to properly dispose of any preprocessed and postprocessed materials that remain at a facility due to the owner's or operator's failure to properly close the site according to the schedule approved be the department in 102.9(9)*"a"* or within six months of permit suspension, termination, revocation, or expiration if no alternative schedule is approved.

102.10(1) *No permit without financial assurance.* The department shall not issue or renew a permit to an owner or operator until a financial assurance instrument has been submitted to and approved by the department.

102.10(2) *Proof of compliance.* Proof of the establishment of the financial assurance instrument and compliance with this rule, including a current closure cost estimate, shall be submitted to the department at the time of application for a permit for a new composting facility. The owner or operator must provide continuous coverage for closure and submit proof of compliance, including an updated closure cost estimate, with each permit renewal until released from this requirement by the department.

102.10(3) *Use of one financial assurance instrument for multiple permitted activities.* Composting facilities required to maintain financial assurance pursuant to any other provisions of 567—Chapters 100 through 102 may satisfy the requirements of this rule by the use of one financial assurance instrument listed in 102.10(5).

102.10(4) *Financial assurance amounts required.* The estimate submitted to the department must be certified by an Iowa-licensed professional engineer and must account for at least the following factors determined by the department to be minimal necessary costs for closure:

a. Transportation costs, which include the cost to load the material, and total tip fees to properly dispose of the maximum tonnage of received materials that could be managed and stockpiled by the compost facility. Also included shall be the costs of properly removing any wastewater held at the facility.

b. The costs for maintaining financial assurance pursuant to any other provisions of 567—Chapters 100 through 123, if any, in accordance with 102.10(3).

102.10(5) *Acceptable financial assurance instruments.* The financial assurance instrument shall be established in an amount equal to the cost estimate prepared in accordance with 102.10(4) and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. The language of the financial assurance instrument shall meet the criteria in 567—subrule 101.708(3). Financial assurance shall be provided by one of the following options:

a. Trust fund pursuant to 567—subrule 101.707(1).
b. Surety bond, pursuant to 567—subrule 101.707(2).
c. Letter of credit, pursuant to 567—subrule 101.707(3).
d. Corporate guarantee pursuant to 567—subrule 101.707(7).
e. Local government guarantee pursuant to 567—subrule 101.707(8).
f. Local government dedicated fund pursuant to 567—subrule 101.707(9).

567—102.11(455D) Compost operator certification.

102.11(1) *General requirements.* To become a certified compost facility operator, an individual shall complete a compost operator training course that has been approved by the department, then apply for certification by the department. An operator certified by another state may have reciprocity subject to approval by the department.

102.11(2) *Course approval.* To be approved by the department, an operator training course for a certified compost facility operator must have at least 24 contact hours and must address the following areas at a minimum:

a. Basic principles of composting and decomposition.
b. Composting methods.
c. Site design and equipment.
d. Characteristics of various types of feedstocks and recipe development.
e. Construction of windrows or piles.
f. Monitoring and troubleshooting.
g. Uses and markets for compost.
h. Applicable laws and regulations.

102.11(3) *Form.* Applications for certification shall be made on a form prescribed by the department.

102.11(4) *Duration and renewal of certification.* The department shall issue all compost operator certifications on a three-year cycle. This rule shall take effect relative solely to certifications on July 1, 2026, and a new cycle shall start at that time. The department may issue a certification at any time during a three-year cycle. Certificates are valid through the expiration date listed on the certification, which shall be the end of the most current cycle.

a. An application for renewal is due prior to expiration of certification. If a certificate holder fails to apply for renewal within 30 days following expiration of the certificate, the applicant must then apply for a new certification in accordance with 102.11(1).

b. To renew a certification, a certified operator must earn eight contact hours during each three-year period, except that a first-time certified operator is not required to earn contact hours prior to the first renewal of the certification. The certificates of operators not fulfilling the continuing education requirements will be void 30 days after the expiration date.

c. All activities for which contact hours will be granted must be related to compost and pre-approved by the department.

d. The certified operator is responsible for submitting an application for renewal that includes documentation of the contact hours completed during the renewal period.

e. The department may, in individual cases involving hardship or extenuating circumstances, grant an extension of time of up to three months within which the applicant may fulfill the contact hour requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the certified operator that prevent attendance at the required activities. All requests for extensions must be made prior to expiration of certification.

f. The deadline to apply for renewal and to fulfill continuing education requirements under this rule shall automatically be extended a length of time equal to any period in which the operator served honorably on active duty in military service within the three-year renewal cycle.

567—102.12(455D) Temporary operation without a certified operator. Notwithstanding any other provision of these rules, the department in its sole discretion may authorize, in writing, a facility to temporarily operate without a certified operator for a period of six months when a certified operator is no longer available to the facility. The facility must make a request in writing to the department, explaining why a temporary authorization is needed and identify the efforts that will be made to obtain a certified operator.

These rules are intended to implement Iowa Code section 455D.9.

567—102.13 to **102.99** Reserved.

DIVISION II
LAND APPLICATION OF WASTE

567—102.100(455B,17A) Purpose; applicability; compliance. This chapter shall apply to the land application of solid waste and industrial sludge, except as follows. It does not apply to sewage or other wastewater regulated by 567—Chapters 60 through 64, domestic septage, sewage sludge, animal manure, animal bedding, crop residue, waste registered as a fertilizer or soil conditioner with the Iowa department of agriculture and land stewardship (IDALS), waste registered as a liming agent with IDALS, or finished compost.

567—102.101(455B) Definitions. The definitions in Iowa Code section 455B.301 and 567—Chapter 100 shall apply to this division.

567—102.102(455B) Land application of water supply sludge.

102.102(1) Sludges generated from water supply treatment may be applied to lawns, gardens, flower beds, or similar areas associated with residential use and crops that may be consumed by humans without prior heating or processing that are commonly available to the public in raw form (e.g., sweetcorn, lettuce, carrots asparagus, squash).

102.102(2) Land application of sludges generated from water supply treatment are exempt from the remainder of this division.

567—102.103(455B) Waste eligible for land application. Material must conform with the following to land applied pursuant to this division.

102.103(1) The material must either meet the definition of solid waste or be a sludge resulting from commercial or industrial wastewater treatment, water supply treatment, or air pollution control facility.

102.103(2) The waste shall not contain constituents in excess of the levels specified below measured on a dry weight basis.

Constituents	Levels	Cumulative Loading Rate	
Arsenic	41 mg/kg	41 kg/ha	36 lb/ac
Cadmium	39 mg/kg	39 kg/ha	34 lb/ac
Chromium	1200 mg/kg	3000 kg/ha	2670 lb/ac
Copper	1500 mg/kg	1500 kg/ha	1335 lb/ac
Lead	300 mg/kg	300 kg/ha	267 lb/ac
Mercury	17 mg/kg	17 kg/ha	15 lb/ac
Molybdenum	75 mg/kg	75 kg/ha	66 lb/ac
Nickel	420 mg/kg	420 kg/ha	373 lb/ac
Selenium	36 mg/kg	100 kg/ha	89 lb/ac

Constituents	Levels	Cumulative Loading Rate	
Zinc	2800 mg/kg	2800 kg/ha	2490 lb/ac

102.103(3) If the waste has other toxic constituents, the toxic constituents shall not be in excess of levels where there is a threat to human, animal, or plant life as determined by the department.

102.103(4) The waste does not have a sodium absorption ratio in excess of levels where there is a threat to plant life. If high sodium absorption ratios are suspected, analytical testing may be required.

102.103(5) If the waste contains pathogens, the waste must be treated to reduce pathogen content by methods specified in 567—Chapter 67 prior to land application.

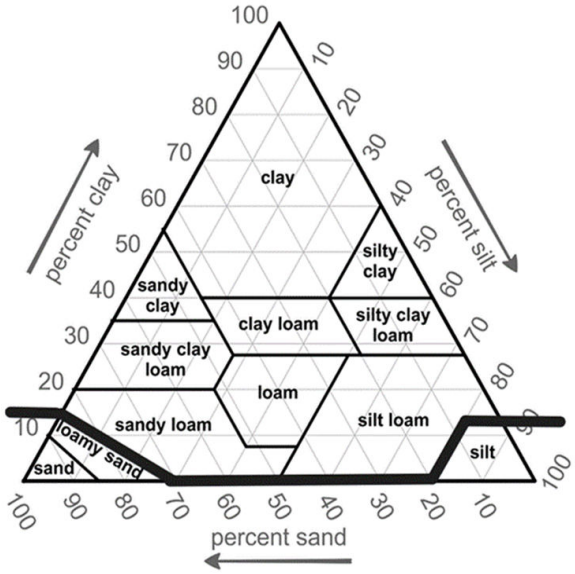
102.103(6) The waste shall not have direct process stream contact with or originate from a process that may release the following organic compounds.

a. Petroleum products,
b. Organic solvents,
c. Pesticides,
d. Pharmaceuticals,
e. Polychlorinated biphenyls (PCBs).

102.103(7) The waste assimilates and would not be readily present in a visual analysis of a random sample collected two years following application.

567—102.104(455B) Application site restrictions.

102.104(1) The waste shall not be applied to soils classified as sand, loamy sand, or silt on the United States Department of Agriculture (USDA) textural classification chart, 1951 Soil Survey Manual, USDA Handbook No. 18.



USDA textural classification chart. Sand size particles, 2-0.05 mm;
silt-sized particles, 0.05-.002 mm; and clay sized particles, less than .002 mm.

102.104(2) Land application sites shall have soil pH maintained above 6.0 unless otherwise specified in a permit. If the soil pH is below these levels, it is acceptable to use agricultural lime to increase the pH to an acceptable level prior to land application of sludge.

102.104(3) The waste shall not be applied to ground having greater than 9 percent slope unless specific permit conditions specify otherwise.

102.104(4) If the waste is applied to land subject to flooding more frequently than once in ten years, the waste shall be injected or shall be applied to the surface and mechanically incorporated into the soil within 48 hours.

102.104(5) Application on frozen or snow-covered ground shall be limited to areas of less than 5 percent slope unless specific permit conditions specify otherwise.

102.104(6) Waste shall not be applied within 200 feet of an occupied residence nor within 500 feet of a well that is part of a public water supply, as defined in 567—subrule 40.2(1), or 200 feet of all other wells.

102.104(7) Waste shall not be applied to land used for growing crops that may be consumed by humans without prior heating or processing or those that are commonly available to the public in raw form unless crops grown on the land are not harvested for at least 14 months following land application.

102.104(8) A site shall not be used for land application of waste from more than one generator in the same growing season or for a spring land application after land application the previous fall.

567—102.105(455B) Operating requirements. All land application projects shall be operated as follows.

102.105(1) If solid waste is applied within 200 feet of a stream, lake, sinkhole, or tile line surface intake located downgradient of the land application site, it shall be injected or applied to the surface and mechanically incorporated into the soil within 48 hours of application.

102.105(2) If waste is applied to land where crops being grown will be grazed by or fed to livestock within two months of waste application, or where cereal grains will be harvested within two months of waste application, the waste shall be injected or shall be applied to the surface and mechanically incorporated into the soil unless specific permit conditions specify otherwise. The general public shall not be given access to the disposal site during waste disposal and for a minimum of two months after waste disposal operations have ceased.

102.105(3) If the waste is putrescible, it shall be injected or mechanically incorporated within 24 hours or otherwise managed to prevent runoff and odor problems.

102.105(4) Land application shall not take place during or immediately preceding expected rains or other occasions when runoff may result unless subsurface injection methods are utilized. Additionally, land application shall not take place during periods of high groundwater conditions or during flooding.

102.105(5) The application of nitrogen available from the waste and any other sources shall not exceed the acceptable agronomic application rates for the vegetation to be grown on the site over the next year. The total application of phosphorus and potassium shall not exceed the acceptable agronomic application rates for the site and crops involved.

102.105(6) Waste may be staged prior to application at the application site pursuant to the following.

a. Putrescible waste shall not be staged for more than 48 hours.

b. Non-putrescible waste shall not be staged for longer than two weeks.

c. Waste shall not be staged within 200 feet of an occupied residence nor within 500 feet of a well that is part of a public water supply, as defined in 567—subrule 40.2(1), or 200 feet of all other wells.

d. The waste shall not be staged on soils classified as sand, loamy sand, or silt on the USDA textural classification chart shown in 567—subrule 102.104(6).

e. Runoff from the waste must be controlled at all times.

f. If weather or extenuating circumstances prevent application from taking place, the generator must notify the department.

102.105(7) When waste is supplied to other persons for land application, the generating facility shall do the following:

a. Inform the recipient of the applicable requirements of the waste disposal program.

b. If the generating facility determines that the recipient is not complying with applicable requirements of the waste disposal program or the land application criteria, the generating facility shall work with the recipient to obtain compliance with the requirements. If subsequent compliance cannot be achieved, the generating facility shall not supply additional waste to the person.

c. Inform all persons involved in waste disposal operations of the potential health hazards associated with waste disposal, including informing them of the cautions and recommended practices that should be followed to minimize these hazards.

102.105(8) The generator shall maintain records of the following:

a. Analysis of waste to document compliance with 102.103(2).

b. Records of land application for each site, which shall be maintained for five years; be made available to the department upon request; and include dates of application, application rate, and quantity of waste applied.

567—102.106(455B) General permit. Land application of waste at a rate that does not exceed two tons per acre per year and that meets the requirements of 567—102.103(455B), 567—102.104(455B), and 567—102.105(455B) may be land applied in accordance with this rule.

102.106(1) The maximum application rate shall be reduced if analysis of the waste indicates that a two ton per acre per year rate would provide nutrient levels in excess of crop nutrient requirements or would provide heavy metals concentrations in the soil at levels that may be detrimental to crop production or hazardous to human health.

102.106(2) All material must be staged on ground eligible for land application.

102.106(3) Before the initial land application, the applicator must notify the department in writing. This notice shall contain the following:

a. The name and address of the generator of the waste.

b. Contact information for the responsible official.

c. A description of the waste including the process to generate it, chemical analyses showing compliance with 102.103(2), and any additional analysis that the department may require to adequately define the waste. Chemical analysis shall be done by a laboratory certified pursuant to 567—Chapter 83.

d. Quantities of waste to be land applied.

e. Application rate.

f. Legal description of the site.

g. An aerial photo with the site outlined and any areas ineligible for application marked off.

h. Number of acres eligible for land application at the site.

i. The landowner's name and contact information.

567—102.107(455B) Permit Prior to any land application of solid waste not exempted in 567—102.102(455B) or 567—102.106(455B), a solid waste management permit pursuant to 567—subrule 100.4(2) must be obtained by the waste generator.

102.107(1) *Permit application.* In lieu of the permit application requirements in 567—subrule 100.5(1), all permit applications for land application shall include:

a. The name, address, email, and telephone number of:

(1) The permit applicant (generator of the waste).

(2) Official responsible for operation of the project.

(3) Agronomist affiliated with the project.

b. Type, source, and expected volume or weight of waste to be handled per day, week, and year.

c. Information on the source, quantity, and method of treatment of the waste prior to disposal.

d. Chemical analyses showing compliance with 102.103(2) and any additional analysis that the department may require to adequately define the waste. Chemical analysis shall be done by a laboratory certified pursuant to 567—Chapter 83.

e. A detailed description of the land application process to be used, including the method and rate of application, and information indicating how the operational requirements of 567—102.105(455B) will be met.

f. A table of all application sites that includes the name of the site, legal description, county, acres eligible for land application, and the name of the landowner.

g. For each land application site, the following:

(1) An aerial photograph of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, roads, and other applicable details.

(2) A map or aerial photo showing all wells located within 500 feet of the site.

(3) A soil map.

(4) Water table levels of the site, including the frequency and duration of any expected high-water table or flooding.

(5) Proof of the applicant's ownership of the site or legal entitlement to use the site for the disposal of waste.

h. Other information as required by the department.

102.107(2) *Reporting requirements.*

a. A permit holder shall have a certified professional agronomist perform an annual inspection of all sites utilized in the previous year to ensure soil properties and constituents being applied are suitable and will not exceed agronomic rates for the crop that will be produced the following summer. The agronomist will review soil test results to ensure that the application of the waste will not cause buildup of nutrients in the soil. The results of this inspection shall be submitted to the department's main office by April 1 each year.

b. A permit holder shall submit an annual report summarizing the records required in 102.105(8) *"b"* to the department's main office on a form provided by the department. The report will be for July through June and is due by October 1 of each year.

c. Sampling and analyses of the permitted waste shall be performed and submitted to the department according to a schedule stipulated in the permit. At a minimum, an analysis shall be submitted with each permit renewal.

102.107(3) *Temporary storage.*

a. The permit may allow for storage of stabilized sludge and solid waste at application sites subject to the following conditions:

(1) Waste shall not be stored within 200 feet of an occupied residence nor within 500 feet of a well that is part of a public water supply, as defined in 567—subrule 40.2(1), or 200 feet of all other wells.

(2) The waste shall not be stored on soils classified as sand, loamy sand, or silt on the USDA textural classification chart shown in 102.104(6).

(3) Amount stored may not exceed the amount needed for the next application window for that site.

(4) All material stored must be land applied the next application season.

(5) If weather or extenuating circumstances prevent application from taking place, the applicant must notify the department.

(6) Runoff shall be controlled at all times.

(7) Financial assurance in accordance with 567—102.108(455B) has been obtained.

b. The permit may allow for storage of stabilized sludge and solid waste at a consolidation point subject to the following conditions:

(1) Waste shall not be stored within 200 feet of an occupied residence nor within 500 feet of a well that is part of a public water supply, as defined in 567—subrule 40.2(1), or 200 feet of all other wells.

(2) The storage surface shall be made of asphalt, concrete, compacted granular aggregate, clay, or similar relatively impermeable material.

(3) All material stored must be land applied the next application season.

(4) If weather or extenuating circumstances prevent application from taking place, the applicant must notify the department.

(5) Runoff from the waste shall be controlled at all times.

(6) Financial assurance in accordance with 567—102.108(455B) has been obtained.

567—102.108(455B) Financial assurance. The holder of a solid waste management permit for the land application of wastes that has received authorization to temporarily store waste at the application site(s) or a consolidation point must obtain and submit a financial assurance instrument to the department. The financial assurance instrument shall provide monetary funds for the purpose of properly disposing of or having a third-party land apply any stored wastes due to the permit holder's failure to properly land apply wastes in accordance with this division and the applicable permit provisions.

102.108(1) *Proof of compliance.* Proof of the establishment of the financial assurance instrument and compliance with this rule, including a current closure cost estimate, shall be submitted by at the time of application for a permit to land apply solid wastes. The owner or operator must provide continuous

coverage for closure and submit proof of compliance, including an updated closure cost estimate, with each permit renewal thereafter until released from this requirement by the department.

102.108(2) *Financial assurance amounts required.* The estimate submitted to the department must be certified by a professional engineer and account for at least the following factors determined by the department to be minimal necessary costs for closure.

a. Third-party labor and transportation costs and total tip fees to properly dispose of all solid wastes equal to the maximum storage capacity of all approved storage areas, or

b. Third-party labor costs to land apply all solid wastes equal to the maximum storage capacity of all approved storage areas.

102.108(3) *Acceptable financial assurance instruments.* The financial assurance instrument shall be established in an amount equal to the cost estimate prepared in accordance with 102.10(4) and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. The language of the financial assurance instrument shall meet the criteria in 567—subrule 101.708(3). Financial assurance shall be provided by one of the following options.

a. Trust fund pursuant to 567—subrule 101.707(1).

b. Surety bond pursuant to 567—subrule 101.707(2).

c. Letter of credit pursuant to 567—subrule 101.707(3).

d. Corporate guarantee pursuant to 567—subrule 101.707(7).

These rules are intended to implement Iowa Code sections 455B.173 and 455B.304.

567—102.109 to **102.199** Reserved.

DIVISION III
LANDFARMING OF PETROLEUM CONTAMINATED SOIL

567—102.200(455B) Purpose. The purpose of this chapter is to establish rules for the safe and effective remediation and disposal of petroleum-contaminated soil (PCS) through landfarming.

567—102.201(455B) Applicability; compliance.

102.201(1) These rules apply to the landfarming of soils contaminated with biodegradable petroleum products including but not limited to gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof. All PCS landfarming activities in which three or more cubic yards of PCS are excavated shall comply with this chapter. Uncontaminated soil that is excavated during the removal of the PCS shall not be counted toward the three-cubic-yard applicability threshold.

102.201(2) These rules do not apply to PCS that is being disposed of at a sanitary landfill.

102.201(3) The issuance of a landfarm permit by the department in no way relieves the generator or permit holder of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules and other applicable requirements.

102.201(4) These rules do not apply to hazardous waste.

102.201(5) All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—102.202(455B) Definitions. The definitions set out in Iowa Code section 455B.301 shall be considered to be incorporated by reference in these rules. For the purposes of this chapter, the definitions found in 567—Chapter 100 shall apply.

567—102.203(455B) Landfarming application permits.

102.203(1) *Permit required.* PCS shall not be landfarmed without a solid waste management permit for landfarm application from the department pursuant to 567—subrule 100.4(2).

102.203(2) *Landfarm application permit.* Upon issuance of a landfarm application permit, the permit holder is authorized to apply PCS to the land to create one or more landfarms. This permit requires that landfarms be used for only one application of a particular source and type of PCS. This permit requires that no other PCS be applied within 15 feet of the area of land used as a landfarm until the landfarm is closed pursuant to 567—102.211(455B).

102.203(3) *Construction and operation.* Landfarms shall be constructed and operated according to these rules, any plans and specifications approved by the department, and the conditions of the permit. Any approved plans and specifications shall constitute a condition of the permit.

102.203(4) *Duration of permits.* Landfarm application permits shall be issued and may be renewed for a three-year term.

567—102.204(455B) Application information. To apply for a landfarm application permit, the applicant shall submit the following information to the department in addition to the requirements of 567—subrule 100.5(1):

102.204(1) The name, address, and telephone number of:

a. Owner(s) of the agency.

b. Individual responsible for recordkeeping and reporting.

c. An emergency contact person.

102.204(2) A plan of operations that complies with the requirements of 567—102.208(455B) and 567—102.210(455B).

102.204(3) An emergency response and remedial action plan (ERRAP) pursuant to 567—102.209(455B).

567—102.205(455B) PCS analysis and characterization.

102.205(1) *Source identification.* The name and address of the contaminated site from which the PCS originated and the spill or underground storage tank (UST) registration number shall be recorded.

102.205(2) *Type classification.* The PCS shall be classified by type according to the petroleum product's trade name (e.g., gasoline, diesel fuel) or according to the trade names if there is a mixture of petroleum products.

102.205(3) *Chemical testing.* The following analyses shall be performed.

a. Benzene, toluene, ethylbenzene, and xylene (BTEX) testing. The PCS shall be tested for BTEX.

b. Total extractable hydrocarbons as diesel (TEH-diesel) testing. The PCS shall be tested for TEH-diesel.

c. Total metals testing. If the history of the petroleum-contaminated site is known to have included solvents, batteries, leaded fuel, waste oil, or a gas station in operation prior to 1985, then the PCS shall be tested for total Resource Conservation and Recovery Act (RCRA) metals.

102.205(4) *Department-supervised emergency cleanups.* PCS originating from the cleanup of a spill or expedited over-excavation at a tank closure or upgrade under department jurisdiction shall be characterized and tested as follows before being landfarmed. Such PCS may be landfarmed prior to chemical testing, pursuant to the application rate in 120.9(6) and reporting requirements of 567—120.11(455B), if permission is obtained from department emergency response personnel or the department field office with jurisdiction over the landfarm site.

102.205(5) *Other cleanups.* PCS not originating from a department-supervised emergency cleanup pursuant to 102.205(1) shall be characterized and tested as follows before being landfarmed. PCS originating from a cleanup pursuant to 567—Chapter 135 may utilize those test results as applicable.

102.205(6) *Tar balls.* PCS that has the potential to produce tar balls shall not be landfarmed. Such PCS may be disposed of in a sanitary landfill.

102.205(7) *Other tests.* The department may require testing of the PCS for other chemicals of concern.

567—102.206(455B) Site exploration and suitability requirements for landfarms. All landfarms shall meet the following site exploration and suitability requirements.

102.206(1) *Previous use.* The landfarm applicator shall obtain written confirmation from the site owner of one of the following requirements:

a. That any other landfarm created in the past three years within 15 feet of the proposed landfarm plot has been closed pursuant to 567—102.211(455B).

b. That no area within 15 feet of the proposed landfarm plot has been used as a landfarm in the past three years.

102.206(2) *Wells.* PCS shall not be landfarmed or stored within 500 feet of a well that is being used or could be used for human or livestock consumption. The department may also exempt from this requirement extraction wells utilized as part of a remediation system. PCS shall not be landfarmed or stored within 500 feet of an agricultural drainage well.

102.206(3) *Sinkholes.* PCS shall not be landfarmed or stored within 500 feet of a sinkhole.

102.206(4) *Surface waters of the state.* PCS shall not be landfarmed or stored within 200 feet of a stream, lake, pond, wetland, or other surface water of the state. The department may waive the setback requirement for surface waters that have been constructed for pollution control purposes.

102.206(5) *Tile lines.* PCS shall not be landfarmed or stored within 200 feet of a tile line surface intake.

102.206(6) *Housing and sensitive populations.* PCS shall not be landfarmed or stored within 200 feet of an occupied residence, recreational area, child care facility, educational facility, or health care facility.

102.206(7) *Floodplains.* PCS shall not be landfarmed or stored within a 100-year floodplain.

102.206(8) *Slope.* PCS shall not be landfarmed or stored on slopes greater than 5 percent. This requirement may be satisfied by utilizing USDA soil maps.

102.206(9) *Soil properties for landfarm plot.* All soils in the landfarm plot of the landfarm shall comply with the following requirements.

a. USDA textural soil classification. Soils in the landfarm plot of landfarms shall be clay, sandy clay, sandy clay loam, sandy loam, silty clay, silty clay loam, clay loam, loam, or silt loam as classified by the USDA Textural Classification Chart for soils.

b. Stones and debris. Soils in the landfarm plot shall be free of stones and debris larger than four inches in diameter.

c. Soil pH. Soils in the landfarm plot shall have a pH greater than or equal to 6 and less than or equal to 9.

d. Bedrock separation. The landfarm plot shall have a minimum of six feet of soil over bedrock.

567—102.207(455B) PCS storage areas. PCS shall be stored on an impervious surface, under a roof of tarp to minimize the infiltration of precipitation, or in an area with minimal potential for stormwater run-on.

567—102.208(455B) Landfarm operating requirements. All landfarms shall comply with the following operating requirements.

102.208(1) *Standard PCS.* Only standard PCS may be land applied or stored at a landfarm without a permit amendment from the department.

102.208(2) *Nonstandard PCS.* A permit amendment from the department, pursuant to 567—subrule 100.5(4) shall be obtained for each particular source and type of nonstandard PCS before that PCS may be land applied or stored at a landfarm. The permit amendment application shall include a justification of how the PCS can be safely and effectively remediated by landfarming.

102.208(3) *Saturated or slurry PCS.* PCS in a saturated or slurry condition shall not be applied to the land or stored at a landfarm. PCS in such a condition shall be bulked with other biodegradable materials (e.g., compost, mulch) until it is no longer saturated or in a slurry before it is applied to the land or stored at a landfarm.

102.208(4) *Storage.* PCS shall be stored during the non-landfarm season, except as allowed by 102.208(4). PCS may be stored for up to seven days during landfarm season.

102.208(5) *Non-landfarm season.*

a. PCS shall only be applied to the land during non-landfarm season if the PCS must be applied to the land as part of an emergency cleanup supervised by the department pursuant to 120.6(1) or all of the following conditions exist:

(1) The landfarm plot is free of snow.

(2) The slope of the landfarm plot is less than 3 percent.

(3) The PCS is incorporated into the soil as soon as site conditions allow.

b. There is no precipitation.

102.208(6) *PCS plot requirements.* One application of a particular source and type of PCS may be applied to a landfarm plot. A landfarm may only apply a subsequent application of PCS to a previously utilized landfarm plot if such application is in compliance with the following:

a. The plot has been tested pursuant to 102.205(2)*"c"*(1), *"c"*(2), and *"c"*(3), and the results demonstrate that petroleum constituent concentrations are less than 0.54 mg/kg for benzene, 42 mg/kg for toluene, 15 mg/kg for ethylbenzene, 3800 mg/kg for TEH-diesel, and 0.02 mg/kg for MTBE.

b. A subsequent application of a particular source and type of PCS may not be applied within 15 feet of an area used as a single-use landfarm until the single-use landfarm is closed pursuant to 567—subrule 120.12(2).

102.208(7) *PCS application rates.* PCS shall be land applied at a rate that is as uniform as practical over an area sufficient to satisfy the greater of the following area requirements. However, PCS from an emergency cleanup supervised by the department pursuant to 102.205(1) may instead be land applied at a rate of 162 ft^2 of landfarm area per cubic yard (yd^3) of PCS, that is as uniform as practical, and in which no layer of unincorporated PCS is thicker than two inches.

a. Petroleum constituents. PCS shall be land applied over the largest area required by the following:

(1) PCS contaminated with benzene shall be land applied in accordance with Table 1. The average concentration of benzene in the PCS shall be used to determine the landfarm area (ft^2) required per cubic yard (yd^3) of PCS to be land applied. The average concentration of benzene shall be calculated from all soil boring test results that are within the PCS excavation area. The application shall be as uniform as practical over the area required.

Table 1			
0< mg/kg ≤10	81 ft^2	4 inches	537 yd^3
10< mg/kg ≤20	162 ft^2	2 inches	268 yd^3
20< mg/kg	324 ft^2	1 inch	134 yd^3

(2) PCS that is not contaminated with benzene or MTBE, but is contaminated with toluene, ethylbenzene, xylene, TEH-diesel, or some combination thereof, shall be land applied at a rate of 81 ft^2 of landfarm area per cubic yard (yd^3) of PCS. The application shall be as uniform as practical, and no layer of unincorporated PCS shall be thicker than four inches.

b. Total RCRA metals. PCS that has been tested for heavy metals pursuant to 102.205(1)*"c"*(3) shall be applied at a rate that is as uniform as practical, that results in no layer of PCS thicker than four inches, and that upon incorporation produces a landfarm soil that satisfies the following requirements. This analysis requires prior testing of background levels of RCRA metals at the proposed landfarm site.

(1) Total RCRA metals are less than 2,500 milligrams per kilogram (mg/kg).

(2) Any particular concentration of a RCRA metal is less than the appropriate statewide standard for soil developed pursuant to 567—Chapter 105, Division III.

102.208(8) *Flagging.* The landfarm plot(s) upon which PCS is land applied shall be delineated with flags for one year after land application or until the landfarm is closed pursuant to 567—102.211(455B), whichever is shorter.

102.208(9) *Removal of solid waste and rubble.* All solid waste that is not PCS shall be removed and properly disposed of prior to the landfarming of PCS. All rubble, stones, and debris larger than four

inches in diameter, or that interfere with incorporating and turning the PCS, shall also be removed and properly disposed of.

102.208(10) *PCS incorporation.* PCS shall be incorporated into the soil by tilling, disking, or other suitable means within 48 hours of being land applied or before the next precipitation event, whichever is sooner. PCS shall not be incorporated deeper than 12 inches.

102.208(11) *Turning the PCS.* After incorporation, the PCS shall be turned by tilling, disking, or other suitable means at least once per month for the first three months during landfarm season.

102.208(12) *No crops for consumption.* Landfarms shall not grow crops within 15 feet of a landfarm plot that is flagged pursuant to 102.208(7). Crops for human and livestock consumption may be grown at a single-use landfarm after the landfarm plot is no longer required to be flagged pursuant to 102.208(7).

102.208(13) *Removal of PCS from a landfarm.* PCS shall not be removed from a landfarm until the landfarm is closed pursuant to 567—120.12(455B) or the following conditions are met:

a. One sample from each 2,500 ft^2 (e.g., 50-foot × 50-foot area) of landfarm plot is analyzed pursuant to 102.205(2)*"c"*(1), *"c"*(2), and *"c"*(3). A minimum of one sample per landfarm plot shall be obtained. All samples shall be obtained from between the top two to six inches of soil.

b. The results of the tests in 102.211(2)*"a"* demonstrate that petroleum constituent concentrations for benzene, toluene, ethylbenzene, TEH-diesel, and MTBE are below the detection limits required by 567—Chapter 135.

c. Records of the lab results, amount of PCS removed, and the exact final location of the PCS shall be maintained by the landfarm.

567—102.209(455B) Emergency response and remedial action plans.

102.209(1) *ERRAP.* An ERRAP as described in 567—100.14(455B) shall be maintained as part of the landfarming application permit.

102.209(2) *Access.* ERRAP documents shall be readily available. Landfarm applicators shall ensure that employees have either physical or digital access to the ERRAP document when conducting landfarm operations.

102.209(3) *Employee training.* At a minimum, all employees shall receive annual training sufficient to understand and utilize ERRAP documents.

567—102.210(455B) Reporting and recordkeeping requirements.

102.210(1) *Reporting.* The following information shall be submitted to the department on a form provided by the department. All reporting submissions shall include the name, address, and telephone number of the landfarm and permit holder, as well as the permit number.

a. Storage notification. Landfarms shall submit the following information to the department and department field office with jurisdiction over the landfarm before receipt of the PCS for storage; however, at least 30 days' notification is encouraged. PCS storage information from an emergency cleanup supervised by the department pursuant to 102.205(1), however, shall be reported within seven days of the emergency cleanup.

(1) The date the PCS is expected to be delivered for storage at the landfarm.

(2) Where the PCS will be stored at the landfarm.

(3) The spill number, UST registration number, and leaking UST (LUST) number, as applicable.

b. Land application notification. Landfarms shall submit the following information to the department and department field office with jurisdiction over the landfarm before land application; however, at least 30 days' notification is encouraged. PCS information from an emergency cleanup supervised by the department pursuant to 102.205(1), however, shall be reported within seven days of the emergency cleanup.

(1) The date the PCS is expected to be applied to the land. If the PCS is not applied on this date, the department shall be informed of the actual application date.

(2) A physical address or parcel identification number for the landfarm location, a legible topographic map or aerial photo, a USDA soil map with key, and a map of the 100-year floodplain illustrating and labeling where the PCS is to be applied.

(3) Application rate calculations pursuant to 102.208(6).

(4) The spill number, UST registration number, and LUST number, as applicable.

c. PCS analysis and characterization. Information on the analysis and characterization of the PCS pursuant to 567—102.205(455B) shall be submitted to the department before receipt of the PCS for storage or land application; however, at least 30 days' notification is encouraged. PCS analysis and characterization information from an emergency cleanup supervised by the department pursuant to 567—subrule 120.6(1), however, shall be reported within 60 days of the emergency cleanup.

102.210(2) *Recordkeeping.* All landfarm applicators shall maintain records of all information related to compliance with this chapter and the permit throughout the life of the landfarm and for three years after landfarm closure pursuant to 567—102.211(455B). This information shall be available to the department upon request. Applicable information includes but is not limited to the following material.

a. Permit application information pursuant to 567—102.204(455B).

b. PCS analysis and characterization pursuant to 567—102.205(455B).

c. Site suitability information pursuant to 567—102.206(455B).

d. Specific design requirements pursuant to 567—102.207(455B).

e. Operations information pursuant to 567—102.208(455B), in particular, application rate calculations pursuant to 102.208(6).

f. ERRAP documents pursuant to 567—102.209(455B).

g. Reports submitted pursuant to 102.210(1).

h. Closure information pursuant to 567—102.211(455B).

567—102.211(455B) Landfarm closure.

102.211(1) A landfarm shall be closed three years after the application of PCS unless otherwise authorized or required by this rule.

102.211(2) A landfarm may be closed if, at least six months after the application of PCS, documentation has been submitted and acknowledged in writing by the department that each landfarm plot has been tested as follows.

a. One sample from each 10,000 ft^2 (e.g., 100-foot × 100-foot area) of landfarm plot is analyzed pursuant to 102.205(2)*"c"*(1), *"c"*(2), and *"c"*(3). A minimum of one sample per landfarm plot shall be obtained. All samples shall be obtained from between the top two to six inches of soil.

b. The results of the tests in 102.211(2)*"a"* demonstrate that petroleum constituent concentrations are less than 0.54 mg/kg for benzene, 42 mg/kg for toluene, 15 mg/kg for ethylbenzene, 3800 mg/kg for TEH-diesel and 0.02 mg/kg for MTBE.

567—102.212(455B) Financial assurance requirements for landfarms. The holder of a sanitary disposal project permit for a landfarm must obtain and submit a financial assurance instrument to the department in accordance with this rule. The financial assurance instrument shall provide monetary funds for the purpose of conducting closure activities at the landfarm plot(s) due to the permit holder's failure to properly close the site as required in accordance with 567—102.211(455B) within 30 days of permit suspension, termination, revocation, or expiration.

102.212(1) *No permit without financial assurance.* The department shall not issue or renew a permit to an owner or operator of a landfarm until a financial assurance instrument has been submitted to and approved by the department.

102.212(2) *Proof of compliance.* Proof of the establishment of the financial assurance instrument and compliance with this rule, including a current closure cost estimate, shall be submitted at the time of application for a permit for a landfarm application permit. The owner or operator must provide continuous coverage for closure and submit proof of compliance, including an updated closure cost estimate, with each permit renewal thereafter until released from this requirement by the department.

102.212(3) *Financial assurance amounts required.* The estimate submitted to the department must be certified by a professional engineer and account for at least the following factors determined by the department to be minimal necessary costs for closure pursuant to 567—102.211(455B):

a. Third-party costs to conduct soil sampling and properly clean all equipment and storage areas at the landfarm plot(s).

b. If PCS is temporarily stored on site prior to incorporation, then this estimate shall include third-party labor and transportation costs and total tip fees to properly dispose of all PCS equal to the maximum storage capacity on site.

102.212(4) *Acceptable financial assurance instruments.* The financial assurance instrument shall be established in an amount equal to the cost estimate prepared in accordance with 102.212(3) and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. Financial assurance may be provided by one of the following options:

a. Trust fund pursuant to 567—subrule 101.707(1).

b. Surety bond pursuant to 567—subrule 101.707(2).

c. Letter of credit pursuant to 567—subrule 101.707(3).

d. Corporate guarantee pursuant to 567—subrule 101.707(7).

e. Local government guarantee pursuant to 567—subrule 101.707(8).

f. Local government dedicated fund pursuant to 567—subrule 101.707(9).

These rules are intended to implement Iowa Code sections 455B.301A, 455B.304, and 455B.383.

567—102.213 to **102.299** Reserved.

DIVISION IV
BENEFICIAL USE

567—102.300(455B) Purpose. The purpose of this division is to establish rules for determining when the utilization of a solid by-product constitutes beneficial use rather than the disposal of solid waste. Solid by-products determined by the department not to be a solid waste through a beneficial use determination will not be subject to regulation as disposal of solid waste. This division encourages the utilization of solid by-products, consistent with accepted engineering practices, when such utilization improves, or at a minimum does not adversely affect, human health and the environment.

567—102.301(455B) Applicability and compliance.

102.301(1) These rules establish a method for predetermination by the department that a proposed utilization of a solid by-product will not be regulated as solid waste disposal when utilized in the manner approved by the department. These rules apply to industrial, commercial, and institutional generators and users or proposed users of solid by-products that before receiving a beneficial use determination by the department were disposing of solid by-products as solid waste. These rules encourage environmentally sound materials management practices to maximize the use of recoverable materials and to foster resource recovery. The department reserves the authority to modify or revoke any beneficial use determination authorized under these regulations.

102.301(2) These rules do not pertain to organic materials composting. Division I of this chapter contains rules pertaining to organic materials composting.

102.301(3) These rules do not pertain to the land application of solid waste. Division II of this chapter contains rules pertaining to the land application of solid waste.

102.301(4) These rules do not pertain to the beneficial use of waste tires. Division V of this chapter contains rules pertaining to the beneficial use of waste tires.

102.301(5) These rules do not pertain to alternative cover material. 567—Chapter 101, Division II, contains rules pertaining to sanitary landfills utilizing or desiring to utilize solid by-products as alternative cover material.

102.301(6) These rules do not apply to solid by-products that are directly incorporated into a manufacturing process to make a commercial product unless the use of a solid by-product as an

ingredient in an industrial process or as a substitute for a commercial product may present a threat of harm to human health and the environment that is similar to the harm that would occur from the improper disposal of the solid by-product.

102.301(7) Beneficial use determinations granted by the department before [the effective date of this rule] shall remain in effect unless specifically addressed by these rules or by written notification pursuant to 567—102.307(455B).

102.301(8) The issuance of a beneficial use determination by the department affirms that the proposed use is not subject to regulation as solid waste disposal to the extent the use and solid by-product conforms to the beneficial use application and determination. The issuance of a beneficial use determination by the department in no way relieves the generator or user of the responsibility of complying with all other local, state, and federal statutes, ordinances, and rules or other applicable requirements.

102.301(9) Respondents in actions to enforce these regulations who raise a claim that a certain solid by-product is not a solid waste or is conditionally exempt from regulation shall demonstrate that there is a known market or disposition for the solid by-product and that they meet the terms of the exemption. Documentation (such as contracts showing that a second person or entity utilizes the solid by-product as an ingredient in a production process) is needed to demonstrate that the solid by-product is not a solid waste or is exempt from regulation.

102.301(10) To ensure that all solid by-product applications do not pose a threat to human health and the environment, the department has the authority to determine if a proposed use is beneficial and to approve or deny applications if such a benefit is not evident. Proposed beneficial uses in which the primary purpose is as a land disposal mechanism, and any beneficial use would be incidental in nature, will be denied in accordance with 567—102.308(455B).

102.301(11) All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—102.302(455B) Definitions. For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code section 455B.301 shall apply.

567—102.303(455B) Universally approved beneficial use determinations. The following solid by-products are hereby approved as the beneficial use of a solid by-product when utilized in the specific manners listed provided that such utilization is in compliance with 567—102.305(455B) and 567—102.306(455B). Unless an entity is otherwise notified by the department pursuant to 567—102.307(455B), such utilization does not require further approval from the department.

102.303(1) *Asphalt shingles.* Asphalt shingles that are certified, consistent with federal regulations (Reference: Appendix E, Subpart E, 40 CFR Part 763, Section 1, Polarized Light Microscopy), as not containing more than 1 percent asbestos may be used as follows:

a. Subbase for hard-surface pavement construction.

b. Road surfacing granular material.

c. Asphalt pavement material.

102.303(2) *Cement kiln dust.* Cement kiln dust may be used as follows:

a. Subbase for hard-surface pavement construction.

b. A soil amendment pursuant to 21—Chapter 44 and other IDALS rules.

c. A stabilizer for manure and waste sludge.

d. For soil stabilization purposes.

e. Structural fill or fill material.

102.303(3) *Coal combustion residual.*

a. Coal combustion fly ash, bottom ash, or boiler slag may be used as follows:

(1) Subbase for hard-surface pavement construction.

(2) For soil stabilization purposes.

(3) Structural fill or fill material.

b. Coal combustion bottom ash or boiler slag may also be used as follows:

(1) Sandblasting or other abrasive.

(2) Granules for roofing shingles.

c. Coal combustion flue gas desulfurization, flue gas pollution control by-products, including but not limited to lime, activated carbon and synthetic gypsum, may be used as follows:

(1) For soil stabilization purposes.

(2) Soil amendment pursuant to 21—Chapter 44 or an agricultural liming material pursuant to 21—Chapter 43 and other IDALS rules.

102.303(4) *Foundry sand.* Foundry sand from steel and ferrous casting may be used as follows:

a. Leachate control drainage material at a sanitary landfill.

b. Subbase for hard-surface pavement construction.

c. Structural fill or fill material.

d. Emergency flood control use for sandbags.

e. Sandblasting or other abrasive.

102.303(5) *Glass.* Uncontaminated, unleaded glass may be used as follows:

a. Leachate control drainage material at a sanitary landfill.

b. Subbase for hard-surface pavement construction.

c. Structural fill or fill material.

d. Sandblasting or other abrasive.

e. Filter media.

102.303(6) *Gypsum and gypsum wallboard.* Gypsum and gypsum wallboard that have not been treated to be water-resistant or flame-retardant may be used as a soil amendment pursuant to 21—Chapter 44 and other IDALS rules.

102.303(7) *Lime.* Lime produced as a by-product of public water supplies may be used as a soil amendment pursuant to 21—Chapter 44 or an agricultural liming material pursuant to 21—Chapter 43 and other IDALS rules.

102.303(8) *Lime kiln dust.* Lime kiln dust may be used as follows:

a. Subbase for hard-surface pavement construction.

b. A soil amendment pursuant to 21—Chapter 44 or an agricultural liming material pursuant to 21—Chapter 43 and other IDALS rules.

c. A stabilizer for manure and waste sludge.

d. For soil stabilization purposes.

e. Structural fill or fill material.

102.303(9) *Paper mill sludge.* Uncontaminated, dewatered paper mill sludge may be used as follows:

a. A fuel or energy source.

b. Bulking agent or carbon source for composting.

c. Animal bedding.

102.303(10) *Rubble.* Uncontaminated rubble such as dirt, stone, brick, or similar inorganic materials may be used for beneficial fill, landscaping, excavation, or grading or as a substitute for conventional aggregate at places other than a sanitary disposal project. Asphalt, however, shall not be approved for any of these uses if such use will cause the asphalt to be placed in a waterway or wetland, in any waters of the state, or within a floodplain.

102.303(11) *Sandblasting abrasives.* Sandblasting abrasives that do not contain heavy metal-based paint may be used as follows:

a. Subbase for hard-surface pavement construction.

b. Structural fill or fill material.

102.303(12) *Wastewater filter sand.* Wastewater filter sand free of pathogens may be used as follows:

a. Subbase for hard-surface pavement construction.

b. Leachate control drainage material at a sanitary landfill.

c. Structural fill or fill material.

567—102.304(455B) Application requirements for beneficial use determinations. Unless the beneficial use is approved pursuant to 567—102.303(455B), applicants will need to submit the following information on a form prescribed by the department. The department may request that additional information be submitted in order to make a beneficial use determination. The department may also require specific conditions on a beneficial use determination and issue a temporary determination on a trial basis.

A generator, user, or proposed user of a solid by-product may apply to the department in writing for a beneficial use determination. If the department finds the application information to be incomplete, then it shall notify the applicant in writing of that fact and of the specific deficiencies and return the application materials to the applicant within 30 days of such notification. The applicant may reapply without prejudice.

102.304(1) The name, address, email, and telephone number of:

a. Owner of the site where the project will be located.

b. Applicant for the beneficial use determination.

c. Official responsible for the operation of the project.

d. Professional engineer (P.E.) licensed by the state of Iowa and retained for the project, if any. The department may, at its sole discretion, require the applicant to retain a professional engineer for the project or specific parts thereof in order to obtain a beneficial use determination.

e. Agency to be served by the project, if any.

f. Responsible official of agency to be served, if any.

102.304(2) Scaled map or aerial photograph locating the boundaries of the proposed beneficial use site, if applicable, and identifying:

a. North and other principal compass points.

b. Section lines and other legal boundaries.

c. Zoning and land use within 750 feet.

d. Homes and buildings within 750 feet.

e. Haul routes to and from the site, including load limits or other restrictions on those routes.

102.304(3) A description of the solid by-product under review and its proposed use, including the process that will be used to transport and handle the solid by-product, including any equipment.

102.304(4) The chemical and physical characteristics of the solid by-product under review.

102.304(5) A demonstration that there is a known or reasonably probable market for the intended use of the solid by-product under review by providing one or more of the following:

a. A contract to purchase or utilize the solid by-product for the use proposed.

b. A description of how the solid by-product will be used.

c. A demonstration that the solid by-product complies with industry standards and specifications for that product.

d. Applications submitted by persons other than the generator must be accompanied by written consent for the proposed use from the generator.

e. Other documentation that a market for the solid by-product exists.

102.304(6) A demonstration that the proposed use of the solid by-product will not adversely affect human health and the environment. On a form prescribed by the department, the demonstration may include but is not limited to a toxicity characteristics leaching procedure analysis and total metals testing of a representative sample of the solid by-product.

102.304(7) A solid by-product management plan pursuant to 102.305(3).

567—102.305(455B) Requirements for beneficial use determinations.

102.305(1) *Solid by-products applied to land.* Unless otherwise approved by the department, all beneficial uses, including those listed in 567—102.303(455B) other than uncontaminated rubble and soil, shall meet the following requirements if the beneficial use entails the solid by-product being used as

a fill material, structural fill, or subbase for hard-surface pavement construction or for soil stabilization purposes:

a. Leachate characteristics of the solid by-product to be measured by the toxicity characteristics leaching procedure (TCLP, Environmental Protection Agency (EPA) Method 1311) and be consistent with federal regulations (Reference: Table 1, Subpart C, 40 CFR 261, Maximum Concentration of Contaminants for the Toxicity Characteristic).

b. Leachate characteristics of the solid by-product to be measured by the synthetic precipitation leaching procedure (SPLP, EPA Method 1312) and shall be less than or equal to ten times the maximum contaminant levels (MCL) for drinking water (Reference: Subpart G, 40 CFR 141, National Primary Drinking Water Regulations). Applicants may limit the SPLP analytes to total metals for drinking water.

c. Total metals testing of the solid by-product (Total Metals, EPA Method 6010) shall comply with the department's current statewide standards for soil pursuant to 567—Chapter 137. Levels shall be consistent with the statewide standards for soil or the naturally occurring (i.e., background) levels of the soil, whichever are greater.

d. The department may establish additional constituent standards from those outlined in this rule for a solid by-product. The department will review regulatory limits on a quarterly basis and post updates to the department website. It is the responsibility of each generator, applicant and end user to ensure solid by-products comply with the most current regulatory limits.

e. The solid by-product shall produce a material that has a pH:

(1) Greater than or equal to 5 and less than or equal to 8 if the solid by-product may be used as growing media either now or in the future.

(2) Greater than or equal to 5 and less than 12 if the solid by-product is specifically intended not to be used as growing media either now or in the future. In this category, solid by-products with a pH equal to or greater than 10 but less than 12 shall be used only in areas where direct physical contact by humans for long periods of time is not expected to occur.

(3) For applications where only the surface may serve as growing media either now or in the future, then at a minimum the top three feet shall have a pH greater than or equal to 5 and less than or equal to 8. Solid by-products below the top three feet shall have a pH greater than or equal to 5 and less than or equal to 12.

f. The solid by-product shall not be placed in a waterway or wetland or any waters of the state or extend below or within five feet of the high water table.

g. The solid by-product shall not be placed within a 100-year floodplain unless in accordance with all local and department regulations, including 567—Chapter 71.

h. The solid by-product shall not be placed closer than 200 feet to a sinkhole or to a well that is being used or could be used for human or livestock water consumption.

i. The solid by-product shall not be placed closer than 100 feet of any property line unless written consent is obtained from the adjacent landowner(s).

j. The solid by-product shall not be putrescible.

k. Any project utilizing a solid by-product being applied to land, not including uncontaminated rubble and soil, that has not received a beneficial use determination shall be presumed to constitute the illegal disposal of solid waste.

102.305(2) *Determination.* The department may make a determination that a solid by-product that has received approval to be used beneficially ceases to be a solid waste if it is used in accordance with the terms and conditions of the beneficial use determination. Unless otherwise determined for the particular solid by-product under review, the point at which a solid by-product ceases to be a solid waste occurs when it is used in a manufacturing process to make a product, used as an effective substitute for a commercial product, or used as a fuel for energy recovery.

102.305(3) *Solid by-product management plans.* Recipients of beneficial use determinations granted pursuant to 567—102.304(455B) and those beneficial uses listed in 102.305(1) shall develop and maintain a solid by-product management plan (SBMP) that satisfies the following:

a. Lists the source(s) of the solid by-product.

b. Outlines procedures for periodic testing (not less than semiannually) of the solid by-product to confirm the proposed use continues to be adequately protective of human health and the environment and that the solid by-product continues to possess the physical characteristics and chemical properties that make it suitable for the approved beneficial use. Testing results from a certified laboratory pursuant to 567—Chapter 83 are to be submitted as part of the SBMP on a form prescribed by the department.

c. Provides a description of storage procedures including:

(1) Storage location(s).

(2) Maximum anticipated inventory, including dimensions of any stockpiles.

(3) Run-on and runoff controls, which may include a storm water National Pollutant Discharge Elimination System (NPDES) permit.

(4) Management practices to minimize uncontrolled dispersion of the solid by-product.

(5) Maximum storage time, not to exceed six months unless authorized in writing by the department.

567—102.306(455B) Recordkeeping and reporting requirements. Recipients of beneficial use determinations granted pursuant to 567—102.304(455B) and those beneficial uses listed in 102.305(1) shall comply with the following recordkeeping and reporting requirements.

102.306(1) *Recordkeeping.* An entity subject to this rule must maintain all records related to the solid by-product management plan for a minimum duration of five years after project completion.

102.306(2) *Reporting.* Unless otherwise directed by the department, solid by-product management plans are to be filed with the department's central office as follows:

a. An entity subject to this rule shall submit to the department a copy of the solid by-product management plan prior to reuse of the solid by-product, whenever that plan is revised, and within 60 days of the end of the calendar year, whichever is earlier.

b. An entity subject to this rule whose solid by-product is being applied to land pursuant to 102.305(1) shall also submit to the department the following information for each beneficial use project or activity:

(1) The location of the project.

(2) The tons of solid by-product utilized for the project.

567—102.307(455B) Revocation of beneficial use determinations. The department may revoke any beneficial use determination if it finds one or more of the following.

102.307(1) The matters serving as the basis for the department's determination were incomplete or incorrect or are no longer valid.

102.307(2) The department finds that there has been a violation of any law, rule, permit, or other authorization in its jurisdiction.

102.307(3) The department has reasonable cause to suspect, based upon information not previously considered or available as part of the application, demonstrating that management of the solid by-product under the approved beneficial use determination may present a significant risk to or adverse effect on human health and the environment.

102.307(4) The solid by-product is used in a manner inconsistent with the terms under which it was determined to no longer be a solid waste. The department may consider the placement, dumping, or other use of a solid by-product in a manner inconsistent with the beneficial use determination to be illegal disposal of solid waste, and the applicant, generator, distributer, or end user may be subject to enforcement action by the department pursuant to Iowa Code section 455B.307.

102.307(5) The applicant has requested the revocation of the determination or other legal grounds exist for such revocation.

567—102.308(455B) Denial of beneficial use determination applications. For applications that are found to be inconsistent with these regulations by the department, the following conditions apply.

102.308(1) The department will notify the applicant in writing of the denial, including supporting rationale, within 90 days of receipt of application.

102.308(2) Solid by-products for which a beneficial use determination is denied by the department are considered solid waste and remain subject to all applicable state and federal statutes, ordinances, and regulations.

102.308(3) Applicants may appeal the denial of a beneficial use determination to the department within 60 days of notification of denial. Such appeal shall be made in a manner consistent with 561—7.4(17A,455A).

567—102.309 to **102.399** Reserved.

These rules are intended to implement Iowa Code section 455B.304(19).

DIVISION V
WASTE TIRE MANAGEMENT

567—102.400(455D) Purpose. The purpose of this division is to establish guidelines for the proper management of waste tires, including collection, hauling, storage, processing, disposal, and beneficial reuse of waste tires and processed waste tire materials. This division shall not be construed to exempt a waste tire stockpile site, processing facility, or waste tire hauler from compliance with more stringent local ordinances, fire codes, or other applicable statutes. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—102.401(455D) Definitions. For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code sections 455D.11 and 455D.11I shall apply. In addition, "stockpile" as used in this division shall mean the storage or collection of waste tires in anticipation of final disposal.

567—102.402(455D) Registration of waste tire haulers. A waste tire hauler shall register with and obtain a certificate of registration from the department in accordance with this division before hauling waste tires in Iowa. Waste tire haulers that pick up tires within Iowa or that bring waste tires to Iowa for disposal, stockpiling, or processing shall be required to register.

102.402(1) *Registration exemption.* A waste tire hauler shall not be required to register under the following circumstances:

a. The waste tire hauler only travels through the state with waste tires as a part of interstate commerce and does not pick up, deposit, transfer, store, or dispose of any waste tires in Iowa.

b. The waste tire hauler is a municipal, county, state, or other public agency; the vehicles used for transport of the waste tires are owned and licensed by the public agency; and the agency hauls no more than 10,000 waste tires within a 12-month period.

102.402(2) *Annual registration.*

a. A waste tire hauler registration shall be valid for one year, and the waste tire hauler must annually renew the waste tire hauler registration in order to continue to provide waste tire hauling services within the state.

b. Initial registration of a waste tire hauler shall be valid upon the date of issuance by the department and shall be effective for a minimum 12-month period thereafter, with expiration of the initial registration to occur on either January 1 or July 1, whichever date occurs most closely after the initial 12-month registration period.

c. Subsequent annual renewal of the waste tire hauler's registration shall then occur on either January 1 or July 1, subject to the date of the original expiration as referenced in 102.402(2)*"b."*

102.402(3) *Registration form.* A waste tire hauler shall submit the following information on a form prescribed by the department for application for or renewal of registration as a waste tire hauler.

a. The name of the waste tire hauler and any other names under which the waste tire hauler may do business.

b. The principal address of the waste tire hauler and any other address at which the waste tire hauler may do business.

c. A business telephone number.

d. The name and address of the principal officer of a corporate waste tire hauler or the principal owner or owners of a waste tire hauler operating a proprietorship or partnership.

e. The following information for each motor vehicle used by the waste tire hauler for hauling waste tires:

(1) The name and address of the owner of the vehicle.

(2) The vehicle identification number of the vehicle.

(3) The year, make, and model of the vehicle.

(4) The license plate number of the vehicle.

(5) The name of the state in which the vehicle is registered.

f. A statement that the waste tire hauler agrees to comply with the vehicle identification requirements contained in this division.

g. The name of the permitted facility for waste tire disposal, stockpiling, or processing or of another site of end use where the waste tires will be transported.

h. A statement that the waste tire hauler shall pay all amounts due to any individual or group of individuals when due for damages caused by improper disposal of waste tires by the waste tire hauler or the waste tire hauler's employee while acting within the scope of employment.

i. A statement that the waste tire hauler agrees to notify the department within 30 days of any change in the information contained in the registration form.

j. The signature of the waste tire hauler.

102.402(4) *Waste tire hauler registration fee.* An application for initial registration or renewal shall be accompanied by a fee of $50.

567—102.403(455D) Waste tire hauler bond.

102.403(1) An application for registration or renewal shall not be approved by the department until the waste tire hauler has provided a surety bond in the sum of a minimum of $150,000, as provided for in Iowa Code section 455D.11I(6).

102.403(2) Bond requirements.

a. The bond shall be on a form prescribed by the department, and executed by a surety company authorized by the commissioner of insurance to do business in Iowa. The bond provided to the department shall be an original, or copy thereof.

b. The surety shall name the state of Iowa as the obligee for the bond.

c. The bond shall be continuous in nature until canceled by the surety. The surety shall provide at least 30 days' notice in writing to the waste tire hauler and the department in the event of any intent to cancel the bond and the effective date of the cancellation.

d. The waste tire hauler shall provide the department with a statement from the surety with each waste tire hauler registration renewal application, noting that the bond is paid and current for the annual period for which the waste tire hauler has applied for registration renewal.

567—102.404(455D) Marking of equipment. The following information shall be displayed on each side of equipment used by a registered waste tire hauler for the hauling of waste tires in letters and figures large enough to be read easily at a distance of 50 feet and in a color in contrast to the background.

1. The name of the registered waste tire hauler under whose authority the equipment is being operated.

2. The address of the registered waste tire hauler (city and state).

3. The registration number of the waste tire hauler, as assigned by the department. The hauler shall apply the letters and symbol "IA TH#" preceding the assigned registration number.

567—102.405(455D) Disposition of waste tires collected.

102.405(1) All tires collected by a waste tire hauler for which a fee has been collected or is to be charged shall be defined as solid waste and shall be regulated as such.

102.405(2) Upon receipt of waste tires from a person or business, the waste tire hauler shall handle the waste tires as follows:

a. The waste tires shall be directly transported to a tire collector, tire processor, or waste tire stockpile site as permitted and approved by the department or applicable local or state agencies.

b. The waste tires must be transported to a permitted site within 72 hours of initial pickup from the generator of the waste tires.

c. The waste tire hauler may not establish or operate any intermediate stockpiling, waste sorting, transfer, or processing activities regarding the waste tires collected unless such activities occur at a facility or site for which a waste tire stockpile permit or processing permit has been issued in accordance with Iowa Code section 455D.11, 567—102.407(455D), and 567—102.409(455D).

567—102.406(455D) Waste tire hauler reporting requirements. A registered waste tire hauler shall submit a semiannual report to the department on a form prescribed by the department. The report shall provide the department with appropriate information to ensure that waste tires recovered by the waste tire hauler have been handled properly for disposal or processing. Failure of a registered waste tire hauler to submit a timely report will result in denial of the waste tire hauler's renewal of registration.

102.406(1) *Reporting period.* A waste tire hauler shall submit semiannual reports to the department according to the following schedule:

a. For waste tires collected during the six-month period beginning January 1 through June 30, the hauler shall submit a report by the following September 1.

b. For waste tires collected during the six-month period beginning July 1 through December 31, the hauler shall submit a report by March 1 of the following year.

102.406(2) *Information required.* The semiannual report shall include the following information. All waste tire quantities determined by count or weight shall be reported in passenger tire equivalents.

a. Quantity of waste tires collected by the waste tire hauler from within Iowa for the reporting period.

b. Quantity of waste tires that are brought to Iowa by the waste tire hauler from out-of-state sources for the reporting period.

c. Final disposition of all the waste tires collected during the reporting period by listing each tire collector, tire processor, waste tire stockpile site, or other beneficial site of end use, as approved by the department, and the total quantities of waste tires that the hauler has delivered to each.

102.406(3) *Documentation and recordkeeping.* A waste tire hauler shall keep appropriate records, including but not limited to receipts, invoices, or manifests, to document all quantities of waste tires hauled and disposed of by the waste tire hauler for the reporting period. These records shall be kept by the waste tire hauler for a minimum of three years and shall be available for audit or inspection at the request of the department.

567—102.407(455D) Waste tire stockpiling.

102.407(1) *Quantity limitations.*

a. No business or individual shall stockpile more than 500 passenger tire equivalents without obtaining a permit for a waste tire stockpile pursuant to 102.407(2).

b. Businesses or individuals may temporarily stockpile up to 1,500 passenger tire equivalents without obtaining a waste tire stockpile permit, subject to the following requirements:

(1) The waste tires are stockpiled only in a mobile container, truck, or trailer provided or serviced by a registered waste tire hauler.

(2) The waste tires are removed by a registered waste tire hauler or delivered to a permitted waste tire processor at least every 60 days.

(3) The waste tire generator has a written copy of a contract or service agreement for waste tire disposal services from a registered waste tire hauler.

c. A permitted sanitary disposal project shall be allowed to stockpile up to 1,500 passenger tire equivalents without a permit if the waste tires are removed at least every 120 days and are stockpiled in a manner to minimize the collection of water.

d. Persons who use waste tires for an approved beneficial use shall not be required to obtain a waste tire stockpile permit, subject to their compliance with the provisions of 567—102.411(455D).

102.407(2) *Waste tire stockpile permits.*

a. Any tire collector, business, or individual stockpiling more than 500 passenger tire equivalents on any one site must obtain a waste tire stockpile permit. An authorized vehicle recycler, as licensed by the Iowa department of transportation, may store up to 3,500 passenger tire equivalents without a waste tire stockpile permit; any storage beyond this amount shall require full compliance with this subrule. This subrule is applicable to the indoor, outdoor, and underground storage of waste tires. If the site cannot meet the conditions to obtain a waste tire stockpile permit, all waste tires must be removed from the site and properly disposed of within 30 days of notification by the department.

b. Any tire collector, business, or individual seeking to construct a waste tire stockpile under this subrule must obtain a permit from the department prior to initiating operations. The permit shall be issued to the owner of the site or the designated tire collector that will be operating the stockpile.

c. Waste tire stockpile permits shall have an annual fee of $850, payable to the department upon the application for a permit, and due annually beginning each July 1 thereafter at the rate of $850. Permit fees shall not be prorated. The permit shall be valid for a period of three years from date of issuance. Failure to remit the annual renewal fee to the department shall be cause for revocation pursuant to 567—100.13(455B,455D).

d. Application for a permit shall be on a form prescribed by the department and include, at a minimum, the following:

(1) The name, address, and telephone number of the individual who directly owns the stockpile site.

(2) The name, address, and telephone number of the tire collector at the stockpile site, if different from the owner.

(3) A scaled map showing all areas proposed to be used for the stockpiling of waste tires, all property boundaries of the site, and the location of all buildings and major improvements on the site and within 300 feet of the property boundary.

(4) A vector control plan to prevent infestations of mosquitoes and rodents for aboveground storage. The plan shall be prepared by a firm that provides professional vector management services. Upon request, the permittee must provide documentation to show implementation and monitoring of the approved vector control plan.

(5) A site closure plan describing the actions that would be taken to properly dispose of all waste tire materials at the site 30 days prior to any intent to discontinue operations, so that upon discontinuance of operations, no violation of waste tire or solid waste disposal laws will exist.

(6) An emergency response and remedial action plan, developed and implemented according to 567—100.14(455B). The applicant shall provide documentation that an opportunity for input and review of the plan was extended to the local fire department and local emergency management coordinator.

(7) A financial assurance instrument in compliance with 567—102.410(455D).

(8) A certified check for $850 made payable to the Iowa department of natural resources.

102.407(3) *Permitted stockpiling requirements.*

a. A permitted waste tire stockpile site in an open area shall meet the following minimum permit conditions:

(1) The site shall not contain more than 250,000 passenger tire equivalents.

(2) A single waste tire pile shall not contain more than 50,000 cubic feet of waste tires.

(3) The vertical dimension of a waste tire pile shall not exceed ten feet.

(4) A single waste tire pile shall not be more than 100 feet in length.

(5) The surface area covered by a waste tire pile shall not exceed 5,000 square feet; the pile may not be constructed upon any waste tire materials or other flammable materials.

(6) A 50-foot fire lane must be maintained between any two waste tire piles.

(7) All waste tire piles shall be located at least 50 feet from any building.

(8) Trees and brush shall be cleared within 50 feet of any waste tire pile.

(9) Combustible materials or volatile chemicals shall not be stored within 50 feet of any waste tire pile unless stored in approved fire-resistant containers or cabinets.

(10) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 100 feet of any one portion of the waste tire stockpile area.

(11) The site must be graded to prevent any standing pools of water and to limit the runoff and run-on of precipitation in all areas where waste tires are stockpiled.

(12) A waste tire pile must be at least 200 feet from any well, lake, pond, river, stream, sinkhole, or tile line surface intake unless appropriate grading, or the construction of a barrier, dike, or berm, is completed to intercept surface water flows that may impact such interceptors. This distance may then be reduced to 50 feet.

(13) The stockpile site must be secured by a fence or barrier of a minimum of six feet in height to impede unauthorized vehicle and personal access. All gates and entry points shall be secured and locked when site personnel are not present.

(14) No open burning of any type shall be allowed at the permitted stockpile site. All fueling of vehicles and equipment and any other work or activity that may release sparks or flame shall be conducted at least 50 feet from any waste tire stockpiling area.

(15) Signs shall be posted every 100 feet on site, placed for visibility of personnel on site, that state: "Open burning on-site prohibited." The perimeter of the site shall be posted with signs every 100 feet, placed for visibility to those offsite, that state: "Highly flammable materials on-site. Burning in area not recommended."

(16) All waste tire piles shall be located at least 300 feet from any property line, street, or public right-of-way.

b. A permitted waste tire stockpile site in an enclosed area shall meet the minimum permit conditions in 102.407(3)*"a"*(2) through *"a"*(6), as well as the following:

(1) To qualify as an enclosed area, the area must be enclosed in a structure with a permanent roof and lateral protection to prevent precipitation from accumulating within the waste tires.

(2) An enclosed stockpiling structure shall not contain more than 50,000 passenger tire equivalents.

(3) Combustible materials other than waste tires or volatile chemicals shall not be stored in a structure permitted for waste tire stockpiling unless stored in approved fire-resistant containers or cabinets.

(4) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 50 feet of any one portion of the waste tire stockpiling area.

(5) The structure must be secured from unauthorized access.

(6) No open burning of any type shall be allowed at the permitted stockpile site. All fueling of vehicles and equipment and any other work or activity that may release sparks or flame shall be conducted at least 50 feet from any waste tire stockpiling area. The exterior of the enclosed stockpiling area shall be posted with signs, placed every 100 feet, that state: "Highly flammable materials stored inside. Burning on-site prohibited."

102.407(4) *Reporting requirements.* The holder of a permit for a waste tire stockpile facility shall submit a semiannual report to the department on a form prescribed by the department. The report shall state the following:

a. Quantity of waste tires stockpiled at the facility at the time of reporting determined by count or weight and reported in passenger tire equivalents.

b. Quantity of waste tires received from in-state sources for the reporting period.

c. Quantity of waste tires received from out-of-state sources for the reporting period.

d. For any waste tires removed from the permitted waste tire stockpile facility during the reporting period, quantity given by equivalent count or weight of such waste tires removed. Documentation shall be provided to denote how the reported quantity of tires were disposed of at a permitted facility, processed, or reused.

567—102.408(455D) Used tires.

102.408(1) *Used tire storage.* A used tire other than a waste tire shall be stored in a manner that provides for the following:

a. Prevention of the collection of water, dirt, or debris within the tire.

b. Organized storage through stacking, rows, and sorting that provides for accurate descriptions and counts of the types and sizes of tires.

c. Storage conforms to applicable local and state fire codes.

102.408(2) *Quantity limitations.* Used tires stored for more than one year without documentation of active resale or reuse, of tire inventory in a proportion equal to 75 percent of the amount stored, shall be considered waste tires and shall be subject to the applicable waste tire stockpiling and disposal rules of this division.

567—102.409(455D) Waste tire processing.

102.409(1) *Waste tire processing permits.*

a. Any business or individual operating a tire processing facility shall obtain a waste tire processing permit prior to initiating operations. The permit shall be issued to the owner of the site or the individual that will be operating the waste tire processing facility.

b. A permitted sanitary disposal project that accepts waste tires to cut, grind, or compact only for final disposal shall not be required to obtain a waste tire processing permit. Such facilities shall not store any cut or shredded waste tire materials for more than 30 days prior to final disposal.

c. Businesses or individuals operating mobile waste tire processing equipment shall be required to obtain a waste tire processing permit. The permit shall authorize the operator to provide waste tire processing services statewide; however, mobile operations shall not be allowed to store any processed or whole waste tires at any facility or site owned or operated by the permittee unless specifically authorized in writing by the department.

d. Businesses or individuals who cut, grind, or compact for disposal waste tires generated directly from operations at their own on-site manufacturing operation or vehicle or equipment service facility shall not be required to obtain a waste tire processing permit provided all waste tire materials processed on site are disposed of at least every 30 days at a permitted facility.

e. Processing permits shall have an annual fee of $850, payable to the department upon the application for a permit, and due annually beginning each July 1 thereafter at the rate of $850. Permit fees shall not be prorated. The permit shall be valid for a period of three years from date of issuance. Failure to remit the annual renewal fee shall be cause for revocation pursuant to 567—100.13(455B,455D).

f. A permitted waste tire processing facility shall have a site closure plan. The plan shall describe the actions that would be taken to properly dispose of all waste tire materials, in whole or processed form, at the site 30 days prior to any intent to discontinue operations so that, upon discontinuance of operations, no violation of waste tire or solid waste disposal laws exist.

g. A permitted processing facility shall have an emergency response and remedial action plan, developed and implemented according to 567—100.14(455B). The applicant shall provide documentation that an opportunity for input and review of the plan was extended to the local fire department and local emergency management coordinator.

h. A permitted waste tire processing facility shall obtain financial assurance in accordance with 567—102.410(455D), as necessary.

i. Application for a permit shall be on a form prescribed by the department and include, at a minimum, the following:

(1) The name, address, and telephone number of the individual who directly owns the tire processing facility.

(2) The name, address, and telephone number of the operator of the waste tire processing facility, if different from the owner.

(3) The type of processing operations to be conducted, including descriptions of processing equipment and its hourly capacity, operating hours of the facility, and types of processed tire materials to be produced.

(4) A scaled map showing all areas proposed for waste tire stockpiling and processing operations, all property boundaries of the site, and the location of all buildings and major improvements on the site and within 300 feet of the property boundary.

(5) A site closure plan as referenced in 102.409(1)*"f."*

(6) An emergency response and remedial action plan as referenced in 102.409(1)*"g."*

(7) A certified check for $850 made payable to the Iowa Department of Natural Resources.

(8) A financial assurance instrument as referenced in 102.409(1)*"h."*

102.409(2) *Permitted processing requirements.* A permitted waste tire processing facility shall meet the following minimum permit requirements.

a. The site must be graded to prevent any standing pools of water and to limit the runoff and run-on of precipitation in all areas where waste tires are stockpiled or processed tire material is staged prior to sale.

b. The processing facility site must be secured by a fence or barrier of a minimum of six feet in height to impede unauthorized vehicle and personal access. All gates and entry points shall be secured and locked when site personnel are not present.

c. No open burning of any type shall be allowed at the permitted waste tire processing facility. All fueling of vehicles and equipment and any other work or activity that may release sparks or flame shall be conducted at least 50 feet from any waste tire stockpiling area.

d. Signs shall be posted every 100 feet on site, placed for visibility of personnel on site, and state: "Open burning on-site prohibited." The perimeter of the site shall be posted with signs every 100 feet, placed for visibility to those offsite, that state: "Highly flammable materials on-site. Burning in area not recommended."

102.409(3) *Preprocessed whole waste tire stockpiling.*

a. Permitted stockpiling of whole waste tires on site prior to processing shall be limited to the quantity of waste tires that the facility has the ability to process within a three-day period. This quantity shall be determined by multiplying the actual number of working hours that processing is normally to occur during a typical three-day period by 80 percent of the manufacturer's specifications of hourly capacity of the processing equipment. After one year of the facility's operation, documented actual hourly production shall be used for this permit determination in lieu of the manufacturer's equipment specifications.

b. A permitted waste tire processor may stockpile an additional three-day capacity of preprocessed whole waste tires, above the initial three-day capacity, using the same quantity determination as stated in 102.409(3)*"a,"* subject to the tire processor's obtaining and maintaining financial assurance for these additional waste tires to be stockpiled prior to processing in accordance with 567—102.410(455D).

c. Under no circumstance shall a permitted waste tire processor be allowed to stockpile more than 75,000 preprocessed whole waste tires, measured as passenger tire equivalents, through any combination of processing performance or financial assurance. All waste tires on site, including those stored indoors or outdoors or in trucks, trailers, or mobile cages, shall be counted in determining compliance with this subrule.

d. Any single waste tire shall not be stockpiled at the processing facility for more than 30 days before the tire is processed.

e. Preprocessed whole waste tires stockpiled outdoors shall comply with 102.407(3)*"a"*(2) through *"a"*(16), and any waste tires stockpiled in trucks, trailers, or mobile containers must be at least ten feet from any property line or building.

f. Indoor stockpiling of whole waste tires shall not be allowed within 20 feet of any waste tire processing or handling equipment. All waste tires being actively unloaded and fed into processing equipment, including those being off-loaded from trucks, trailers, or mobile containers, shall be cleared at least 20 feet away from the processing equipment by the end of the last working shift of the day. Any remaining indoor stockpiling shall comply with the requirements of 102.407(3)*"b"*(3) through *"b"*(6) and the following:

(1) No more than 25,000 passenger tire equivalents shall be stockpiled indoors.

(2) Combustible materials or volatile chemicals shall not be stored within 25 feet of any waste tire stockpile area unless they are stored in approved containers pursuant to applicable fire codes.

(3) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 50 feet of any one portion of indoor tire stockpile area.

(4) The stockpiling structure must be secured from unauthorized access.

102.409(4) *Processed waste tire storage.*

a. Storage of processed waste tire materials at a waste tire processing facility shall be limited to the volume of material in aggregate that the processor manufactures within a consecutive 60-day period, using the facility's daily average capacity for processing whole waste tires as determined in 102.409(3)*"a."* The department shall have the final authority for determining the allowable quantities of processed tire materials to be stored.

b. Under no circumstances shall the equivalent of more than 500,000 processed tires, or 5,000 tons of material, be stored at the permitted waste tire processing site.

c. All processed waste tire material at the site of processing shall be stored as follows:

(1) Processed tires shall be stored in piles no more than 15 feet in height, 100 feet in length, and 50 feet in width and shall contain no more than 75,000 cubic feet of product by volume.

(2) A 50-foot fire lane must be maintained between piles of processed tire material, with the base of the lane kept free from the accumulation of waste tire-derived residuals or materials or other debris.

(3) All processed waste tire material shall be stored at least 50 feet from any property line, street, public right-of-way, or building.

(4) Trees and brush shall be cleared within 50 feet of the storage of all processed waste tire material.

(5) A 20-pound Class ABC dry chemical fire extinguisher shall be available within 100 feet of any one portion of processed waste tire stockpile area.

d. For indoor storage of more than 5,000 cubic feet of processed waste tire material, the material shall be stored on concrete floors and all retaining walls, bins, barriers, and roofing material for the material storage shall be constructed of nonflammable materials.

e. The processor must demonstrate a reasonable market demand for all types and quantities of processed product stored at the waste tire processing facility. Market demand for processed waste tire products shall be demonstrated by the processor through at least one of the following criteria:

(1) Active contracts, purchase orders, or supply agreements with an end user, noting quantities of material required by the end user, specifications of the quality of the product required by the end user, and monthly or annual demand of product by the end user from the processor. This information shall be made available for review by the department as required to determine compliance with this subrule.

(2) Historic, ongoing demand for product by an end user or type of end user within the state or surrounding region.

(3) Information and evidence that any proposed new product or use for processed waste tires produced by the tire processor will be marketed in a timely fashion, with sufficient demand and consumption by end user markets.

f. The department shall have the final authority in determining storage limitations, including prohibition, for processed waste tire products when active markets are not evident from information provided by the waste tire processor.

102.409(5) *Reporting requirements.* The holder of a permit for a waste tire processing facility shall submit a semiannual report to the department on a form prescribed by the department. The report shall state the following:

a. Quantity of waste tires received by the facility during the reporting period.

b. Quantity of waste tires received by the facility from in-state sources.

c. Quantity of waste tires received by the facility from out-of-state sources.

d. Quantity of unprocessed waste tires on hand at the facility at the time of reporting.

e. Quantity of waste tires processed and delivered to end users during the reporting period, by product type, with determinations of quantities of product delivered to identified in-state and out-of-state markets or sites.

f. Quantity of processed tire material currently stored at the facility, by product type.

102.409(6) *Disposal of solid wastes.*

a. All waste materials, residuals, and scraps derived from waste tire processing operations shall be regulated as solid waste. These materials include but are not limited to tire bead rings, metal wire, synthetic fibers, and cording.

b. All of these solid wastes must be disposed of at least every 60 days at a permitted sanitary disposal project, scrap recycler, or location, as approved by the department.

c. Documentation of the disposal of these solid wastes must be kept at the waste tire processing facility for a period of three years and shall be available for audit or inspection at the request of the department.

567—102.410(455D) Financial assurance requirements. Permitted waste tire processing sites and waste tire stockpile sites must obtain and submit a financial assurance instrument to the department in accordance with Iowa Code section 455D.11A and this rule.

102.410(1) *No permit without financial assurance.* The department shall not issue or renew a permit to an owner or operator of a waste tire processing or stockpile site until a financial assurance instrument(s) has been submitted to and approved by the department, as necessary.

102.410(2) *Financial assurance amounts required.*

a. Waste tire stockpile sites shall have financial assurance coverage equal to $2.50 per passenger tire equivalent collected and stockpiled.

b. Waste tire processing sites shall have financial assurance coverage equal to $2.50 per passenger tire equivalent stockpiled above the permitted three-day processing capacity, in accordance with 102.409(3)*"b."*

102.410(3) *Allowable financial assurance instruments.* The instruments used to demonstrate financial assurance must ensure that the funds necessary to properly dispose of any waste tires that may remain at a permitted waste tire stockpile or waste tire processing site due to the owner's or operator's failure to properly close the site within 30 days of permit termination, revocation, or expiration. The financial assurance instrument must be legally valid, binding, and enforceable under Iowa law and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. Owners or operators must choose from options in 102.410(3)*"a"* through *"e,"* as provided for in Iowa Code section 455D.11A(3).

a. Cash. Cash payments shall be provided by a certified check, made payable to the Iowa Department of Natural Resources.

b. Surety bond. An owner or operator may demonstrate financial assurance for closure by obtaining a payment or performance surety bond, which conforms to the requirements of this paragraph. The surety bond agreement shall be on a form prescribed by the department and executed by a surety company authorized by the commissioner of insurance to do business in Iowa. The owner or operator shall provide the department with a statement from the surety with each permit renewal application, noting that the bond is paid and current for the period for which the applicant has applied for permit renewal. The executed surety bond provided to the department shall be an original, or copy thereof, that addresses the following:

(1) The penal sum of the bond must be in an amount at least equal to the amount specified in 102.410(2).

(2) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond and upon notice from the department pursuant to 102.410(8)*"e."*

(3) The owner or operator must also establish a standby trust fund. The standby trust fund must meet the requirements of 102.410(3)*"d."*

(4) Payments made under the terms of the letter of credit will be deposited by the issuing institution directly into the standby trust fund. Payments from the trust fund must be authorized by the trustee pursuant to 102.410(3)*"d"*(3).

c. Letter of credit. An owner or operator may demonstrate financial assurance for closure by obtaining an irrevocable standby letter of credit, which conforms to the requirements of this paragraph. The letter of credit agreement shall be on a form prescribed by the department, and the issuing institution

must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency. The owner or operator shall provide the department with a statement from the issuing institution with each permit renewal application, noting that the letter of credit is paid and current for the period for which the applicant has applied for permit renewal. The executed letter of credit provided to the department shall be an original, or copy thereof, that addresses the following:

(1) The letter of credit must be irrevocable and issued for a period of at least one year in an amount at least equal to the amount specified in 102.410(2).

(2) The provision of funds by the issuer of the letter of credit shall be considered an issuance of a loan to the owner or operator, and the terms of that loan shall be governed by the letter of credit or subsequent agreement between those parties.

(3) A letter from the owner or operator referring to the letter of credit by number, issuing institution, and date; providing the name and address of the facility; and providing the amount of funds assured must be included with the letter of credit submitted to the department.

(4) The owner or operator must also establish a standby trust fund. The standby trust fund must meet the requirements of 102.410(3)*"d."*

(5) Payments made under the terms of the letter of credit will be deposited by the issuing institution directly into the standby trust fund. Payments from the trust fund must be authorized by the trustee pursuant to 102.410(3)*"d"*(3).

d. Trust fund. An owner or operator may demonstrate financial assurance for closure by establishing a trust fund that conforms to the requirements of this paragraph. The trust fund agreement shall be on a form prescribed by the department, and the trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The executed trust fund provided to the department shall be an original, or copy thereof, that addresses the following:

(1) The trust fund shall be in an amount least equal to the amount specified in 102.410(2).

(2) The owner or operator shall provide the department with a statement from the trustee with each permit renewal application, documenting the current value of the trust fund complies with 102.410(2).

(3) The owner or operator, department, or other person authorized to conduct closure may request reimbursement from the trustee for these expenditures as they are incurred. Requests for reimbursement will be granted by the trustee only if sufficient funds are remaining in the trust fund to cover the remaining costs of proper site closure. The owner or operator, or other person authorized to conduct closure, must submit to the department documentation of the justification for reimbursement and verification that reimbursement has been received.

e. Corporate guarantee. An owner or operator that satisfies the requirements of this paragraph may demonstrate financial assurance for closure by obtaining a written guarantee.

(1) Affiliation. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a substantial business relationship with the owner or operator. A certified copy of the executed guarantee must be placed in the facility's operating record along with copies of the letter from the guarantor's chief financial officer and the independent certified public accountant's opinion(s). If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer must describe the value received in consideration of the guarantee. If the guarantor is a firm with a substantial business relationship with the owner or operator, this letter must describe this substantial business relationship and the value received in consideration of the guarantee.

(2) Terms of the written guarantee. The guarantee must be effective and all required submissions made to the department prior to the initial receipt of waste tires or before the cancellation of an alternative financial assurance instrument, in the case of closure. The guarantee must provide that:

1. If the owner or operator fails to perform proper closure of a site covered by the guarantee, or fails to obtain alternative financial assurance within 90 days of notice of intent to cancel pursuant to 102.410(8), the guarantor will:

- Perform, or pay a third party to perform, proper closure as required (performance guarantee); or

● Establish a fully funded trust fund as specified in 102.410(3)*"d"* in the name of the owner or operator (payment guarantee);

2. The guarantee will remain in force for as long as the owner or operator must comply with the applicable financial assurance requirements of this rule unless the guarantor sends prior notice of cancellation by certified mail to the owner or operator and to the department pursuant to 102.410(8).

(3) The department may, based on a reasonable belief that the corporate guarantor may no longer assure the funds of the written guarantee, require at any time the corporate guarantor to provide reports of its financial condition. If a corporate guarantor can no longer assure the funds of the written guarantee, the owner or operator must submit to the department proof of alternative financial assurance within 90-days of written notification by the department.

102.410(4) *Use of multiple financial assurance instruments.* An owner or operator may satisfy the requirements of 567—102.410(455D) by establishing more than one financial assurance instrument per site, except that instruments guaranteeing performance rather than payment may not be combined with other instruments. The instruments must be a combination of those instruments outlined in 102.410(3) and must provide financial assurance for an amount sufficient to satisfy the requirements of 102.410(2).

102.410(5) *Exemption.* The requirement for financial assurance shall not apply to waste tire stockpiling or processing sites operated by a city or county or operated in conjunction with a permitted sanitary landfill.

102.410(6) *Benefit of creditors; final judgment.* The financial assurance instrument shall not be assigned for the benefit of creditors with the exception of the state and shall not be used to pay any final judgment against a permit holder arising out of the ownership or operation of the site.

102.410(7) *Failure to undertake closure activities.* The department shall have full rights of access to all funds existing in a permitted facility's financial assurance instrument(s), at the sole discretion of the department, if the permit holder fails to undertake closure activities after being directed to do so by a final agency action of the department. These funds shall be used only for the purposes of funding closure activities at the site.

102.410(8) *Financial assurance cancellation and permit suspension.*

a. A financial assurance instrument may be terminated by the owner or operator only if the owner or operator substitutes alternative financial assurance prior to cancellation or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with this rule.

b. A financial assurance instrument shall be continuous in nature until canceled by the financial assurance provider, or until the department gives written notification to the owner or operator and the financial assurance provider, that the covered site has demonstrated compliance with the applicable closure requirements. The financial assurance provider shall give at least 90 days' notice in writing to the owner or operator and to the department in the event of any intent to cancel a financial assurance instrument, as evidenced by the return receipts.

c. Within 30 days of receipt of a written notice of cancellation of a financial assurance instrument, the owner or operator must provide the department with proof of alternative financial assurance or notice from the issuing institution of withdrawal of the cancellation. If a means of continued financial assurance is not provided within the 30-day time frame, the department shall suspend the permit.

d. The owner or operator shall perform proper closure within 30 days of the permit suspension, termination, revocation, or expiration. For the purpose of this subrule, proper closure means removal of all waste tires and related products from the site or facility through acceptable disposal or processing options.

e. If the owner or operator does not properly close the site within the 30-day period allowed, this shall constitute a failure to perform and the department shall file a claim with the financial assurance instrument provider to collect the amount of funds necessary to properly close the site prior to the expiration of the 90-day notice period.

f. Any financial assurance instrument provided to the department must remain in continuous effect until the department gives written notification to the owner, operator, and financial assurance provider that the covered site has been properly closed. An owner or operator who elects to terminate a permitted activity, whose renewal application has been denied, or whose permit has been suspended or revoked

for cause must submit within 30 days of the termination of the permit a schedule for completing proper closure of the terminated activity. Closure completion cannot exceed 180 days from the date of termination of the permit.

g. The department may request payment from any financial assurance provider for the purpose of completing proper site closure when the owner or operator declares an economic inability to comply with this rule either by sending written notification to the department or through an action such as but not limited to filing for bankruptcy.

567—102.411(455D) Beneficial use of waste tires.

102.411(1) *Role of the department.* In order to ensure that proposed uses of whole or processed waste tires do not pose a threat to the environment or to the public health, welfare, and safety, the department shall have the authority to determine if a proposed use is beneficial and shall have the authority to approve or deny applications if such a benefit is not evident. Proposed beneficial uses in which the primary purpose of the project is as a land disposal mechanism shall not be approved.

102.411(2) *Beneficial uses for whole waste tires.* The following applications shall be considered acceptable beneficial uses for whole waste tires:

a. Tire swings, sandboxes, or other equipment for child play areas on residential lots or at schools, care centers, and recreational areas;

b. Dock bumpers at vehicle loading/unloading docks or marine docks;

c. Crash barriers at racetracks;

d. Agricultural uses to hold down covers over hay, silage, and other agricultural commodities. When not in use, the tires should be neatly stacked.

102.411(3) *Required notifications and approval for whole waste tire uses.* Prior to the installation or placement of waste tires for a beneficial use as allowed in 102.411(2), the owner or operator of the site of end use shall properly notify or seek approval from the department for the proposed beneficial use under the following circumstances. These circumstances apply to the total combined amount of waste tire material that already is, or is intended to be, used at the site:

a. For applications of less than 250 whole waste tires, notification to the department is not required.

b. For applications of 250 to 500 whole waste tires, the department shall be notified in writing no less than 30 days prior to the construction or placement of waste tires for a proposed beneficial use, with the following information provided:

(1) The name, address, and telephone number of the owner, operator, or individual responsible for the beneficial use application at the site of end use;

(2) The address of the site of beneficial end use;

(3) The estimated total number of waste tires to be used;

(4) A description of the beneficial use application;

(5) A project timeline, including proposed project start and end dates; and

(6) A statement that explains how the site owner shall properly dispose of such waste tires in the event that the beneficial use is discontinued or dismantled.

c. For applications of more than 500 waste tires, approval by the department shall be obtained prior to any such applications. Approval requests shall be made to the department in writing and shall contain all information as requested in 102.411(3)*"b,"* as well as a scaled plan of the site of end use with areas noted where whole waste tires are to be placed, including locations of the site of end use property lines and the location of any structures within 300 feet of the site of end use.

102.411(4) *Prevention of public health risks for whole waste tire uses.* All beneficial uses of whole waste tires as approved in this rule shall have incorporated into their design and construction measures to prevent the retention and stagnation of water in the event that such conditions are likely to exist. These measures shall include, at a minimum, the piercing or drilling of holes in whole waste tires to allow for water drainage. Such measures shall be designed to minimize risks to public health and safety caused by the breeding of disease-carrying insects and rodents.

102.411(5) *Beneficial uses for processed waste tires.* This subrule establishes acceptable beneficial uses for waste tires that have been processed and required design criteria that shall be observed in the placement of processed waste tires at the site of end use. The following applications shall be considered acceptable beneficial uses for processed waste tires:

a. On-site wastewater treatment and disposal system construction, to include use of processed waste tires in lateral trenches and as fill to cover distribution pipes under the following conditions:

(1) The on-site wastewater treatment and disposal system is constructed and permitted according to the requirements of 567—Chapter 69;

(2) Processed waste tires used in the system have a minimum dimension of one inch on any one side and a maximum dimension of three inches on any one side; and

(3) The administrative authority responsible for issuance of the permit approves the beneficial use. The authority shall have the sole discretion to deny use of processed waste tires in system construction based on any engineering or design principle concerns.

b. Lightweight fill in public roads, public road embankment construction, and other public civil engineering applications if all of the following conditions are met:

(1) The waste tire pieces are of uniform composition and sizing;

(2) The waste tire pieces are not mixed with other solid wastes, vegetation, composted materials, or other processed waste tire products, including separated tire bead wire, steel cording, or nylon fibers;

(3) The waste tires are not placed in direct contact with surface water or groundwater;

(4) The processed waste tires are isolated from overburden materials by a protective membrane or liner to prevent intrusion and settling of overburden; and

(5) An Iowa-licensed professional engineer designs and supervises the incorporation of processed waste tires.

c. Structural foundation drainage material used in a project as approved through a local building permit.

d. A bulking agent for composting operations at permitted composting facilities, with processed waste tire pieces no larger than three inches on any one side.

e. Leachate drainage medium at a permitted sanitary landfill, provided that the medium meets engineering and design requirements for the landfill's operating permit pursuant to 567—Chapter 101, Divisions I through IV.

f. Agricultural uses to hold down covers over hay, silage, and other agricultural commodities.

g. Traffic control devices for use in public roadway construction projects.

h. Portable surfaces manufactured from tire sidewalls or tread.

i. Tire sidewalls used for underturf water conservation and turf growth enhancement systems at golf courses.

102.411(6) *Requests for approval of other beneficial use applications.* The department shall have the authority to approve or deny requests for beneficial use applications for waste tires and waste tire material not specifically addressed within this rule. Requests for such use determinations shall be made to the department on a form prescribed by the department. The department may request project descriptions and supporting scientific and engineering data to determine if a request for a beneficial use determination is warranted. The department shall have the sole authority to deny a beneficial use request if the department determines that any one of the following conditions exists:

a. The requested beneficial use application poses a risk to the environment or to the public health, welfare, and safety;

b. The requested beneficial use application is determined to have the primary purpose as a land disposal mechanism, and any beneficial use would be incidental in nature; or

c. The requested beneficial use application would not be in accordance with other applicable federal, state, or local laws, regulations, and ordinances.

102.411(7) *Storage of waste tires prior to beneficial use.* Waste tires to be used for a beneficial use may be stored at the site of end use, subject to the following requirements:

a. Such waste tire materials shall be stored for no longer than 60 days prior to the date of application, except for whole waste tires for agricultural uses as specified in 102.411(2)*"d."*

b. All storage of such waste tire materials shall be conducted in accordance with the uniform fire code and the requirements of 102.409(3) and 102.409(4)*"c"* as applicable.

c. Any storage of waste tires associated with a proposed beneficial reuse project at a site of end use for longer than 60 days without implementation of completion of a beneficial reuse project shall be subject to the waste tire storage permitting requirements as contained in 567—102.407(455D).

These rules are intended to implement Iowa Code sections 455D.11, 455D.11A, 455D.11B, and 455D.11I.

567—102.412 to **102.499** Reserved.

DIVISION VI
SPECIAL WASTE AUTHORIZATIONS

567—102.500(455B,455D) Purpose. The purpose of this chapter is to implement Iowa Code section 455B.304 by providing rules for the disposal of special waste.

567—102.501(455B,455D) Applicability.

102.501(1) This division shall apply to generators of special waste and municipal solid waste landfills that accept special waste. No special wastes shall be delivered to or accepted by a MSWLF unless disposal is authorized by a special waste authorization (SWA) issued by the department or is general special waste pursuant to 567—102.508(455B,455D). Wastes for which an SWA has been issued shall be disposed of in accordance with the instructions, conditions, and limitations contained in the SWA. Any amendment requests shall be handled under these rules.

102.501(2) All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—102.502(455B,455D) Definitions. The definitions in Iowa Code section 455B.301 and 567—Chapter 100 shall apply to Division VI of this chapter.

567—102.503(455B,455D) Restrictions. Special wastes regulated by this division shall comply with the following provisions.

102.503(1) The waste shall not contain free liquids.

102.503(2) The waste shall not be a listed hazardous waste or meet the criteria for characteristic hazardous waste pursuant to the federal Resource Conservation and Recovery Act (RCRA).

102.503(3) Wastes with PCB concentrations equal to or greater than 50 ppm shall not be authorized for disposal at an MSWLF unless the waste is defined as PCB bulk product waste in 40 CFR 761.3.

102.503(4) Wastes that are used beneficially at an MSWLF are not special wastes.

567—102.504(455B,455D) Issuance of SWA.

102.504(1) Generators of special waste shall initiate an application for a SWA by providing the following to the receiving MSWLF.

a. Appropriate chemical analysis of the waste,

b. Description of the process that generates the waste and verification that no RCRA listings in 40 CFR 261 apply,

c. Toxicity characteristic leaching procedure (TCLP) test results when appropriate, which show that none of the federal limits in 40 CFR Part 261 are exceeded,

d. Physical form of the waste,

e. Weight or volume of the waste,

f. Safety data sheet (SDS) for the waste or for the materials from which the waste is generated, if applicable,

g. A description of the review of the alternatives to landfilling for each waste for which an SWA is requested, including details as to the extent the waste could be recycled, reduced, or reused so that landfilling is not necessary, and

h. Any other information requested by the department or the MSWLF.

102.504(2) The receiving MSWLF shall review the submitted materials. If after review it is determined that the waste is a special waste and the MSWLF is willing to accept the waste, the MSWLF shall develop a special waste acceptance criteria (SWAC) that includes instructions for disposal of waste. The MSWLF shall submit the SWAC and materials provided by the waste generator to the department for approval.

102.504(3) An SWA may be issued for a period not to exceed three years.

102.504(4) The holder of an SWA must apply for a renewal prior to the expiration of the SWA.

102.504(5) The department may revoke an SWA for cause at any time. Such cause may include but is not limited to evidence that indicates that the characteristics of the authorized quality of the waste vary from the authorized values, evidence that the continued disposal of the waste as authorized may pose a threat to the public health or the environment, or failure to comply with any condition in the SWA or the MSWLF's SWAC.

102.504(6) The issuance of an SWA does not obligate any waste disposal facility to accept the waste nor does it preclude the facility from imposing conditions or restrictions other than those listed in the SWA.

102.504(7) The issuance of an SWA does not exempt the waste generator or the MSWLF from any local, state, or federal laws or regulations.

567—102.505(455B,455D) MSWLF responsibilities.

102.505(1) MSWLFs shall submit special waste acceptance criteria to the department with each special waste request.

102.505(2) MSWLFs are required to ensure that special wastes delivered to the facility conform to the SWAC on file with the department.

102.505(3) Each MSWLF shall provide to the department, on a quarterly basis, a report of SWA activity including each SWA number and the quantities of waste disposed of during the reporting period. This information shall be submitted on a form prescribed by the department.

567—102.506(455B,455D) Special waste generator responsibilities. Special waste generator responsibilities shall include the following in addition to any requirements in the SWA or SWAC.

102.506(1) The generator shall adhere to the solid waste management hierarchy unless otherwise approved in an SWA. Alternatives include volume reduction at the source; recycling and reuse, including composting and land application; and other approved techniques of solid waste management including but not limited to combustion with energy recovery and combustion for waste disposal.

102.506(2) The generator shall ensure that waste regulated by a SWA arrives at the receiving MSWLF as a separate load and is not commingled with any other waste.

102.506(3) The generator shall make a waste determination as required by federal regulations and submit it and analytical results supporting an SWA to the MSWLF at a frequency to be determined by the MSWLF.

102.506(4) The generator must contact the designated MSWLF for instructions on delivering the waste and instructions for adhering to the MSWLF's SWAC.

102.506(5) The generator shall notify the department and MSWLF, prior to disposal, of any change in the characteristics of the special wastes being disposed.

102.506(6) Generators shall notify the MSWLF in writing when a one-time disposal under an SWA has been completed. This requirement is for one-time disposals only.

567—102.507(455B,455D) Additional requirements for specific types of special wastes.

102.507(1) *Sewage sludge.* Sewage sludge, including stabilized septic tank pumpings, shall not be disposed of in a MSWLF if it meets the criteria for Class I or II sewage sludge in 567—Chapter 67,

except for use in daily, interim, or final cover according to the approved plan for the landfill. Class III sewage sludge may be disposed of at a MSWLF if stabilized according to 567—Chapter 67.

102.507(2) *Infectious waste.* Infectious waste may be placed with municipal solid waste if it is rendered nonpathological; it does not contain free liquids; and sharps are shredded, blunted, granulated, incinerated, or mechanically destroyed. The generator of the infectious waste must notify the waste hauler and the MSWLF that infectious waste is being placed with the regular municipal solid waste and, with the notice, certify that the infectious waste is properly treated in accordance with the requirements of this rule.

567—102.508(455B,455D) Conditions and requirements for the disposal of general special wastes. Disposal of general special waste shall be in accordance this rule. An SWA is not required for general special wastes. The following wastes are approved as general special wastes: asbestos-containing material (ACM), stabilized grit, bar screenings, and grease skimmings.

102.508(1) *Asbestos-containing material.* The MSWLF permit holder shall comply with the following conditions and requirements whenever asbestos-containing waste materials are accepted and disposed of in an MSWLF.

a. ACM wastes with 1 percent or less asbestos can be disposed of at the working face.

b. ACM wastes that contain greater than 1 percent asbestos are regulated under federal asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) and shall be managed in accordance with federal regulations defined in 40 CFR Part 61, Subpart M. Testing to determine asbestos content shall utilize the method specified in 40 CFR Part 763, Section 1, Subpart F, Appendix A.

c. Upon arrival at the MSWLF, the transporter shall present to the landfill operator the ACM waste shipment records, which shall include a determination whether the ACM waste is friable or nonfriable, if known. The landfill operator must through visual inspection or testing verify whether the ACM waste is friable or nonfriable. If the waste is friable or the inspection or testing cannot verify that the ACM is nonfriable, the waste must be handled as friable ACM waste.

d. Any federal NESHAP-regulated ACM waste shipments that show evidence of visible dust emissions or that are not properly containerized, wrapped, wetted, and covered shall be rejected upon arrival at the landfill.

e. ACM wastes with greater than 1 percent asbestos content that are nonfriable when received at the landfill may be disposed of at the working face. Care shall be taken when unloading and covering the waste so that it does not become friable at the working face.

f. ACM wastes with greater than 1 percent asbestos content that are confirmed as friable when received at the landfill shall be disposed of in an area separate from the regular working face. The wastes shall be covered carefully with a minimum of six inches of soil cover and compacted by no later than the end of the operating day. Care shall be taken at all times during disposal and covering to prevent rupture of asbestos-containing containers and wrapped waste systems. Covered ACM waste areas shall be protected from erosion at all times.

g. Upon delivery, friable ACM wastes must be wet and contained in labeled, leak-tight containers or wrapping that prevents asbestos from becoming airborne. Bulk demolition wastes with friable ACM need not be placed in leak-tight containers but must remain wet at all times and be properly labeled and wrapped to prevent asbestos from becoming airborne during transport and disposal and covering at the landfill.

h. Care shall be taken at all times when transporting, depositing, and covering federal NESHAP-regulated ACM waste to control the evolution of dust and airborne asbestos fibers and to not allow the rupture of asbestos containers and wraps.

i. After landfill acceptance, if any federal NESHAP-regulated ACM waste becomes dry prior to disposal, rewetting or an approved alternative means of dust emissions control is mandatory. When disposed of, the wet ACM waste must be properly covered before it can dry again.

j. In the event that any visible dust emissions from federal NESHAP-regulated ACM waste occur, protective safety equipment, consistent with federal NESHAP and OSHA regulations, shall be immediately utilized by landfill operating staff.

k. Daily records of the acceptance and disposal of all ACM wastes shall be maintained. Landfill records for each NESHAP-regulated ACM waste shipment shall include the following:

(1) The date of ACM waste receipt.

(2) The names, addresses, and telephone numbers of the originating waste generation site, facility owner, agent responsible for performing removal and the waste transporter.

(3) The description of ACM wastes, quantity in cubic yards, weight and the number and type of containers or systems received.

(4) The waste shipment record and any accompanying asbestos content laboratory test and friable status documentation.

(5) The operational log notation relative to the landfill operator's visual confirmation of waste type compared to waste shipment records and the friable or nonfriable status for each federal NESHAP-regulated ACM waste shipment.

(6) The operational log notation of any rejected ACM waste and the reasons for rejection by landfill staff.

(7) The site operational area, coordinates location, and vertical elevation keyed to site mapping and the quantity of buried waste in cubic yards for each federal NESHAP-regulated waste shipment disposed of within the disposal site.

l. Records for all federal NESHAP-regulated ACM wastes accepted at the landfill in accordance with 40 CFR Part 61, including required federal and state asbestos NESHAP program operational and site closure reports, shall be maintained. All records, except for waste shipment records, shall be maintained through site closure. Waste shipment records shall be retained for at least two years.

m. A copy of an Affidavit Explanatory of Title that has been file stamped by the county recorder shall be submitted to the department within 60 days of site closure. The affidavit shall appear at part of the property deed record and shall indicate that:

(1) The landfill has been used for the disposal of ACM waste.

(2) The survey plot and all records of the location and quantity of regulated ACM wastes have been filed with federal and state NESHAP program officials. Such documentation must be filed with the department, along with the notification.

(3) The site is subject to the regulations under 40 CFR Part 61, Subpart M, and the site closure permit requirements issued by the department.

n. Strict adherence to federal NESHAP asbestos regulations under 40 CFR Part 61 is mandatory for all federal regulated ACM wastes.

102.508(2) *Stabilized grit, bar screenings, and grease skimmings.* The MSWLF operator, the generator, and the hauler shall comply with the following conditions and requirements whenever stabilized grit, bar screenings, or grease skimmings are disposed of in a MSWLF.

a. The generator shall stabilize the grit, bar screenings, and grease skimmings prior to their disposal at the landfill in order to destroy any pathogenic organisms. Stabilization shall be done by addition of lime to raise the pH to at least 12 for two hours. In lieu of stabilization for bar screenings, a system that flushes organic matter then dewaters and bags the screenings may be utilized.

b. The generator shall prearrange a delivery schedule with the landfill operator.

c. Upon arrival at the landfill, the hauler shall identify the waste to the landfill attendant.

d. The landfill operator shall direct the hauler to the working face.

e. The waste shall be deposited at the working face, covered with regular refuse or soil and compacted.

These rules are intended to implement Iowa Code section 455B.304.

567—102.509 to **102.599** Reserved.

DIVISION VII
DISCARDED APPLIANCE DEMANUFACTURING

567—102.600(455D) Purpose; applicability; compliance. This chapter is to ensure the proper removal and disposal of electrical parts containing polychlorinated biphenyls (PCBs), components containing mercury, and refrigerants (e.g., CFCs and HCFCs) from discarded appliances.

102.600(1) All discarded appliances must be demanufactured pursuant to this division before being disposed of or recycled. This division does not apply to the service, repair, reuse, or rebuilding of appliances or components for their original purpose. These rules do not apply to the removal of capacitors, refrigerants, or components containing mercury during the maintenance or service of equipment containing such items.

102.600(2) Compliance with this division in no way relieves the appliance demanufacturer of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules and other applicable requirements.

102.600(3) All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—102.601(455B,455D) Definitions. The definitions in Iowa Code section 455B.301 and 567—Chapter 100 apply to this division.

567—102.602(455D) Storage and handling of appliances prior to demanufacturing.

102.602(1) Any person collecting and storing discarded appliances must store the appliances so as to prevent electrical capacitors, refrigerant lines and compressors, and mercury-containing components from being damaged and allowing a release into the environment.

102.602(2) No method of handling discarded appliances may be used that in any way damages, cuts, or breaks refrigerant lines; crushes compressors, capacitors, or mercury-containing components; or may cause a release of refrigerant, PCBs, or mercury into the environment.

102.602(3) No more than 1,000 discarded appliances may be stored at a location prior to demanufacturing.

102.602(4) Discarded appliances may not be stored for more than 270 days before being demanufactured.

567—102.603(455D) Appliance demanufacturing permits.

102.603(1) *Permit required.* A person must obtain a Solid Waste Management permit pursuant to 567—subrule 100.4(2) for appliance demanufacturing from the department before conducting any demanufacturing activities.

102.603(2) *Types of permits.*

a. A person may request a permit that excludes appliances that contain a particular type of material (e.g., refrigerants, sodium chromate, PCBs, or mercury switches). Persons may not demanufacture or place their unique mark on an appliance that once contained a material that is excluded from their permit. An appliance demanufacturing facility must clearly post the types of appliances the facility does not accept.

b. Permits may be issued for both fixed facilities and mobile operations.

102.603(3) *Factors in permit issuance decisions.* The department may request that additional information be submitted for review to make a permit issuance decision. The department may review and inspect the facility, its agents and operators, and compliance history. The department may review whether a good-faith effort to maintain compliance and protect human health and the environment is being made and whether a compliance schedule is being followed. The department may issue a permit on a trial basis. After review of the permit application or a trial period, the department may require financial

assurance as a condition of a permit. Any such condition will be consistent with those types detailed in Iowa Code section 455B.301(9).

567—102.604(455D) Appliance demanufacturing permit application requirements. In addition to the permit application requirements in 567—100.5(455B,455D), the applicant shall submit the following:

1. Type, source and expected number or weight of appliances to be handled per year.
2. For a fixed facility, schematic site plans of the facility, including the schematic floor plans of any buildings showing where activities will take place and where waste is stored.
3. For mobile operations, schematic plans, or a description and photographs of the mobile van or trailer.
4. The EPA-approved refrigerant removal equipment that will be used.
5. Operation plan: a detailed summary of the activities that will be performed on each type of appliance considered for demanufacturing. This summary must include step-by-step activities of the demanufacturing process.
6. A contingency plan detailing the specific procedures to be used in case of equipment breakdown or fire, including methods to be used to remove or dispose of accumulated waste.
7. A copy of the NPDES Stormwater General Permit Authorization number, if applicable.
8. A copy of EPA Notification of PCB Activity Form 7710-53 and a return response from EPA.
9. Documentation showing compliance with 567—102.606(455D).
10. A copy of the unique mark to be applied to each discarded appliance after demanufacturing.
11. Documentation that a permanent appliance demanufacturing facility meets local zoning requirements.

567—102.605(455D) Operations. The following removal and disposal requirements must be met by both fixed facilities and mobile operations.

102.605(1) Demanufacturing of appliances must take place on an impervious floor, including but not limited to concrete, ceramic tile, or metal, but not including wood. Any spills must be contained and picked up with proper equipment and procedures and be disposed of properly.

102.605(2) The point of demanufacturing must be located at least 50 feet from a well and any water of the state.

102.605(3) The facility must be located above the 100-year floodwater elevation.

102.605(4) A permanent facility must meet local zoning requirements.

102.605(5) Every operation must have a unique mark that signifies all refrigerants, PCB-containing articles, and mercury-containing components have been removed. The unique mark must be a minimum of nine inches by nine inches. The unique mark must be applied to appliances after demanufacturing.

567—102.606(455D) Training.

102.606(1) At least one owner or employee of an appliance demanufacturing facility must have a training certificate from a department-approved demanufacturer training course. A person who has completed the department-approved training course must be on site at all times when discarded appliances are being demanufactured.

102.606(2) To be approved by the department, the training must, at a minimum, cover the following topics.

a. State and federal regulations for the removal, storage, transportation, and disposal of refrigerant, PCB-containing articles, and mercury-containing components from appliances.

b. Recordkeeping requirements.

c. Safety precautions for handling appliances and hazardous materials.

d. Spill prevention and cleanup procedures appropriate for appliance demanufacturing.

e. The proper methods of loading and unloading discarded appliances.

f. General demanufacturing procedures.

567—102.607(455D) Refrigerant removal requirements.

102.607(1) All demanufacturers of refrigerant containing appliances shall comply with 40 CFR 82.155 as amended March 7, 2025.

102.607(2) The removal of refrigerant from refrigeration appliances must take place in an area where the temperature of the surrounding air and of the appliance being demanufactured is 45°F or greater.

102.607(3) Facilities that are not EPA-certified refrigerant reclaimers must transport recovered refrigerant to an EPA-certified reclamation facility or properly dispose of the refrigerant at an EPA-permitted facility. Reclamation may take place on site only if the appliance demanufacturing facility is certified as a reclaimer by the EPA.

102.607(4) The following rules apply to the demanufacturing of appliances containing compressor oil.

a. Compressor oil from refrigeration unit compressors may be removed during the demanufacturing process, and any oil removed must be stored in accordance with 40 CFR 279.22 as amended March 3, 2025.

b. Compressor oil is not hazardous and may be burned in used oil-fired space heaters, provided the heaters have a capacity of 0.5 British thermal units (BTUs) per hour or more.

c. Compressor oil may be sold to a marketer of used oil.

102.607(5) The following rules apply to the demanufacturing of ammonia gas-operated refrigerators and air conditioners.

a. Ammonia gas must be vented into water.

b. Sodium chromate must be removed from refrigeration equipment containing sodium chromate.

c. Sodium chromate liquid is a hazardous waste and must be disposed of at an EPA-permitted facility.

d. Removal of sodium chromate liquid must take place on an impervious surface. In case of a spill, the spilled liquid and the material used as absorbent must be handled as a hazardous waste and disposed of as a hazardous waste.

e. Sodium chromate must be stored in a department of transportation-approved (DOT-approved) container that shows no sign of damage. The container must be labeled with a proper EPA-approved chromium label stating "chromium" or "hazardous waste" as required by 40 CFR 262.32 as amended March 3, 2025, and 49 CFR 172.304 as amended March 3, 2025, in both English and the predominant language of any non-English-reading workers.

f. Prior to shipment, sodium chromate must be packaged to prevent leakage and all containers must be sealed.

g. A person generating sodium chromate waste must maintain records to determine if the person is a very small quantity generator (VSQG), small quantity generator (SQG), or large quantity generator (LQG) of hazardous waste.

567—102.608(455D) Mercury-containing component removal and disposal requirements.

102.608(1) All components containing mercury shall be removed from appliances. Precautions shall be taken to prevent breakage of the mercury-containing components and the release of mercury.

102.608(2) All mercury-containing component storage containers must be labeled with the proper EPA-approved mercury label stating: "Universal Waste—Mercury Containing Equipment" or "Waste Mercury-Containing Equipment" or "Used Mercury-Containing Equipment" in both English and the predominant language of any non-English-reading workers.

102.608(3) The date when the first mercury-containing component was placed in the container shall be affixed to the container.

102.608(4) Mercury-containing components may be stored for no longer than one year.

102.608(5) Accumulation of mercury-containing components shall not exceed 5,000 kg (11,025 lbs) at any time.

102.608(6) All mercury containers must be sealed prior to shipment.

102.608(7) All components containing mercury must be disposed of at an EPA-approved mercury recycling/recovery facility.

102.608(8) Fluorescent tubes, lamps, bulbs, and similar items must be placed in a container and packaged to prevent breakage for shipment to an EPA-approved recycler or must be processed in a manner that complies with state and federal regulations.

102.608(9) All mercury-containing components must be managed in accordance with 40 CFR 273 as amended March 3, 2025, and all state and federal regulations.

567—102.609(455D) Capacitor removal requirements.

102.609(1) All capacitors must be removed from discarded appliances unless the appliance manufacturer certifies in writing that no PCBs were used in the manufacture of the appliance.

102.609(2) Capacitors that meet one or more of the following criteria may be disposed of or recycled as solid waste. The capacitor:

a. Is proven to be free of PCBs by an approved laboratory.

b. Is imprinted by the manufacturer with the words "No PCBs" on the body of the capacitor.

c. Is certified in writing by the manufacturer of the capacitor not to contain PCBs.

d. Does not contain dielectric fluid.

102.609(3) The following rules apply to the storage and disposal of PCB-containing items. PCB-containing items must be stored and transported according to the Toxic Substances Control Act (TSCA) and 40 CFR 761 as amended March 3, 2025, and disposed of at a TSCA-permitted disposal facility. Facilities used for the storage of PCB-containing items designated for disposal must meet the following storage requirements:

a. Facilities shall register with the EPA and receive an EPA identification number.

b. PCB-containing items must be stored in a manner that provides adequate protection from the elements and adequate secondary containment. This storage must take place on an impervious material above the 100-year floodwater elevation.

c. The point of demanufacturing must be located above the 100-year floodwater elevation.

d. All capacitors containing or suspected of containing PCBs must be placed in a DOT-approved container that shows no signs of damage. The bottom of the container must be filled to a depth of two inches with absorbent material such as sand, oil-dry, or kitty litter.

e. All DOT-approved containers must be affixed with the large PCB mark as described in 40 CFR 761.45 as amended March 3, 2025.

f. The date when the first PCB-containing item was placed in the container shall be placed on the container.

g. Nonleaking small PCB capacitors may be stored for up to 30 days from the date of removal in an area that does not comply with the requirements in 102.609(4)*"a"* through *"f"* provided a notation is placed on the PCB capacitor indicating the date the item was removed from the appliance.

h. PCB-containing items may be stored for no more than 270 days. The storage area must be labeled with the PCB $M_L$mark. The storage area must be inspected every 30 days, and the inspection must be documented.

i. If a demanufacturer stores more than 45 kg (99.4 lbs) at any one time, the demanufacturer must maintain annual written records and the annual document log as required by 40 CFR 761.180 as amended March 3, 2025.

102.609(4) All capacitors not meeting the criteria in 102.609(2) must be disposed of as follows:

a. Appliance demanufacturers may dispose of PCB capacitors by one of two means. If the facility is a VSQG, the demanufacturer may send the properly marked and dated container of capacitors to a regional collection center (RCC) licensed under 567—Chapter 103 for disposal. If the facility is not a VSQG, the capacitors must be manifested and shipped for disposal in accordance with 40 CFR 761.65 as amended March 3, 2025.

b. Disposal through an RCC. Shipments from a VSQG to an RCC shall be considered equivalent to disposal as municipal solid waste for the purposes of 40 CFR 761.60(b)(2)(iii) as amended March 3, 2025; capacitors may not be disposed of in a landfill. An RCC may accept PCB capacitors without

having to provide a certificate of disposal. The RCC shall provide the appliance demanufacturer with a receipt specifying the name of the RCC, the appliance demanufacturer from which the capacitors were received, the weight or number of capacitors, and the date the capacitors were received. Copies of this document must be retained for three years at both locations. The date that capacitors are received shall be considered the date the capacitors are determined to be PCB-containing waste for the purposes of 40 CFR 761.65(a)(1) as amended March 3, 2025. Capacitors may be consolidated in DOT-approved shipping containers for transport for disposal.

c. Disposal through EPA-approved facility for the disposal of PCB waste. The labeled and dated DOT-approved container must be transported by a transporter with a valid EPA identification number, using an EPA Uniform Hazardous Waste Manifest Form. All containers must be sealed prior to shipment. The demanufacturer has one year from the date the first PCB-containing item is placed in the container to properly dispose of the contents by incineration, recycling, or another approved method pursuant to 40 CFR 761.60(b) as amended March 3, 2025, or 761.60(c) as amended March 3, 2025. Disposal must be documented and the record kept by the demanufacturer for three years from the date the PCB-containing waste was accepted by the initial transporter.

d. PCB-containing items shall be properly disposed of within one year of removal from the appliance. The generator shall obtain a certificate of disposal within 30 days of the date that disposal of the PCB-containing items was completed at a PCB disposal facility. If a certificate of disposal is not obtained within 30 days, the EPA regional administrator must be notified pursuant to 40 CFR 761.218(d) as amended March 3, 2025.

567—102.610(455D) Spills.

102.610(1) Any spills from leaking or cracked capacitors must be handled by placing the capacitor and any contaminated rags, clothing, and soil into a container for shipment to an EPA-approved waste disposal facility. Spills of liquid PCBs that occur outside a DOT-approved container must be cleaned and the cleanup verified by sampling as described at 40 CFR 761.130 as amended March 3, 2025. Detailed records of such cleanups and sampling must be maintained as described at 40 CFR 761.180 as amended March 3, 2025.

102.610(2) Mercury spill kits (with a mercury absorbent in the kits) must be on hand and used in the event of a mercury spill. Any waste from the cleanup of a mercury spill must be disposed of as a hazardous waste.

102.610(3) In the event a spill results in a hazardous condition, the facility must follow the requirements in 567—Chapter 105, Division I.

567—102.611(455D) Recordkeeping and reporting.

102.611(1) Annual reports with the information required in 102.611(2) are:

a. To be submitted to the solid waste and contaminated sites section of the department's main office;

b. Due January 31 each year for the activities of the previous calendar year;

c. To be submitted on forms provided by the department; and

d. To be retained by the permit holder for at least three years.

102.611(2) Annual reports shall contain the following information for the previous calendar year.

a. Number of appliances demanufactured in each of the following categories:

(1) Refrigerators and freezers.
(2) Commercial coolers.
(3) Air-conditioning units.
(4) Dehumidifiers.
(5) Gas water heaters.
(6) Furnaces.
(7) Clothes washers and clothes dryers.
(8) Dishwashers.
(9) Microwave ovens.

(10) Other items containing mercury, refrigerant or PCB-containing articles.

b. Number of mercury switches removed from appliances.

c. Number of mercury thermocouples removed from appliances.

d. Date the first item was placed in the mercury storage drum that is in use on December 31.

e. Number of fluorescent tubes removed from appliances.

f. Number of sodium chromate-containing appliances shipped to another demanufacturer.

g. Amount of refrigerant removed.

h. Number of PCB capacitors removed.

i. Number of PCB ballasts removed.

j. Date the first PCB-containing item was placed in the storage drum that is in use on December 31.

102.611(3) A permitted appliance demanufacturing facility shall retain the following records on site for a minimum of three years.

a. All hazardous waste manifests and bills of lading for shipments of refrigerant, mercury switches, PCB-containing materials, and any hazardous waste.

b. Receipts for any sodium chromate-containing units that were sent to another facility for processing.

c. Documentation of destruction or receipt from a regional collection center for all PCB materials shipped.

d. Documentation of inspections of the PCB storage area as required by 102.607*"h."*

e. Annual written records and annual document log if required by 102.607(4)*"i."*

f. Copy of the annual report as required in 102.609(1).

567—102.612(455D) Appliance demanufacturing facility closure requirements. In addition to the requirements in 567—100.10(455B), an appliance demanufacturing facility shall do the following prior to closure:

1. Remove all appliances that have not been demanufactured.
2. Properly dispose of all refrigerant, PCBs, mercury, and all hazardous materials.
3. Submit an annual report covering January 1, through the last disposal of hazardous materials, PCBs, and refrigerant.

567—102.613(455D) Shredding of appliances.

102.613(1) Facilities shredding demanufactured appliances shall sample the fluff from the shredding of demanufactured appliances at least quarterly and analyze the fluff for the presence of PCBs, and according to the TCLP for arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver. The waste shall be sampled once a day for seven consecutive working days to make a composite sample. If the concentrations of heavy metals do not exceed concentrations listed in 40 CFR 261.24 as amended March 3, 2025, the fluff may be landfilled in Iowa. Results must be retained on site for a minimum of three years and be submitted to the department within 30 days of the end of each quarter.

102.613(2) Fluff from the shredding of demanufactured appliances may be sampled and tested by the department at any time.

102.613(3) A person or facility engaged in demanufacturing in the state may not shred, crush, or bale any appliances that have not been demanufactured. A person or facility located in Iowa that does not engage in demanufacturing but accepts appliances from demanufacturers for recycling or disposal may shred, crush, or bale only appliances that have been demanufactured in accordance with federal regulations and the laws of the state from which the appliances are received.

These rules are intended to implement Iowa Code section 455D.6(4).

567—102.614 to **102.699** Reserved.

DIVISION VIII
CATHODE RAY TUBE RECYCLING

567—102.700(455D) Purpose. The purpose of this division is to implement rules for the recycling of discarded CRTs and the disassembly and removal of toxic parts from discarded CRTs in a manner that is safe for human health and the environment.

567—102.701(455D) Applicability and compliance. This division applies to discarded CRTs that are collected for recycling and to CRT glass processed for recycling. This division does not apply to CRTs collected for disposal.

102.701(1) This division applies to facilities and short-term CRT collection events that perform CRT recycling functions including but not limited to the collection, demanufacturing, and processing of discarded CRTs.

102.701(2) This division does not apply to CRT reuse activities, CRT service and repair activities, or CRT refurbishing activities that do not otherwise qualify as CRT recycling.

102.701(3) The issuance of a permit or registration by the department in no way relieves the applicant of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules or other requirements applicable to the construction, operation, and closure of a CRT collection facility or CRT recycling facility.

102.701(4) All discarded CRTs collected for recycling, including those generated by a household, once collected by a CRT collection facility or CRT recycling facility, shall be managed in accordance with 40 CFR 261.39 and this division. If there is a conflict, the more stringent regulation applies.

102.701(5) All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—102.702(455D) Definitions. For the purposes of this division, the definitions in 567—Chapter 100 and Iowa Code section 455B.301 and chapter 455D shall apply.

567—102.703(455D) Short-term CRT collection events. All short-term CRT collection events shall be conducted in a manner that complies with this rule. Short-term CRT collection event organizers are not required to register the event as a CRT collection facility.

102.703(1) Within one week of collection, all discarded CRTs and CRT glass shall be transported to a properly permitted CRT recycling facility or registered CRT collection facility.

102.703(2) During the period between collection and transport, all broken CRTs and CRT glass shall be stored in one of the following ways:

a. In a fully enclosed building with a roof, floor, and walls, or

b. In a container that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).

102.703(3) During the period between collection and transport, intact discarded CRTs shall be stored in one of the following ways:

a. In a fully enclosed building with a roof, floor, and walls, or

b. In a secure container (e.g., package or vehicle) that is constructed and maintained to minimize breakage of electronic waste and to prevent releases of hazardous materials to the environment.

567—102.704(455D) Registration for CRT collection facilities. A CRT collection facility shall register with the department using a form provided by the department.

102.704(1) The registration application shall include proof of the applicant's ownership of the property or legal entitlement to use the property for CRT collection. If the facility is leased, the application shall also include a statement, signed by the property owner, stating that the property owner

is aware that CRT collection is taking place at the site and that the property owner may be held liable for wastes abandoned at the property.

102.704(2) Registration will expire March 1 of each year if renewal has not been made and approved.

102.704(3) Annual registration renewal occurs by complying with the reporting requirements in 567—102.710(455D). Once a complete report is received and confirmed complete in writing by the department, the facility's registration will be renewed until March 1 of the following year.

102.704(4) The department may deny or revoke CRT collection facility registration if one or more of the following is determined by the department:

a. The registration application is incomplete.

b. There is a violation of a requirement of this division, including but not limited to failing to submit accurate and timely reports as required in 567—102.710(455D).

c. There is or was a misrepresentation made in obtaining a registration or registration renewal under this division.

d. The registrant fails to correct a condition as agreed to in an agreed order with the department or fails to come into compliance with this division within the time frame established in the agreed order.

e. The permittee has lost legal entitlement to use the property identified in the registration.

f. Upon notice to the department by the permittee that the permittee no longer wishes to retain the registration for future operation.

567—102.705(455D) CRT recycling facility permits.

102.705(1) *Permit required.* A CRT recycling facility shall not be operated without a solid waste management permit for CRT recycling from the department as per 567—subrule 100.4(2).

102.705(2) *Notification of change in status.* CRT recycling facilities must notify the department 30 days prior to any significant change of status of the operation, including any change in the ownership or operation of the facility or location of the facility.

102.705(3) *Denial or revocation of permit.* The department may deny, revoke, or limit the length of a permit if one or more of the following is determined:

a. The department has revoked the applicant's previous permit under this division.

b. There is a violation of a requirement of this division or a condition of the permit.

c. There is a failure to disclose all relevant facts in obtaining a permit under this division.

d. There is a misrepresentation made in obtaining a permit under this division.

e. There is a misrepresentation in the annual report required in 567—102.710(455D).

f. The permittee fails to meet the requirements for a permit.

g. The permittee fails to correct a condition as agreed to in an agreed order with the department or fails to come into compliance with the permit or this division within the time frame established in the agreed order.

h. The permittee has lost legal entitlement to use the property identified in the permit.

i. Upon notice to the department by the permittee that the permittee no longer wishes to retain the permit for future operation.

102.705(4) *Permit conditions.* The department may place conditions on any permit deemed necessary by the department to ensure compliance with this division and to protect human health and the environment.

102.705(5) *Effect of revocation.* If a permit held by any public or private agency is revoked by the director, then no new permit shall be issued to that agency for that CRT recycling facility for a period of one year from the date of revocation. Such revocation shall not prohibit the issuance of a permit for the facility to another public or private agency.

102.705(6) *Permits without expiration date.* CRT recycling permits that were issued prior to [the effective date of these rules] that do not have an expiration date will expire [five years following the effective date of these rules]. The permit holder shall file an application for renewal as per 567—paragraph 100.4(2)*"a."*

567—102.706(455D) CRT recycling facility permit application requirements. In addition to the requirements in 567—subrule 100.5(1), a CRT recycling facility permit applicant shall submit the following information to the department.

102.706(1) The physical location of any collection sites if separate from the main facility.

102.706(2) If the facility is leased, a signed statement from the property owner stating that the property owner is aware that CRT collection or recycling is taking place at the property and that the property owner may be held liable for wastes left at the property.

102.706(3) A brief description of the facility and the CRT processing that will take place.

567—102.707(455D) Discarded CRT management requirements. CRT collection facilities and CRT recycling facilities shall manage all discarded CRTs in accordance with 40 CFR 261.39 and 40 CFR 40 CFR 260.43.

102.707(1) Discarded CRTs and processed CRT glass shall not be speculatively accumulated pursuant to 40 CFR 261.1(c)(8).

102.707(2) Broken CRTs and processed CRT glass shall be stored either:

a. In a building with a roof, floor, and walls, or

b. In a container (e.g., a package or a vehicle) that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).

102.707(3) Intact discarded CRTs shall be stored either:

a. In a building with a roof, floor, and walls, or

b. In a secure container (e.g., package or vehicle) that is constructed and maintained to minimize breakage of electronic waste and to prevent releases of hazardous materials to the environment.

102.707(4) Each container of broken CRTs or CRT glass must be labeled or marked clearly with one of the following phrases: "Used cathode ray tube(s)-contains leaded glass. Do not mix with other glass materials" or "Leaded glass from televisions or computers. Do not mix with other glass materials." Each container shall also be labeled with the first date that material began to be accumulated in the container.

102.707(5) Each container or pallet of intact discarded CRTs shall be labeled with the first date that any material began to accumulate in the container or on the pallet.

102.707(6) Broken CRTs must be transported in a container meeting the requirements of 122.8(2).

102.707(7) CRT collection facilities or CRT recycling facilities that export broken CRTs shall also comply with 40 CFR 261.39(a)(5).

102.707(8) All processing of CRTs shall be processed according to 40 CFR 261.39(b).

102.707(9) Failure to comply with this rule and the referenced CFR sections is grounds for termination of any permit or registration authorized by this rule.

567—102.708(455D) Recordkeeping requirements for CRT collection facilities.

102.708(1) All CRT collection facilities shall maintain the following records on a calendar year basis:

a. The name and address of the facility receiving a shipment that left the CRT collection facility and contact information for the receiving facility.

b. The type of service the receiving facility will provide to the CRT collection facility.

c. A description of the shipment contents.

d. All bills of lading.

e. All hazardous waste manifests.

102.708(2) Records must be maintained at the facility, must be submitted to the department upon request, and may be destroyed after three years.

567—102.709(455D) Recordkeeping requirements for CRT recycling facilities.

102.709(1) All CRT recycling facilities shall maintain the following records on a calendar year basis:

a. The total aggregate weight and receipt date of each shipment of discarded CRTs received from businesses, institutions, CRT collection facilities, short-term CRT collection events, and other permitted CRT recycling facilities.

b. The name, address, and contact information for shipments reported pursuant to 102.710(2).

c. The total aggregate weight and date of each shipment leaving the CRT recycling facility.

d. The name and address of the facility receiving a shipment that left the CRT recycling facility, contact information for the receiving facility, and a description of the shipment contents including all applicable bills of lading.

e. The type of service the receiving facility will provide to the CRT recycling facility.

f. All hazardous waste manifests.

102.709(2) Records must be maintained at the facility, must be available for review by the department on demand, and may be destroyed after three years.

567—102.710(455D) Reporting requirements. CRT collection facilities and CRT recycling facilities shall report the following information, on a form provided by the department, to the department by February 1 of each year for the previous calendar year.

102.710(1) The amount, either by weight or volume, of discarded CRTs and processed CRT glass on site on January 1.

102.710(2) The amount, either by weight or by volume, of discarded CRTs and CRT glass recycled or transferred for recycling during the calendar year.

102.710(3) The amount, either by weight or by volume, of discarded CRTs and processed CRT glass on site on December 31.

102.710(4) Indication of whether the CRTs received over the past year were generated by households, businesses, or both households and businesses.

These rules are intended to implement Iowa Code section 455D.6(5).

ITEM 2. Rescind and reserve **567—Chapter 108**.

ITEM 3. Rescind and reserve **567—Chapter 116**.

ITEM 4. Rescind and reserve **567—Chapter 117**.

ITEM 5. Rescind and reserve **567—Chapter 118**.

ITEM 6. Rescind and reserve **567—Chapter 120**.

ITEM 7. Rescind and reserve **567—Chapter 121**.

ITEM 8. Rescind and reserve **567—Chapter 122**.

ARC 9912C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to financial and operating license requirements and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 103, "Sanitary Landfills: Coal Combustion Residue"; to adopt a new Chapter 103, "Financial and Operating License Requirements for Regional Collection Centers and Satellite Facilities"; and to rescind Chapter 123, "Regional Collection Centers and Satellite Facilities," and Chapter 211, "Financial Assistance for the Management of Household Hazardous Materials and Hazardous Waste From Very Small Quantity Generators," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 455F.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 455F and section 455E.11 and Executive Order 10.

Purpose and Summary

Chapters 123 and 211 were reviewed consistent with Executive Order 10. The proposed rulemaking will rescind both chapters and replace necessary language into new proposed Chapter 103. The purpose of the proposed chapter is to implement financial and operating license requirements for regional collection centers and satellite facilities, which provide for the collection and proper disposal of household hazardous materials and hazardous waste from very small quantity generators.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 17, 2025. A public hearing was held on the following date(s):

- October 8, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 30, 2026. Comments should be directed to:

Jennifer Wright
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: jennifer.wright@dnr.iowa.gov

Free Language Access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at EO10_solidwaste@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held digitally as follows:

January 28, 2026 9 a.m.	Virtual Meeting (via Google Meet or Zoom) A meeting registration link will be provided prior to the hearing
January 30, 2026 9 a.m.	Virtual Meeting (via Google Meet or Zoom) A meeting registration link will be provided prior to the hearing

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Persons who wish to attend a public hearing must contact the Department at EO10_solidwaste@dnr.iowa.gov for a link to the hearing.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: If you need assistance in a language other than English, contact the Department at EO10_solidwaste@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.452.1794 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.452.1794 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 567—Chapter 103 and adopt the following **new** chapter in lieu thereof:

CHAPTER 103
FINANCIAL AND OPERATING LICENSE REQUIREMENTS FOR
REGIONAL COLLECTION CENTERS AND SATELLITE FACILITIES

567—103.1(455F) Purpose. The purpose of this chapter is to implement financial and operating license requirements for regional collection centers and satellite facilities that provide for the collection and proper disposal of household hazardous materials and hazardous waste from very small quantity generators. The costs and accessibility of hazardous materials management can be improved by the establishment and maintenance of a system of regional collection centers and satellite facilities for the safe and proper management of household hazardous materials and hazardous materials from very small quantity generators. Therefore, the department may provide financial assistance for costs associated with establishing or improving regional collection centers and satellite facilities when such funding is available. The department may also provide financial assistance for ongoing collection and disposal activities that result in eligible pounds when such funding is available. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this chapter shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—103.2(455B,455D,455F) Definitions. For the purposes of this chapter, the following definitions; definitions found in 567—Chapter 100; and definitions found in Iowa Code chapters 455B, 455D and 455F shall apply:

"Applicant for regional collection center or satellite facility financial assistance" means a regional collection center or satellite facility operated by a private agency, a local government or a public agency representing local governments pursuant to Iowa Code chapter 28E.

"Eligible pounds" means household hazardous waste or hazardous waste from very small quantity generators that is disposed of or recycled by a licensed hazardous waste contractor. Very small quantity generator hazardous waste for which a regional collection center is required to charge a fee under Iowa Code section 455F.8A is considered eligible pounds if there is a corresponding disposal charge from a hazardous waste contractor. "Eligible pounds" means net weight as shown on final disposition documents. A manifest shows an estimated weight and cannot be used to determine eligible pounds. Very small quantity generator hazardous waste or household hazardous waste that has no disposal cost, or for which regional collection centers receive compensation or charge a fee, is not eligible pounds. Materials such as cathode ray tubes, electronics, and used oil that are not destined for final disposal, but are instead recycled for reuse of components, are not eligible pounds.

"Financial assistance" means monetary assistance including grants, cash payments, or support by other financial means.

"Hazardous waste contractor" means a private company that provides proper management (e.g., disposal, recycling) of hazardous waste. "Hazardous waste contractor" does not include regional collection centers.

"Regional collection center mobile unit" or *"mobile unit"* means a truck or trailer owned and operated under the direction of a regional collection center that can be moved to different sites within a region. A mobile unit is used to perform collection events and to transport collected materials to a regional collection center for sorting and consolidation.

"Very small quantity generator" means a generator that generates less than or equal to the following amounts in a calendar month:

1. 100 kilograms (220 pounds) of non-acute hazardous waste;
2. 1 kilogram (2.2 pounds) of acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e);
3. 100 kilograms (220 pounds) of any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e).

567—103.3(455F) Regional collection center license and license renewal. A license or license renewal will be issued under the following conditions.

103.3(1) *License.*

a. A regional collection center shall not operate without a license issued by the department. Regional collection centers in existence prior to January 14, 2019, will automatically be issued an operating license.

b. A satellite facility shall not be required to obtain a license.

103.3(2) *Compliance.* A regional collection center and satellite facility must be in compliance with current local, state and federal statutes and regulations regarding the management, storage, transportation and disposition of household hazardous materials, household hazardous waste and hazardous waste from very small quantity generators.

103.3(3) *Construction.* A regional collection center shall not be constructed without review of the site plan and written approval of the site plan by the department. The approved plans and specifications shall constitute a condition of the initial operating license.

103.3(4) *Inspection prior to commencing initial operation.* The department shall be notified before a regional collection center or satellite facility begins operations. No household hazardous materials or hazardous waste from very small quantity generators shall be accepted by the regional collection center or satellite facility until the facility has been inspected and approved by the department.

103.3(5) *Duration and renewal of license.* The initial license issued may be renewed for a period of five years. If the license applicant is a private agency under contract with a local government, the license shall not extend past the end date of the contract. An entity designated as an environmental management system pursuant to Iowa Code section 455J.7 may opt out of the license renewal requirement provided

the entity is in compliance with 103.3(2) and there has been no change in the provisions of the current license. Any change in the provisions of the current license requires written notification to the department as described in 103.3(7).

103.3(6) *Request and approval of initial license or license renewal.* A new regional collection center shall file a request for a license on a form provided by the department. An established regional collection center shall file a request for license renewal 45 calendar days prior to the expiration of the current license on a form provided by the department. The facility must be in compliance with Iowa Code chapters 455B, 455D and 455F and the conditions of its current license.

103.3(7) *License modification.* A regional collection center shall request to modify its license by notifying the department of changes to any provision of its license. A regional collection center shall notify the department within 30 calendar days of a planned change to the provisions of its license and within 7 calendar days of an unplanned change to the provisions of its license. Upon request to modify a regional collection center license, the facility must be in compliance with Iowa Code chapters 455B, 455D and 455F and the conditions of its current license.

567—103.4(455F) Site, structure, storage and staff qualifications. Regional collection centers, satellite facilities and mobile units shall each meet the following criteria.

103.4(1) *Siting.* A site selected for a regional collection center, satellite facility or mobile unit shall meet the following criteria:

a. A regional collection center, satellite facility or mobile unit used for the collection of very small quantity generator waste and household hazardous materials shall be sited on public property or on private property if an agreement exists that guarantees public access. Documentation of the private property agreement for regional collection centers and satellite facilities shall be provided to the department upon request or upon application and renewal for license.

b. The site shall provide adequate secondary containment in case of a spill or other possible on-site contamination.

c. The site shall meet all applicable zoning requirements.

d. The site shall be adequately sized to accommodate all structures, units and activities that will take place on the site.

e. Regional collection centers and satellite facilities shall each have adequate security to prevent unauthorized access. Adequate security may include but is not limited to a fence and locking gate.

f. All mobile units and the containers used to package collected materials shall comply with applicable Iowa department of transportation rules and guidelines. At each mobile unit site, the mobile unit shall rest on a pad of a chemical-resistant, impervious, smooth material that provides secondary containment in case of a spill. A temporary surface created by securing an impervious tarp to the unloading/receiving area will meet the requirements of an impervious surface. A plan for conducting mobile unit collection events must consider the possibility of inclement weather, ensure that collected household hazardous materials and very small quantity generator hazardous waste has protection from the elements and ensure that the risk of environmental contamination is minimized.

103.4(2) *Structures.* Regional collection center structures or satellite facility structures shall each meet the following criteria:

a. All structures shall be sized to adequately accommodate the collection, sorting, bulking and lab packing, packaging for disposal, and temporary storage of household hazardous materials and hazardous waste from very small quantity generators.

b. All permanent structures shall meet the requirements of applicable fire codes and building codes.

c. Regional collection center structures and satellite facility structures shall each be designed to prevent run-on entering from adjacent areas.

d. All receiving areas shall have a storage capacity of at least one day’s processing capacity. All receiving, sorting, bulking, transfer and storage area surfaces shall be constructed of a chemical-resistant, impervious, smooth material so designed to be easily cleaned, nonreactive with the waste, and with proper drainage, in the form of sloped flooring, plastic-lined pits or concrete sumps, according

to applicable codes. Areas used for the receiving, bulking, transferring, lab packing and storing of household hazardous materials, household hazardous waste and very small quantity generator hazardous waste shall be provided with secondary containment and protection from exposure to the weather.

103.4(3) *Storage.* All full containers of household hazardous waste and hazardous wastes from very small quantity generators must be stored in a building designed in accordance with Group H occupancy requirements and local, state and federal fire codes. It is required that hazardous waste or household hazardous waste accumulated for disposal not be accumulated on site for more than 180 days. Once the capacity limit of a collection site or time limit is reached, all waste collected shall be collected by a licensed hazardous waste contractor.

103.4(4) *Staff qualifications.* Prior to handling any household hazardous materials, hazardous waste regional collection center and satellite facility staff shall each have received applicable training conducted by trainers who meet Occupational Safety and Health Administration (OSHA) instructor qualification standards. Training shall include but is not limited to the following:

a. OSHA 24-hour health and safety training as described in 29 CFR 1910.120.

b. Annual eight-hour refresher training as described in 29 CFR 1910.120.

c. Hazardous materials chemistry.

d. Personnel and site safety.

e. Proper lab packing techniques.

f. Proper transporting of hazardous materials.

g. When applicable, U.S. Department of Transportation hazardous materials training for the operation of a mobile unit used in the collection and transportation of household hazardous materials and hazardous waste from very small quantity generators.

567—103.5(455F) Operations plans and procedures.

103.5(1) Regional collection centers and satellite facilities must each prepare and maintain on site a current plan of operations.

103.5(2) Operations plan. The operations plan shall include, at a minimum, the following information:

a. Schedule of operations, including hours of operation for regional collection centers or satellite facilities.

b. Site selection procedures for mobile unit collections.

c. Standard receiving procedures for household hazardous materials and very small quantity generators.

d. Procedures for managing unknown materials.

e. Procedures for handling open or leaking containers.

f. Procedures for managing large quantities of wastes.

g. Recycling and reuse procedures for usable materials.

h. Disposal of nonhazardous waste.

i. Personal protection equipment.

j. Initial training requirements and continuing education of staff.

k. An emergency response plan, such as the facility's response to spills, fires or weather-related events.

567—103.6(455F) Closure notification. Regional collection centers and satellite facilities shall each notify the department in writing at least 60 calendar days prior to ceasing operations.

103.6(1) The notification shall include, at a minimum, the following information:

a. A description of how the regional collection center or satellite facility will notify the public within its service area that the regional collection center or satellite facility is closing and how household hazardous materials and hazardous waste from very small quantity generators should be managed after closure of the facility.

b. A description of how all household hazardous materials, household hazardous waste and hazardous waste from very small quantity generators will be removed from the regional collection

center or satellite facility and properly managed within 60 calendar days of the regional collection center or satellite facility ceasing operations.

c. A description of how final waste disposal costs will be paid.

103.6(2) After removal of household hazardous waste and very small quantity generator hazardous waste, a final inspection may be conducted by department staff.

567—103.7(455F) Regional collection center reporting requirements. On a form supplied by the department, each regional collection center shall submit to the department a correctly completed regional collection center semiannual report. The report shall include but not be limited to the pounds of materials managed through a reuse program, by hazardous waste contractors, and by nonhazardous waste contractors. All hazardous waste contractor invoices shall be attached. Such invoices shall depict hazardous material types, net weight of hazardous materials, and associated collection and disposal costs charged by the hazardous waste contractor to the regional collection center. Regional collection center semiannual reports shall be submitted by September 15 for the portion of the current calendar year January 1 through June 30, and by March 15 for the portion of the previous calendar year July 1 through December 31.

567—103.8(455E,455F) Funding sources. Funds appropriated by Iowa Code section 455E.11(2)*"a"*(2)(d) and 455E.11(2)*"c"* may be used to achieve the purpose of this chapter.

567—103.9(455E,455F) Regional collection center and satellite facility financial assistance.

103.9(1) An applicant for regional collection center and satellite financial assistance shall submit to the department a completed application on a form provided by the department.

103.9(2) The department shall coordinate the evaluation of proposals. Applications will be evaluated based on selection criteria contained in the application form. Prior to receiving financial assistance from the department, a regional collection center must obtain a regional collection center license. A satellite facility shall provide documentation of a contractual arrangement with a licensed regional collection center for removal of the waste to be collected.

103.9(3) The applicant must be in compliance with applicable federal and state statutes and regulations.

567—103.10(455E,455F) Regional collection center collection and disposal support funding.

103.10(1) All regional collection centers are eligible to receive funding support, when available, from the department to properly manage eligible pounds of very small quantity generator hazardous waste and household hazardous waste. To receive funding, a regional collection center must be in compliance with applicable federal and state statutes and regulations. The source for this funding is described in Iowa Code section 455E.11(2)*"a"*(2)(d) and (e).

103.10(2) To be eligible to receive support and disposal-funding assistance, a regional collection center must:

a. Have household hazardous waste and very small quantity generator hazardous waste removed by a licensed hazardous waste contractor.

b. Correctly complete the hazardous materials collection semiannual report on a form supplied by the department.

c. Attach the following documentation:

(1) Hazardous waste contractor invoices depicting cost and hazardous waste types.

(2) The net weight calculations of household hazardous waste and very small quantity generator hazardous waste obtained by subtracting container weight from final disposal weight, not the manifest weight.

(3) Documentation that all household hazardous waste and very small quantity generator hazardous waste was disposed of by a licensed hazardous waste contractor.

(4) Documentation of materials shipped using final disposal receipts.

d. Submit regional collection center semiannual reports by September 15 for the portion of the current calendar year January 1 through June 30, and by March 15 for the portion of the previous

calendar year July 1 through December 31. Reports submitted after the due date without prior approval by the department are not eligible for funding.

103.10(3) Fall collection and disposal funding will be based on the regional collection center semiannual report due September 15 and on available funding. A regional collection center will receive a percentage of the available funding in an amount proportional to the amount of eligible pounds the regional collection center recycled or disposed of through a hazardous waste contractor, as reported on the regional collection center semiannual report form, compared to the total amount of eligible pounds recycled or disposed of by all regional collection centers as reported on the regional collection center semiannual report form.

Spring collection and disposal funding will be based on the total eligible pounds reported for the calendar year and on available funding. A regional collection center will receive a percentage of the available funding for the calendar year minus the amount received for the fall payment, in an amount proportional to the amount of eligible pounds the regional collection center recycled or disposed of through a hazardous waste contractor, as reported on the regional collection center semiannual report form for the calendar year, compared to the total amount of eligible pounds recycled or disposed of by all regional collection centers as reported on the regional collection center semiannual report form.

These rules are intended to implement Iowa Code chapters 455E and 455F.

ITEM 2. Rescind and reserve **567—Chapter 123**.

ITEM 3. Rescind and reserve **567—Chapter 211**.

ARC 9929C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to solid waste comprehensive planning and environmental management system requirements and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to adopt a new Chapter 104, "Solid Waste Comprehensive Planning and Environmental Management System Requirements," and to rescind Chapter 111, "Annual Reports of Solid Waste Environmental Management Systems," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455A.6 and 455J.2.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 455J and sections 455B.301A, 455B.302, 455B.306, 455B.310 and 455D.3.

Purpose and Summary

Proposed Chapter 104 is a consolidation of existing 567—Chapters 101 and 111. These chapters were reviewed, simplified, and consolidated consistent with Executive Order 10. The purpose of the proposed chapter is to provide direction and clarity for comprehensive planning and environmental management system requirements and criteria.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 17, 2025. A public hearing was held on the following date(s):

- October 8, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 30, 2026. Comments should be directed to:

Jennifer Wright
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: jennifer.wright@dnr.iowa.gov

Free Language Access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at EO10_solidwaste@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held digitally as follows:

January 28, 2026 9 a.m.	Virtual Meeting (via Google Meet or Zoom) A meeting registration link will be provided prior to the hearing
January 30, 2026 9 a.m.	Virtual Meeting (via Google Meet or Zoom) A meeting registration link will be provided prior to the hearing

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Persons who wish to attend a public hearing must contact the Department at EO10_solidwaste@dnr.iowa.gov for a link to the hearing.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: If you need assistance in a language other than English, contact the Department at EO10_solidwaste@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.452.1794 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.452.1794 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 567—Chapter 104:

CHAPTER 104
SOLID WASTE COMPREHENSIVE PLANNING AND
ENVIRONMENTAL MANAGEMENT SYSTEM REQUIREMENTS

567—104.1(455B,455D,455J) Purpose. The purpose of these rules is to provide general definitions and direction for comprehensive integrated solid waste management planning for every city and county of this state and to provide an orderly and efficient process for the assessment and collection of fees for the disposal of solid waste at a sanitary landfill. This chapter also establishes methods and criteria for the environmental management system program, a voluntary alternative to comprehensive planning for planning areas or service areas. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this chapter shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—104.2(28E,455B,455D,455J) Definitions. For the purposes of this chapter, the following definitions; the definitions in 567—Chapter 100; and the definitions in Iowa Code chapters 28E, 455B, 455D and 455J shall apply.

"Annual compliance report" or *"annual report"* means the required submittal to the department that documents an environmental management system's compliance with the requirements of Iowa Code section 455J.3.

"Solid waste agency" means an established private or public, or private and public, agency for the purpose of managing solid waste, implementing integrated solid waste management systems on behalf of cities and counties, or both.

567—104.3(455B,455D) Duties of cities and counties.

104.3(1) Notwithstanding any requirements in the Iowa Code, including Iowa Code section 455B.302, all cities, counties and solid waste agencies shall demonstrate compliance with the provisions of this chapter by either participating in a comprehensive plan approved by the department or being within the planning or service area of an environmental management system.

104.3(2) If a planning agency refuses any particular solid waste type for management or disposal, the planning agency must identify another municipal solid waste sanitary disposal project for that waste within the planning area. If no other municipal solid waste sanitary disposal project exists within the planning area, the planning agency must, in cooperation with the waste generator, establish or arrange for access to another municipal solid waste sanitary disposal project. Municipal solid waste sanitary disposal projects are required to maintain written approval from both the department and the planning agency in the planning area of origin in order to accept any Iowa-generated waste from outside the planning area.

567—104.4(455B,455D,455J) State volume reduction and recycling goals. The goal of the state is to reduce the amount of materials in the waste stream, existing as of July 1, 1988, by an intermediate goal

of 25 percent, and by a final goal of at least 50 percent, through the practice of waste volume reduction at the source and through recycling. The updated goal progress calculations provided by the department for each planning area shall be used by the department in reporting to the general assembly on the state's progress toward meeting the 25 and 50 percent goals. The specific methodology for determining goal progress is outlined in 567—104.5(455B,455D). A planning area designated as an environmental management system pursuant to Iowa Code section 455J.7 is exempt from the waste stream reduction goals of this rule.

567—104.5(455B,455D) Base year adjustment method. Planning agencies may request that the department complete a goal progress recalculation once per fiscal year to resolve any discrepancies and to further evaluate progress toward the state's waste volume reduction and recycling goals. At the time of approval of a comprehensive plan or comprehensive plan update, the department will use the most current complete fiscal year data set available to complete goal progress calculations, which will be used to meet the requirements outlined in 567—104.8(455B,455D).

104.5(1) The base year adjustment method (see Formula 1) controls for population, employment and taxable sales to more accurately determine progress toward the state's waste volume reduction and recycling goals. Factors included within the base year adjustment method include:

a. Base year residential waste disposal tonnage.

b. Base year commercial waste disposal tonnage.

c. Base year population data (U.S. Bureau of the Census).

d. Base year employment data—total nonfarm (Iowa department of workforce development).

e. Base year taxable sales data (Iowa department of revenue).

f. Base year consumer price index.

g. Most current complete fiscal year data set available for waste disposal tonnage.

h. Most current complete fiscal year data set available for population (U.S. Bureau of the Census).

i. Most current complete fiscal year data set available for employment—total nonfarm (Iowa department of workforce development).

j. Most current complete fiscal year data set available for taxable sales (Iowa department of revenue).

k. Most current complete fiscal year data set available for consumer price index.

Formula I

$$100\% - \left[\frac{G}{A\left[\frac{\frac{H}{C} + \left[\frac{\frac{I}{D} + \frac{J\frac{F}{K}}{E}}{2}\right]}{2}\right] + B\left[\frac{\frac{I}{D} + \left[\frac{J\frac{F}{K}}{E}\right]}{2}\right]} \right] \times 100\%$$

104.5(2) Planning agencies must document the amount of waste disposed of in both the base year and the most current fiscal year where a complete data set is available. If no changes have occurred within the planning area that would affect the base year, then only data for the most current fiscal year for which a complete data set is available need to be presented in the comprehensive plan update, since information on each planning area's base year tonnage is presented in prior comprehensive plan submittals. Tonnage data sources that each planning agency must identify include but are not limited to:

a. Landfill(s) within the planning area and its respective service area(s).

b. Transfer station(s) or hauler(s) transporting waste into or out of the planning area for final disposal.

c. Incineration with or without energy recovery of waste within the planning area.

d. Allowable base year adjustment method exemptions, including exceptional events, waste originating from out of state, and solid waste generated outside the planning area.

104.5(3) Waste generated as part of an exceptional event or contaminated site cleanup should not negatively affect a planning area's goal progress calculation. Requests for goal progress calculation

exemptions must be made to the department within six months after initial disposal. The determination to exempt tonnages from goal progress calculations shall be made solely by the department.

a. Exceptional events include but are not limited to disasters proclaimed by the governor. Requests to exempt exceptional event debris from goal progress calculations shall be made on a form provided by the department.

b. Requests from the municipal solid waste sanitary disposal project or planning agency to exempt contaminated site cleanup waste from goal progress calculations shall be made on a form provided by the department.

567—104.6(455B,455D) Forms of comprehensive plan submittals to be filed. Notwithstanding any of the requirements of Iowa Code section 455B.306, there are three forms of comprehensive plan submittals: initial, updates and amendments.

104.6(1) *Initial comprehensive plan.* An initial comprehensive plan shall be submitted as determined by the department, including but not limited to when a new planning area is established or a new solid waste landfill or municipal solid waste incinerator is sited. Initial comprehensive plans shall be submitted on a form provided by the department.

104.6(2) *Comprehensive plan updates.* A comprehensive plan update shall be submitted according to planning cycle due dates established by the department. Comprehensive plan updates shall be submitted on a form provided by the department.

104.6(3) *Comprehensive plan amendments.* If a municipal solid waste sanitary disposal project or city or county requests to be included in a planning area after completion of an initial comprehensive plan or a comprehensive plan update but before the next comprehensive plan update is due, the department may determine that a comprehensive plan amendment may be submitted and approved to fulfill requirements until the beginning of the next planning cycle. Comprehensive plan amendments shall be submitted to the department on a form provided by the department.

567—104.7(455J) Environmental management systems. Notwithstanding any other requirements, a planning or service area that has been designated as an environmental management system and that seeks to continue to be so designated in this voluntary program is exempt from filing its comprehensive plan. By September 1 of each year, an annual report shall be submitted to the department on a form provided by the department.

104.7(1) *Annual report evaluation criteria.* The department shall review the annual report based on the following:

a. Completeness in terms of addressing all of the elements set forth in the form provided by the department.

b. Clear demonstration of continuous improvement in terms of progress toward achieving the objectives and targets set forth in the environmental management system.

104.7(2) *Annual report evaluation outcomes.*

a. If the department determines that the annual report adequately demonstrates compliance with the requirements of Iowa Code section 455J.3, the planning or service area shall remain designated as an environmental management system and shall continue to be qualified for the incentives set forth in Iowa Code section 455J.5.

b. The annual report should clearly demonstrate continuous improvement in terms of progress toward achieving the objectives and targets set forth in the environmental management system. If the department determines that the annual report clearly demonstrates that the planning or service area's environmental management system is no longer in compliance with Iowa Code section 455J.3, the department may recommend to the environmental protection commission the revocation of the environmental management system designation. If the commission concurs with the department's recommendation, the planning or service area shall adhere to comprehensive planning requirements.

c. Failure by a planning or service area to submit an annual report by September 1 in any year will result in revocation of the environmental management system designation, following which the planning or service area shall adhere to the comprehensive planning requirements.

567—104.8(455B,455D) Fees for disposal of solid waste at sanitary landfills.

104.8(1) *Authority, purpose and applicability.*

a. Authority. Pursuant to Iowa Code section 455B.310, the department has the authority to collect fees for the disposal of solid waste at sanitary landfills. All tonnage fees received by the department under this rule shall be deposited in the solid waste account of the groundwater protection fund created under Iowa Code section 455E.11(1).

b. Purpose. The purpose of this rule is to provide an orderly and efficient process for the assessment and collection of fees for the disposal of solid waste at a sanitary landfill. This rule clarifies the applicability of the fees and sets forth a fee schedule, means of filing and recordkeeping requirements.

c. Applicability. Except as provided in 104.8(2), operators of all sanitary landfills located within Iowa and subject to the permitting requirements of the department shall pay a fee for each ton of solid waste disposed of in the landfill.

104.8(2) *Exclusion.* Fees do not apply to wastes that will not be buried at a sanitary landfill if such material is salvaged or recycled in accordance with the provisions of the landfill permit.

104.8(3) *Fee schedule.*

a. The base tonnage fee is $4.25 per ton of solid waste.

b. The statewide goal progress average is 36 percent, as determined by the department on July 1, 1999.

c. If at any time the department notifies a planning agency or municipal solid waste sanitary disposal project(s) that the planning area has either failed to meet the 25 percent goal or has met or exceeded the 25 percent goal, the 36 percent statewide average or the 50 percent goal, all municipal solid waste sanitary disposal projects within that planning area that are required to remit state tonnage fees shall collect, remit and retain tonnage fees according to Table 1 in this subrule, starting with the next scheduled fee payment. Moneys due to the department under this paragraph shall be remitted until such time as evidence of a change in the planning area's progress toward meeting the state's waste volume reduction and recycling goals is documented and approved in writing by the department.

d. A solid waste planning or service area designated as an environmental management system pursuant to Iowa Code section 455J.7 shall qualify, pursuant to Iowa Code section 455J.5, for a reduced tonnage fee of $3.65 per ton, of which $2.10 shall be remitted to the department.

Table 1 sets forth the solid waste tonnage fee schedule.

Table 1	
Planning areas with less than 25% diversion level:	
Collect	$4.75 per ton
Remit	$3.30 per ton to the department
Retain	$1.45 per ton ($0.95 per ton for implementing planning, $0.50 per ton for environmental protection, comprehensive plan development and implementation)
Planning areas over 25% diversion, under the state average, and under 50%:	
Collect	$3.65 per ton
Remit	$2.20 per ton to the department
Retain	$1.45 per ton ($0.95 per ton for implementing planning, $0.50 per ton for environmental protection, comprehensive plan development and implementation)
Planning areas over 25% diversion, over the state average and under 50%, and planning or service areas designated as an environmental management system:	
Collect	$3.65 per ton
Remit	$2.10 per ton to the department
Retain	$1.55 per ton ($1.05 per ton for implementing planning, $0.50 per ton for environmental protection, comprehensive plan development and implementation)
Planning areas over 50% diversion:	
Collect	$3.25 per ton

Remit	$1.95 per ton to the department
Retain	$1.30 per ton ($0.80 per ton for implementing planning, $0.50 per ton for environmental protection, comprehensive plan development and implementation)

e. Retained tonnage fees collected pursuant to this subrule shall be approved by the department and used for implementation of programs and services designed to satisfy the requirements of this chapter.

f. For purposes of calculating tonnage fees, sanitary landfills shall utilize scales and shall base the fee assessment on the net scale weight of solid wastes disposed of at the landfill during the reporting period.

g. If special conditions existing at a sanitary landfill make it impractical to use the landfill's scales to determine waste tonnages, the landfill may propose for department review and approval an alternate method for determining the weight of disposed solid waste.

104.8(4) *Form, manner, time and place of filing.*

a. Form. Any person to whom or entity to which this rule applies shall submit a form provided by the department.

b. Manner, time and place. Fees are to be paid on a quarterly basis. Sanitary landfills serving more than one planning area, as expressed in Iowa Code section 455B.306(1) and 455B.306(2), shall submit separate Quarterly Solid Waste Fee Schedule and Retained Fees Reports for each planning area. The fees and report on retained fees will be due January 1, April 1, July 1, and October 1 for the quarters ending September 30, December 31, March 31, and June 30, respectively. The completed form shall be submitted with the appropriate fees to Budget and Finance Bureau, Department of Natural Resources, 6200 Park Avenue, Des Moines, Iowa 50321.

104.8(5) *Reporting and recordkeeping.*

a. Operating records. Those sanitary landfill operators who are subject to the fee assessment requirements of this rule shall maintain adequate records to determine and document the weight of solid waste received at and disposed of in the sanitary landfill during the calendar year. Planning areas entering into an agreement pursuant to Iowa Code section 455B.306(2) shall submit documentation to the department, and a planning area receiving the solid waste under such an agreement shall, in addition, submit evidence to the department demonstrating that required retained fees were returned in a timely manner to other planning area(s) under the agreement.

b. Retention of records. All records used in determining the solid waste fee assessment must be kept for a period of at least three years from the end of the calendar year that the records represent.

c. Availability of records. All records required under this rule must be furnished upon request and be made available at all reasonable times for inspection to any officer, employee or representative of the department who is duly designated by the director.

104.8(6) *Failure to pay fees.* If it is found that a person or entity has failed to pay the fees assessed by this rule, the director shall enforce the collection of the delinquent fees. A person or entity required to pay fees as required by Iowa Code section 455B.310 that fails or refuses to pay the fees by the due date shall be assessed a penalty of 2 percent of the quarterly fee due, to be assessed on January 2, April 2, July 2, and October 2, and on a monthly basis on the first day of each month thereafter, until paid. A person or entity required to retain fees as required by Iowa Code section 455B.310 that fails or refuses to report the use of the retained fees by the due date shall be assessed a penalty of 2 percent of the retained fees due to the department, with said penalty to be assessed on January 2, April 2, July 2, and October 2, and on a monthly basis on the first day of each month thereafter, until paid. All penalties shall be paid in addition to the fees due.

These rules are intended to implement Iowa Code sections 455B.301A, 455B.302, 455B.306, 455B.310 and 455D.3 and chapter 455J.

ITEM 2. Rescind and reserve **567—Chapter 111**.

ARC 9927C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to hazardous conditions and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 105, "Organic Materials Composting Facilities"; to adopt a new Chapter 105, Hazardous Conditions"; and to rescind Chapter 131, "Notification of Hazardous Conditions," Chapter 133, "Rules for Determining Cleanup Actions and Responsible Parties," and Chapter 137, "Iowa Land Recycling Program and Response Action Standards," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455B.383, 455E.9 and 455H.105.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 455B.383, 455E.9 and 455H.105.

Purpose and Summary

Proposed Chapter 105 includes the provisions for Notification of Hazardous Conditions (previously included in Chapter 131), Determining Cleanup Action and Responsible Parties (previously included in Chapter 133), and Iowa Land Recycling Program and Response Actions (previously included in Chapter 137). The purpose of this proposed chapter is to protect the integrity of Iowa's groundwater. Chapters 131, 133, and 137 have been reviewed, simplified, and consolidated into one chapter consistent with Executive Order 10.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 17, 2025. A public hearing was held on the following date(s):

- October 7, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 on January 29, 2026. Comments should be directed to:

Shelly Nellesen
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: shelly.nellesen@dnr.iowa.gov

Free language access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at EO10_solidwaste@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 9 a.m.	Virtual Meeting (via Google Meet or Zoom) A meeting registration link will be provided prior to the hearing
January 29, 2026 9 a.m.	Virtual Meeting (via Google Meet or Zoom) A meeting registration link will be provided prior to the hearing

Persons who wish to attend a public hearing must contact the Department at EO10_solidwaste@dnr.iowa.gov for a link to the hearing. Additionally, persons who wish to make a public comment may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: If you need assistance in a language other than English, contact the Department at EO10_solidwaste@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.360.1671 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.360.1671 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 567—Chapter 105 and adopt the following **new** chapter in lieu thereof:

CHAPTER 105
HAZARDOUS CONDITIONS

DIVISION I
NOTIFICATION REQUIREMENTS

567—105.1(455B) Purpose. The purpose of this division is to implement Iowa Code sections 455B.383 and 455B.386 by providing detail on the notification requirements for reporting a hazardous condition.

567—105.2(455B) Applicability. The requirements of this division apply to all persons manufacturing, storing, handling, transporting, or disposing of a hazardous substance, or discovering contamination from a previously unknown hazardous condition, and to the sheriff or police chief who has been notified of a hazardous condition.

567—105.3(455B) Definitions. For the purposes of this division, the definitions set out in Iowa Code section 455B.381 apply.

567—105.4(455B) Exemptions to reporting requirements. Spills of hazardous substances are exempt from 567—105.5(455B) if all the following criteria are met.

105.4(1) The spilled hazardous substance is one or more of the following:

a. Less than 25 gallons of petroleum products.

b. Less than 100 pounds of anhydrous ammonia.

105.4(2) The spilled hazardous substance will not pose an actual or potential threat to waters of the state, groundwater, water wells, stormwater, tile lines, or ambient air quality if cleaned up within 24 hours.

105.4(3) The spilled hazardous substance is cleaned up within 24 hours of the spill.

105.4(4) The spilled hazardous substance is not an ongoing or repeated spill by the same responsible party, in the same area, within the last 90 days.

567—105.5(455B) Report of hazardous conditions.

105.5(1) *Initial report.* Any person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall report a hazardous condition to the department and either the local police department or the office of the sheriff of the county where the hazardous condition occurred. The initial report shall be made as soon as possible but not later than six hours after the onset or discovery of the hazardous condition. The initial report shall provide information on as many items listed in 105.5(2) as available data will allow.

105.5(2) *Follow-up report.* The responsible party shall submit a follow-up report of a hazardous condition to the department within 30 days of the initial report. The follow-up report may be submitted electronically or via hard copy. The follow-up report shall contain the following information:

a. The exact location of the hazardous condition.

b. The time and date of onset or discovery of the hazardous condition.

c. The name of the material, the manufacturer's name, the volume of each material involved in the hazardous condition, and any contaminants within the material that, by themselves, could cause a hazardous condition.

d. The medium (land, water or air) in which the hazardous condition occurred or exists.

e. The name, address and phone number of the person responsible for the hazardous condition.

f. The time and date of the initial report to the department of the hazardous condition.

g. The weather conditions at the time of the hazardous condition onset or discovery.

h. The name, mailing address, email address and phone number of the person reporting the hazardous condition.

i. The name and phone number of the person closest to the scene of the hazardous condition who can be contacted for further information and action.

j. Any other information, such as the circumstances leading to the hazardous condition, visible effects and containment measures taken, that may assist in proper evaluation by the department.

105.5(3) *Reporting of subsequent findings.* All subsequent findings and laboratory results shall be reported and submitted electronically or in writing to the department as soon as available.

These rules are intended to implement Iowa Code sections 455B.383 and 455B.386.

567—105.6 to **105.99** Reserved.

DIVISION II
CLEANUP ACTIONS AND RESPONSIBLE PERSONS

567—105.100(455B,455E) Purpose. The purpose of this division is to establish the procedures and criteria the department uses to determine the person(s) responsible and cleanup actions necessary to meet the goals of the state pertaining to the protection of groundwater.

567—105.101(455B,455E) Applicability.

105.101(1) These rules pertain to the cleanup of groundwater and soils and surface water where groundwater may be impacted. They may also be used as guidelines in other environmental protection activities authorized by Iowa Code chapter 455B. Where specific federal or state programs or funds exist to address situations that are also governed by these rules, the rules and standards of the specific programs or funds will be integrated and utilized to achieve an equitable, expeditious and environmentally sound resolution of the particular contamination situation. These rules apply specifically to point source contamination only.

105.101(2) These rules apply specifically to cleanup actions required to abate, prevent or remediate a hazardous condition, the presence of a hazardous substance or waste, the release of a regulated substance, or the discharge of a pollutant.

105.101(3) These rules shall not limit the department's authority to require remedial or preventative action, or to take remedial or preventative action, as necessary to protect public health, safety, or the environment. The department will make its evaluation on a case-by-case basis, considering site characteristics, and where more than one contaminant is present or there is no established action level, will consider the toxicity, mobility and persistence of contaminants involved. The evaluation may include the potential synergistic, antagonistic or cumulative effects of the contaminants involved in a particular case.

105.101(4) Persons subject to these rules retain all applicable appeal rights provided in Iowa Code chapter 455B.

105.101(5) This chapter is applicable to releases of petroleum from underground storage tanks subject to regulation under Iowa Code chapter 455B, division IV, part 8, to the extent they are not inconsistent with the corrective action provisions in 567—135.6(455B) through 567—135.17(455B). This subrule is not intended to limit the authority of the department to establish liability against the responsible person(s) other than owners and operators as defined in Iowa Code section 455B.471(5) and 455B.471(6).

105.101(6) All rules, standards, technical guidance and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—105.102(455B,455E) Definitions. In addition to the definitions in Iowa Code sections 455B.381, 455B.411, and 455E.2, the following definitions shall apply to this division:

"Action level" means, for any contaminant:

1. The MCL if one exists;
2. The HAL if one exists and there is no MCL; or
3. The action level established by the department based on current technical literature and recommended guidelines of the United States Environmental Protection Agency (EPA) and recognized experts, if there is no MCL or HAL.

"AFS" means the Special Publication 30, "Investigation and Monetary Values of Fish and Freshwater Mussel Kills," published by the American Fisheries Society.

"Aggravated risk" means a contamination situation that presents a potentially catastrophic or an immediate and substantial risk of harm to human life or health or to the environment. Examples include

exposure of humans, animals or the food chain to acutely toxic substances, contamination of a drinking water supply, threat of fire or explosion, or similar situations.

"Air or air resources" means those naturally occurring constituents of the atmosphere, including those gases essential for human, plant, and animal life.

"Background" means groundwater quality unaffected by human activities, and generally shall be determined by historical data of the geological services bureau or other government agencies for the type of aquifer or location involved in a given case. If available data is not adequate, background may be established by groundwater samples upgradient of a source or potential source of a substance that is detected in or has a reasonable probability of entering the groundwater.

"Best available technology" means those processes that most effectively remove, treat, or isolate contaminants from groundwater or associated environment, as determined through professional judgment considering actual equipment or techniques currently in use, published technical articles and research results, engineering reference materials, consultation with known experts in the field, and guidelines or rules of other regulatory agencies.

"Best management practices" means maintenance procedures, schedules of activities, prohibition of practices, and other management practices, or a combination thereof, that after problem assessment and evaluation of alternatives is determined to be the most effective means of preventing or abating contamination at a location.

"Biological resources" means fish, wildlife and other biota belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the state of Iowa, the United States, or local government. Fish and wildlife include freshwater aquatic and terrestrial species; game, nongame, and commercial species; and threatened and endangered species. Other biota encompass shellfish, terrestrial and aquatic plants, and other living organisms not otherwise listed in this definition.

"Code of Federal Regulations" or *"CFR"* means the federal administrative rules adopted by the United States as amended through August 1, 2025.

"Contaminant" means any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance that does not occur naturally in groundwater or that occurs naturally at a lower concentration, and includes but is not limited to all hazardous substances as defined in 42 U.S.C. 9601 (2018), and any element, compound, mixture, solution or substance designated pursuant to 40 CFR 302.4.

"Damages" means the costs of restoration, rehabilitation, and replacement of resources, or acquisition of equivalent resources, as determined in accordance with this chapter; the reasonable and necessary costs of the assessment, to include the cost of performing the assessment and administrative costs and expenses necessary for, and incidental to, the assessment; lost services to the public; and, in the event the damages claim is not resolved within six months after the incident leading to the damages, interest at the current rate published in the Iowa Administrative Bulletin by the department of revenue pursuant to Iowa Code section 421.7. The interest amount shall be computed from the date the amount of the claim is confirmed by a final ruling of the commission in a contested case decision.

"Drinking water supply" means any raw or finished water source that is or may be used by a public water system, as defined in Iowa Code section 455B.171, or as drinking water by one or more individuals.

"Geologic resources" means those elements of Earth's crust such as soils, sediments, rocks, and minerals, including petroleum and natural gas, that are not included in the definitions of groundwater and surface water resources.

"Groundwater resources" means water in a saturated zone or stratum beneath the surface of land or water and the rocks or sediments through which groundwater moves. It includes groundwater resources that meet the definition of drinking water supplies.

"HAL" means a lifetime health advisory level for a contaminant, established by the EPA. Health advisories represent the concentration of a single contaminant, based on current toxicological information, in drinking water that is not expected to cause adverse health effects over lifetime exposure.

"MCL" means the enforceable maximum contaminant level established by the EPA pursuant to the Safe Drinking Water Act.

"Natural resources" or *"resources"* means land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States, the state of Iowa, or local government. These natural resources have been categorized into the following five groups: surface water resources, groundwater resources, air resources, geologic resources, and biological resources.

"Point source" means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or any site or area where a contaminant has been deposited, stored, disposed of, or placed, or otherwise come to be located.

"Preventative" or *"prevention"* refers, in the context of these rules, to actions or efforts to minimize or stop further contamination in a situation where contamination already exists or is imminent.

"Remedial action plan" means a written report that includes all relevant information, findings, and conclusions from a site assessment, including all analytical results and identification of contaminant migration pathways; identification and evaluation of cleanup alternatives, including both active and passive measures using best available technology and best management practices; a recommended cleanup action or combination of action, including identification of expected cleanup levels consistent with the cleanup goal of 105.104(3)*"b"*; a monitoring network and schedule to document cleanup levels; and a proposed schedule of implementation.

"Responsible person" means any person who is legally liable for the contamination in question or who is legally responsible for abating contamination under any applicable law, including Iowa Code chapters 455B and 455E, and the common law. This may include the person causing, allowing or otherwise participating in the activities or events that cause the contamination, persons who have failed to conduct their activities so as to prevent the release of contaminants into groundwater, property owners who are obligated to abate a condition, or persons responsible for or successor to such persons.

"Significant risk" means:

1. The presence in groundwater of a contaminant in excess of an action level;
2. The presence of a contaminant in the soils, surface water, or other environment in proximity to groundwater that may reasonably be expected to contaminate the groundwater to an action level; or
3. The presence of a contaminant or contaminants in the groundwater, or in the soils, surface water or other environment in proximity of groundwater that may be expected to contaminate groundwater in quantities, concentrations, or combinations that may have a significant adverse impact on public health, safety, environment, or quality of life. This criterion would normally be applied where there is no established action level or where combinations of more than one contaminant are present.

"Site assessment plan" means a written proposal for study of a contamination situation to determine the types, amounts, and sources of contaminants present, hydrogeological characteristics of the site, and the vertical and horizontal extent of contamination, with a goal of developing an adequate remedial action plan. The proposal must include: recommendations for collection of relevant historical data such as site management practices, inventory records, literature searches, photographs and personal interviews; a methodology for obtaining groundwater flow information including well placements, construction and elevation, bore logs, static groundwater table measurements, groundwater elevations, groundwater gradients (isopleth), and information on soil transmissivity, porosity and permeability; and a methodology for identifying contaminant plumes, including additional monitoring wells to identify the horizontal and vertical extent of contamination, a site plot showing the estimated configuration of contamination, and a sampling schedule and list of constituents to be analyzed. The plan development may require preliminary field investigations.

"Surface water resources" means the waters of the state, including the sediments suspended in water or lying on the bank, bed, or shoreline. This term does not include groundwater or water or sediments in ponds, lakes, or reservoirs designed for waste treatment under applicable laws regulating waste treatment.

567—105.103(455B,455E) Documentation of contamination and source.

105.103(1) *Certified laboratory.* Analyses for a contaminant regulated under this division must be performed by a laboratory certified for the analyte(s) and applicable method pursuant to 567—Chapter 83.

105.103(2) *Department determination of contamination.* When the department receives or obtains evidence of groundwater contamination or the release or presence of contaminants in the environment associated with groundwater, where contamination of the groundwater may reasonably be expected, the department shall make reasonable efforts to document the source of contamination, and shall require responsible person(s) to take appropriate preventative, investigatory and remedial actions. Evidence of contamination may include but is not limited to the following:

a. Water samples indicating the presence of a contaminant at levels above background.

b. Soil or surface water samples indicating the presence of a contaminant at levels above background, where release to the groundwater is likely.

c. Known releases of contaminants into the environment in quantities and locations that could reasonably be expected to cause groundwater contamination.

d. Other events the department determines could potentially cause groundwater contamination.

The amount and type of evidence necessary to document contamination or potential contamination will vary with the circumstances of each case, including the amount and type of contaminant involved, site topography and geologic conditions, and potential adverse effects. Normally, a reasonable number of water and soil samples will be taken or analyses obtained by the department. However, where a significant quantity of contaminants is known to have been released into the environment, for example from a spill, that could reach groundwater, the department is not required to collect samples.

105.103(3) *Department determination of source.* The department shall determine whether the contamination is or likely was caused by a particular source or sources, for example a known spill of a contaminant or current or past facilities or activities in the vicinity that involved products or substances that could be a likely source. If no such person or event can be identified, the department shall make reasonable efforts to determine whether there is a relatively restricted area of more concentrated contaminant in the vicinity that is or is likely to be a source of the contamination. This subrule does not require the department to identify a specific person or persons responsible for the contamination, but to determine whether the contamination has or has likely come from a relatively defined source.

105.103(4) *Determination of responsible persons.* Where a source or likely source of contamination is identified, the person or persons responsible for that source or sources shall conduct necessary preventative, investigatory and remedial actions.

a. Identification. The persons responsible or potentially responsible initially shall be identified by the department through such measures as on-site observations; interviews with witnesses and local officials; review of public records, including department files; and interviews with or information obtained from potentially responsible persons. Where there may be more than one source, or the source is otherwise not conclusively identified, persons who handle or have handled materials or wastes in the vicinity of the contamination, which could be the source, shall investigate and provide information satisfactory to the department to confirm or disaffirm that their activities are a source of the contamination. Investigation by the responsible or potentially responsible person may include inspection of inventory or other records, and soil and groundwater monitoring to better define the source. Such monitoring shall conform to the requirements of 105.104(3)*"a,"* provided that a full-scale assessment may not be required for this purpose.

b. Notification. The department shall notify in writing the person determined responsible under the above procedures, and include a brief statement of the facts upon which the department concluded that the person is the responsible person, and the actions required; provided that where immediate action is necessary, verbal notification may be given, followed up with written notification. The person notified may provide information disputing or supplementing the information relied on by the department, which shall be considered by the department.

c. Responsible persons may be jointly and severally liable, and the department is not required to name all potentially responsible person(s) in directing responsive actions to contamination.

567—105.104(455B,455E) Response to contamination.

105.104(1) *Prevention of further contamination.* In all cases where an active source of contamination is identified, such as leaking tanks or current practices, that may be readily corrected, the source shall be removed, repaired or otherwise contained, or the contaminating practices ceased, immediately upon discovery of the source. In addition, readily accessible contaminants, for example concentrated contaminants spilled on the ground or accessible through a recovery well or system, shall be promptly removed to avoid or minimize further contamination in the groundwater.

105.104(2) *Aggravated risk.* Where the contamination presents an aggravated risk, the preventative, investigatory and remedial measures provided in 105.104(1) and 105.104(3) shall be expedited to remove such risk. Additionally, the following actions shall be taken by the responsible person(s), if necessary, to protect the public health or environment:

a. Provide alternate water supplies.

b. Install security fencing or other measures to limit access.

c. Conduct necessary measures to control the source of release.

d. Remove the contaminant to an approved site for storage, treatment or disposal.

e. Place physical barriers to deter the spread of the release.

f. Recommend to appropriate authorities the evacuation of threatened individuals.

g. Use other materials to restrain the spread of the contaminant or to mitigate its effects.

h. Execute damage control or salvage operations.

105.104(3) *Significant risk.* In cases of significant risk, the following investigatory and remedial measures shall be implemented:

a. Investigation. The responsible person shall determine the extent and levels of contamination through a site assessment conducted under the supervision of an Iowa-licensed professional engineer, an expert in the field of hydrogeology, or other qualified person. A site assessment plan shall be submitted to the department within 45 days of notice by the department, unless a shorter time is required or a longer time is authorized by the department. The plan shall be approved by the department prior to initiation of the assessment, unless otherwise approved by the department. The site assessment shall be conducted within a timeframe that is approved by the department. The department may require further investigation by the responsible person to adequately assess the extent of contamination and may require the remedial action plan if necessary. If a remedial action plan is required by the department, the remedial action plan shall be submitted to the department within the time approved by the department.

b. Required cleanup actions.

(1) Groundwater. The goal of groundwater cleanup is use of best available technology and best management practices as long as it is reasonable and practical to remove all contaminants, and in any event until water contamination remains below the action level for any contaminant, and the department determines that the contamination is not likely to increase and no longer presents a significant risk. Where site conditions and available technology are such that attainment of these goals would be impractical, the department may establish an alternative cleanup level or levels, including such other conditions to adequately protect public health, safety, or the environment.

(2) Other. Where significant amounts of contaminants are documented as being present in the soils or other environment, such that groundwater contamination is occurring or is likely, active cleanup of the contaminated soils or other environment shall be implemented to the extent reasonable and necessary to prevent or minimize release to the groundwater; passive cleanup may be allowed in extraordinary circumstances.

105.104(4) *Nonsignificant risk.* Where significant risk is not currently present, the responsible person may be required to monitor the groundwater and implement reasonable management or other preventative measures to minimize further contamination.

567—105.105(455B,455E) Report to commission. Department actions taken pursuant to this division shall be reported to the commission.

567—105.106(455B) Compensation for damages to natural resources.

105.106(1) *Applicability.* This rule applies to persons who, by release of a hazardous substance to the environment, cause injury to, destruction of, or loss of natural resources held in trust by the state for the public. In most cases this would involve the destruction of aquatic life or other wildlife under the ownership of the state, as provided in Iowa Code section 481A.2. This rule relates to the compensation to the state and public for the natural resource damages and is in addition to any other legal recourse for the event or action that caused the destruction or damage.

105.106(2) *Liability to the state.* Pursuant to Iowa Code section 455B.392(1)*"c,"* this rule establishes the methodologies and criteria for evaluating the extent and value of the damage and establishes the methods of compensation. If the person and the department cannot agree to the proper resolution of a particular case, the issues of liability, damage and compensation will be established through contested case proceedings, as provided by 567—Chapter 7.

105.106(3) *Assessment.* When natural resources are destroyed or damaged by an identifiable source, the degree and value of the losses shall be assessed by collecting, compiling, and analyzing relevant information, statistics, or data through prescribed methodologies to determine damages, as set forth in this rule.

a. General. Except as specified otherwise in this rule, the definitions, methodologies, and criteria in 43 CFR Part 11 may be used to assess natural resource damages.

b. Fish loss. Assessment of damages for fish kills shall be in accordance with the following:

(1) Normally investigators will follow the methods prescribed by AFS to determine numbers of fish killed, by species and size.

(2) During periods of ice cover, where local conditions prevent using these methods, or in other appropriate circumstances, for example when the resources are known to have been diminished by prior incidents, investigators will utilize the best information available to determine numbers of fish killed by species and size. Information may include existing or prior data on population levels in the affected water body or nearby water bodies with similar characteristics, including any historical fish kill data.

(3) The monetary valuation of fish shall be the replacement values as published in AFS for all fish lost except the following: channel catfish, flathead catfish, blue catfish, northern pike, muskellunge, northern pike/muskellunge hybrid, rainbow trout, brown trout, brook trout, white bass, yellow bass, white bass/striped bass hybrid, largemouth bass, smallmouth bass, spotted bass, crappie, rock bass, bluegill, redear sunfish, warmouth, pumpkinseed, freshwater drum, yellow perch, walleye, sauger, and walleye/sauger hybrid. The value of these fish shall be $15 each, unless AFS establishes a higher value. Notwithstanding the above, the value of each fish classified by the department as an endangered or threatened species shall be $1,000.

(4) The value of lost services to the public shall be the number of fishing trips lost over the period of the resource loss, as determined through local creel survey information or through interpolation from the most recent statewide creel survey. Each trip shall be valued at $30.

(5) The cost of the investigation shall include salaries plus overhead for staff time, including support staff, involved in investigating the fish kill and performing the assessment; meals and lodging for staff while in the field conducting the assessment; mileage, valued at the current rate established pursuant to Iowa Code section 8A.363; costs borne by the department associated with containment or cleanup operations; and any other costs directly associated with the investigation and assessment.

105.106(4) *Compensation.* The department will extend to the responsible person the opportunity to reach voluntary agreement as to the amount of damages and the compensation method. If the person disputes liability or the damage amount, the department will make a demand for payment and the person may appeal and demand contested case procedures under 567—Chapter 7. The method of compensation shall be solely in the discretion of the department.

a. Direct monetary payment. Compensation will normally be by direct monetary payment to the department. The money received will be used to replace, restore or rehabilitate the lost or damaged resources. Resource enhancement projects, support of educational programs relating to resource protection or enhancement, or resource acquisition of equal or greater value also may be funded. If

practical, such alternatives should provide similar services to the public and should be in the vicinity of the loss.

b. Indirect monetary payment. In appropriate cases, an equal or greater amount of compensation may be made by monetary payment to another government agency or private nonprofit group in the natural resource field for the same purposes as provided in 105.106(4)*"a."*

c. Direct funding of projects. With the approval and oversight of the department, the person may be allowed to contract directly for the same purposes as provided in 105.106(4)*"a."*

This division is intended to implement Iowa Code chapter 455B, subchapter III, part 1, and subchapter IV, part 4, and Iowa Code section 455E.5.

567—105.107 to **105.199** Reserved.

DIVISION III
IOWA LAND RECYCLING PROGRAM AND
RESPONSE ACTION STANDARDS

567—105.200(455H) Purpose. This division is adopted under the authority of Iowa Code chapter 455H. These rules establish the policy and procedures for the voluntary enrollment of contaminated property in the land recycling program. These rules also establish the response action standards that participants must meet in order to qualify for a no further action certificate and the statutory protections and immunities that follow from it. Consistent with the declaration of policy stated in Iowa Code section 455H.104, these rules are intended to achieve the dual objective of addressing the current and future risks associated with contaminated property and thereby enhancing the market conditions that can lead to development of these properties into their highest productive use. These objectives can in part be met through a program that encourages voluntary participation by persons who may have a legal duty to address, in whole or in part, the contamination within an affected area, as well as persons who might not have a legal obligation but who have an interest in development of enrolled sites. These rules attempt to provide a degree of certainty in the response action process as an incentive to participants and as a means of assisting participants in quantifying their financial investment.

105.200(1) It is the objective of these rules to establish a collaborative process between the participant(s) and the department as the most effective means of achieving consensus and resolving disputes on issues that are not or cannot be fully defined and anticipated by rule.

105.200(2) Although participation in this program is voluntary, these rules establish minimum standards that must be met in order to obtain regulatory closure from the department through issuance of a no further action certificate.

105.200(3) Although the scope of the response actions addressed under these rules may not in every case address all known or unknown releases within an affected area, it should be the objective of both the department and the participant(s) to work together and to use all resources available to address all known releases within an affected area in the interest of protecting public health and safety and the environment as well as achieving regulatory finality.

567—105.201(455H) Applicability.

105.201(1) These rules apply only to releases of contaminants that are being addressed at enrolled sites. The department may in its discretion, to facilitate compliance with other provisions of this chapter, apply the response action requirements of 567—105.204(455H) through 567—105.210(455H) to releases of contaminants at sites that are not enrolled. These rules do not in any way limit the statutory liabilities of participants or nonparticipants except as expressly provided within the context of enrollment and Iowa Code chapter 455H. Consistent with Iowa Code section 455H.505, these rules do not limit the authority of the department or the responsibility of statutorily responsible persons to provide notice of hazardous conditions under division I of this chapter or to respond to new releases and undertake emergency response actions under division II of this chapter. For sites that are not enrolled, division II

of this chapter will remain in effect, and for enrolled sites, division II of this chapter shall apply to the extent it is not inconsistent with this division.

105.201(2) All rules, standards, technical guidance, and other similar legal or technical documents referenced in this division shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—105.202(455H) Definitions. For the purposes of this division, these definitions and the definitions in Iowa Code section 455H.103 shall apply:

"ASTM standards" means the standards as specified in these rules and most recently adopted by ASTM International as of August 1, 2025, unless otherwise noted in these rules.

"Background standard" means a standard that represents concentrations of contaminants that are naturally occurring or are generally present and not related to a readily identifiable release.

"Carcinogenic health risk" means the incremental risk of a person developing cancer over a lifetime (70 years) as a result of exposure to a hazardous substance, expressed as a probability such as one in a million (10-6). The contaminant level for the probability value is derived from application of certain designated exposure assumptions and a slope factor.

"Code of Federal Regulations" or *"CFR"* means the federal administrative rules adopted by the United States as amended through August 1, 2025, unless otherwise noted in these rules.

"Contaminant" means any hazardous substance found in the various media of the environment.

"Contaminant of concern" means specific hazardous substances that are identified for evaluation in the risk assessment process. Identification can be based on their historical and current use at the site, detected concentrations in environmental media and their mobility, toxicity, and persistence in the environment.

"Cumulative risk" means a summation of cancer and noncancer risks, determined separately, based on exposure to multiple contaminants from the same medium and exposure of the same individual to contaminants in multiple media.

"Enrolled site" means any property as defined by a legal description, a parcel number, or similar description that sufficiently defines the property in question, that has been or is suspected to be the site of or affected by a release and that has been enrolled pursuant to this division by a participant.

"Environmental protection easement" means an institutional control created under Iowa Code section 455H.206 that is a statutorily authorized restriction on land use.

"Exposure pathway" means the course a contaminant of concern may take from its source area to an exposed organism. Each exposure pathway includes a source or release from a source, a point of exposure, and an exposure route.

"Exposure route" means the manner in which a contaminant of concern comes in contact with an organism (including but not limited to ingestion, inhalation, dermal contact).

"Free product" means a hazardous substance that is present as a nonaqueous phase liquid (e.g., liquid not dissolved in water) or is present as a solid in its original form as a product or waste material.

"Gross contamination" means contamination present at concentrations in an amount sufficient to reasonably expect that institutional or technological controls will not be adequately protective of human health or the environment.

"Group A, B, C, D and E chemicals" means hazardous substances that have been classified based on the weight of evidence of human carcinogenicity. Group A substances are carcinogenic to humans. Group B substances are likely to be carcinogenic to humans. Group C substances have suggestive evidence of human carcinogenicity, but not sufficient evidence to assess human carcinogenic potential. Data are inadequate to assess human carcinogenic potential for Group D substances. Group E substances are not likely to be carcinogenic to humans.

"Hydraulic conductivity" means a measure of the capacity of a porous medium (rock or soil) to transmit water. It is expressed as the volume of water that will flow through a unit length of a unit cross-sectional area of the porous medium in a unit time with a unit head loss.

"Institutional controls" means a nonphysical action that restricts land use to reduce or eliminate exposure to the contaminants of an affected area.

"Lifetime health advisory level" or *"HAL"* means a lifetime health advisory level for a contaminant, established by the United States Environmental Protection Agency (EPA). Health advisories represent the concentration of a single contaminant, based on current toxicological information, in drinking water that is not expected to cause adverse health effects over lifetime exposure.

"Maximum contaminant level" or *"MCL"* means the enforceable maximum contaminant level established by the EPA pursuant to the Safe Drinking Water Act.

"No further action certificate" means the same as no further action letter as described in Iowa Code section 455H.301. It is a document issued by the department to the participant certifying no further response action is required at an enrolled site for those conditions classified as no further action except the monitoring or the maintenance of institutional or technological controls when required.

"No further action certification" means the department has determined an enrolled site has met all standards applicable for the identified hazardous substances and no further response action is required except the monitoring or the maintenance of institutional or technological controls when required.

"Nonresidential land-use area" means any area that is not a residential land-use area.

"Participant" means any person who applies for the program or enrolls property pursuant to this chapter. A participant is a participant only to the extent the participant complies with the requirements of this chapter.

"Point of compliance" means a location selected within the affected area where the concentration of contaminants of concern must be at or below the target levels established for that point.

"Point of exposure" means the location at which an individual or population may come in contact with a contaminant of concern from the enrolled site.

"Receptor" means an individual or population that is or may be affected by a release from the enrolled site.

"Reference dose," expressed in units of milligrams per day exposure to the contaminant per kilogram of body weight of the exposed individual, means the amount of contaminant that an individual can ingest on a daily basis for a lifetime that is not likely to result in adverse noncancer health effects. A reference dose is protective of the entire human population, including sensitive subpopulations.

"Residential land-use area" means an area zoned for residential use or an area where residential use currently exists, is planned, or is not otherwise precluded. In addition, a residential land-use area includes other areas where frequent, long-term, close contact with soils is likely to occur (e.g., playgrounds, sport fields, gardens, child care facilities).

"Risk evaluation/response action document" means a document based on the site assessment for the enrolled site that includes a risk evaluation, proposed response action, and proposed compliance verification strategy for the enrolled site.

"Site assessment plan" means the optional plan submitted to the department that lays out the rationale and the steps to be followed in the conduct of a site assessment for the enrolled site.

"Site assessment report" means the report of the site assessment that defines the nature and extent of contamination, identifies likely exposure pathways, and allows for characterizing potential and current exposure risks posed by the enrolled site.

"Site-specific standard" means a standard for a specific site that represents a concentration of a contaminant in a media of an affected area at which exposure through a specific pathway is considered unlikely to pose a threat to human health, safety, or the environment given site-specific factors related to contaminant transport and likely exposure.

"Slope factor" means an upper bound estimate that approximates a 95 percent confidence limit of the increased cancer risk from a lifetime exposure to a contaminant. This estimate is expressed in units of the proportion of a population that is affected per milligram per day exposure to the contaminant per kilogram of body weight of the exposed individual.

"Statewide standard" means a standard that represents a concentration of a contaminant in a specific media of an affected area at which normal, unrestricted exposure through a specific exposure pathway is considered unlikely to pose a threat to human health, safety, or the environment.

"Surface water" means general use segments as provided in 567—paragraph 61.3(1)*"a"* and designated use segments of water bodies as provided in 567—paragraph 61.3(1)*"b"* and 567—subrule 61.3(5).

"Target level" means a concentration of a contaminant of concern required to establish compliance with background, statewide or site-specific standards.

"Target organ" means the biological organ(s) most adversely affected from exposure to the contaminant of concern. A "reference dose" used to calculate noncancer health risk is normally established based on adverse impact to a target organ or organs from exposure to the contaminant of concern.

"Technological control" means a physical action whose main purpose is to reduce or eliminate exposure to the contaminants of an affected area.

567—105.203(455H) Enrollment in the Iowa land recycling program.

105.203(1) *Property eligible for enrollment.* Unless excluded by statute or this rule and subject to eligibility conditions specified in this division, property that has been or is suspected to be the site of or affected by a release of a hazardous substance as defined in Iowa Code section 455H.103 is eligible for enrollment.

105.203(2) *Property ineligible for enrollment.* The following sites shall not be enrolled in the Iowa land recycling program:

a. Property with petroleum releases associated with underground storage tanks subject to regulation under Iowa Code chapter 455B, division IV, part 8, and 567—Chapter 135. However, property affected by releases of regulated substances from underground storage tanks other than petroleum as defined in 567—135.2(455B) subject to regulation under 567—Chapter 135 may be enrolled under this division. Property enrolled and affected by a release from underground storage tanks of regulated substances other than petroleum will be subject to the response action standards in this division in lieu of those in 567—135.8(455B) through 567—135.12(455B).

b. Property that has been placed or is proposed to be included on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. Section 9601 et seq. A property will be considered proposed at the time that a public notice of intent to list the property on the national priorities list is published in the Federal Register in accordance with 40 CFR 300.425.

c. An animal feeding operation structure as defined in Iowa Code section 459.102.

d. Properties subject to administrative or judicial enforcement action by the department or the EPA or subject to an administrative or judicial consent order addressing environmental conditions. These properties may be eligible for enrollment only with the written approval of and under such terms as determined by the enforcing agency.

e. Eligible properties that are or may be affected by or commingled with ineligible releases or conditions will be evaluated on a case-by-case basis to determine their appropriateness for enrollment. Only the eligible property and participant(s) will be afforded the benefits and immunities available under Iowa Code chapter 455H. Any protections provided by issuance of a no further action certificate will be limited by and may be subject to reopening due to future conditions associated with the ineligible release. Considerations for enrollment or exclusion include but are not limited to the following:

(1) The extent to which eligible releases and site conditions can be assessed and response action(s) designed and implemented independent of the ineligible releases and property.

(2) The extent to which the liability and other protections offered by Iowa Code chapter 455H and the conditions of a no further action certificate can reasonably be defined to apply to the eligible site without consideration of or dependence on future conditions associated with the ineligible release and property.

(3) The extent to which a participant is willing to conduct all response action(s) necessary to address the health, safety and environmental conditions implicated by both eligible and ineligible releases and conditions. The extent to which a nonparticipant responsible for the ineligible release and property can establish an intention and ability to cooperatively address and share costs associated with

the commingled conditions and satisfy both the standards in this division and any other regulatory standards applicable to the ineligible release or condition.

105.203(3) *Enrollment policy and procedures.* Prior to enrollment, the participant may conduct a sufficient preliminary site investigation and project planning to be prepared to show that a site is eligible for enrollment and the participant(s) is ready and capable of initiating and completing a response action in accordance with these rules. The participant(s) must submit a completed program application and participation agreement on a form prescribed by the department. The program application shall contain at least the following information:

a. An acknowledgment of accessor control of the site signed by the fee titleholder in the affected property. If acknowledgment of access cannot be obtained, the participant must describe efforts to obtain access and reasons why it has been refused.

b. The name, address and other relevant information of each current and anticipated participant(s). The description should include a brief statement of the reasons for each person's participation including but not limited to that person's interest in and legal relationship to the property enrolled and the expected role and scope of any participation. Other persons who are not participants but who may have an interest in the project should be identified, such as state and local development agencies, community groups, and financing sources.

c. The participant(s) must demonstrate the presence of hazardous substances at concentrations that warrant response action(s) under the standards in this division. At a minimum, the environmental condition to be addressed must be documented by the submission of a report that includes the following:

(1) Analyses for a contaminant regulated under this division must be performed by a laboratory certified for the analyte(s) and applicable method pursuant to 567—Chapter 83.

(2) A description of the current and historical uses of the property based on a reasonable and diligent inquiry. This must include a description of the following: known sources and probable locations of hazardous substances and probable location of the sources at the property that the participant proposes to address as part of the project; a general description of the historical uses of the property and probable hazardous substances that could reasonably be associated with past land use; and a general description of the surface characteristics of the property and surrounding areas such as current zoning, residential, commercial and industrial uses, and current uses of adjoining properties.

d. Any assessments or other reports relating to contamination at the property in excess of a statewide standard or reportable under division I of this chapter that are known to and within the control of the participant shall be submitted. If the participant intends to claim that information constitutes a privileged environmental audit as provided in Iowa Code chapter 455K, the participant must notify the department of the claim and resolve the issue of privilege prior to submittal. The participant shall not submit to the department a report or any part of a report that it claims to be privileged and any information submitted under this paragraph shall be deemed a nonprivileged submittal as provided in Iowa Code section 455K.6(1)*"a."* This provision does not relieve the participant of any obligation to notify the department of a hazardous condition as provided in Iowa Code section 455B.386 and rules under division I of this chapter.

e. A statement of the project objectives that includes the current use of the property, proposed development activities, and an expected time frame for meeting these objectives. The statement should include a general description of the scope of the proposed environmental condition to be addressed and a proposed schedule for initiation and submittal of site assessment activities pursuant to 567—105.208(455H). The statement should describe any foreseeable barriers toward achieving project objectives such as access to property, financing uncertainties, legal actions, allocation of responsibility amongst parties.

f. A list of all known permits and regulatory actions and directives associated with an environmental condition at the site. If any parcel of the proposed enrolled site is subject to any federal regulatory corrective action directives, administrative orders or judicial actions, these must be explained. The participant must submit written proof that the appropriate federal regulatory agency has been notified of the participant's desire to participate in the Iowa land recycling program. Objections,

concerns or issues that could lead to disputes regarding dual or conflicting jurisdiction should be resolved prior to application, if possible, and before admission.

g. The department will respond in writing within 60 days of receipt of the enrollment application. The department will notify the participant(s) whether the site has been accepted and an expected time line for assignment of the project to a manager. If the site is not accepted, the department will notify the participant of the reason(s). Upon notification of admission, the property shall be considered enrolled. Once the department has assigned the enrolled site to a project manager, the department will enter into a participation agreement with the participant(s).

105.203(4) *Enrollment fees and oversight costs.* A nonrefundable enrollment fee of $750 must be submitted with the program application. This fee is intended to cover the department's cost of reviewing the program application and a minimum amount of subsequent oversight costs. Subsequent fees in excess of the minimum $750 may be assessed for actual oversight costs incurred by the department as provided in this division. Department oversight activities may include but are not limited to review of documents, meetings with the participant(s), site visits, sampling, and laboratory costs related to verification of submitted materials. The total fees for oversight costs shall not exceed $7,500 per enrolled site enrolled prior to July 1, 2018. For sites enrolled on or after July 1, 2018, the fee shall not exceed $25,000 per enrolled site. Fees shall be assessed and collected as follows:

a. Hourly billing rate. Project oversight fees shall be based on an hourly rate to cover wages and overhead costs of personnel employed by the department in the Iowa land recycling program. The department shall calculate and publish on an annual basis an hourly billing rate at which oversight fees shall be calculated.

b. Quarterly payments. The department shall bill the participant(s) on a quarterly basis for additional oversight costs beyond the review of the application incurred by the department. The participant(s) shall pay the department within 30 days after receiving the department's quarterly fee statement. If there is more than one participant, each shall be jointly and severally responsible for payment. The department will provide split billings if provided with an enforceable written contract allocating the fees amongst the participants.

c. Failure to pay required fees. If the participant(s) fails to pay department oversight fees that are required under this subrule, the department shall cease to provide oversight to the participant(s) and terminate enrollment of the site as described in 105.203(7).

105.203(5) *Participation agreement.* All participants shall enter into a participation agreement. This agreement shall be executed at the time the project is assigned to a project manager. At a minimum, the agreement shall establish the following:

a. A requirement that the participant(s) agree and provide necessary documentation to ensure reasonable access to the affected property by department staff and other authorized representatives of the department.

b. A requirement that the participant(s) reimburse the department for the actual costs assessed as provided in 105.203(3).

c. A requirement that the participant(s) certify that they have the financial means to complete the project based on an initial estimate of completion costs. The department may require modification and amendment of the financial certification at any stage in the project and may require the participant(s) to provide financial documentation as necessary to support the certification.

d. A requirement that the participation agreement include a general description of the scope of the project and the goals to be achieved, a general time frame for submission and review of documents in accordance with this division, allocation of responsibility amongst multiple participants and other appropriate milestones. Either the participant(s) or the department may request a meeting to develop a statement describing the scope, goals, and time frames for the project.

105.203(6) *Prioritization.* Eligible sites will be enrolled in the order in which they are received. The department reserves the right to elevate the priority of a given site if it determines the public health and safety and the environment or environmental conditions in combination with the development objectives consistent with Iowa Code section 455H.104 is significantly greater than those of sites with an earlier enrollment date.

105.203(7) *Withdrawal procedures.* Enrollment and continued participation in the program are voluntary. The participant(s) may withdraw the enrolled site and individual participants may withdraw from further participation in the Iowa land recycling program at any time upon written notice to the department. Any participant who withdraws an enrolled site from further participation in the program shall not be entitled to any refund or credit for the $750 enrollment fee and shall be liable for any oversight costs actually incurred by the department up to the cap of $7,500 per enrolled site enrolled prior to July 1, 2018, and $25,000 per enrolled site enrolled after July 1, 2018. A participant who withdraws a site prior to completion of all response action(s) required by this division and issuance of a no further action certificate in accordance with 567—105.211(455H) forfeits all benefits and immunities provided by this division and Iowa Code chapter 455H. Prior to withdrawal, the participant(s) shall submit a plan, which must be approved by the department, for stabilization of conditions at the site or a justification for why further action to stabilize the site is not necessary. Participants shall be required to take such actions as the department determines necessary to stabilize conditions at the site, including but not limited to securing or properly abandoning monitoring wells, removing or otherwise properly disposing of all contaminated soil excavations, removing or properly disposing of exposed or exhumed contaminants, filling or properly fencing open excavations, and posting safety notices.

105.203(8) *Termination of enrollment.* Enrollment of the participant(s) may be terminated based on a finding of material noncompliance with department rules and statutory requirements including but not limited to the following:

a. Significant failure, after written notice, to comply with schedules for completion and submission of reports and implementation of response action(s) required by these rules or otherwise agreed upon in writing by the department and participants. Written requests for reasonable schedule extensions may be granted upon a showing of extenuating circumstances beyond the control of the participant(s) and the participant(s) agent or contractor.

b. Failure to proceed in a timely manner after written notice in performing the additional response action required due to a failure of technological and institutional controls pursuant to 567—105.207(455H).

c. Material misstatement or omission of fact in reports submitted to the department by the participant or agents of the participant.

d. Evidence that the site falls under one of the exclusion categories in 105.203(2).

e. Failure to pay required fees to the department as required in 105.203(3).

105.203(9) *Appeal rights.* The department will notify participant(s) of a denial of enrollment or of an intent to terminate enrollment and provide a statement of reasons. The participant(s) shall have a right to appeal the decision to deny enrollment or to terminate enrollment. Upon timely appeal, contested case procedures shall be initiated pursuant to 561—Chapter 7.

567—105.204(455H) Background standards.

105.204(1) *Purpose.* This rule defines the basis and procedure for establishing background standards in groundwater, soil, surface water and air. Background standards represent concentrations of contaminants that are naturally occurring or generally present and not related to a readily identifiable release. Background standards provide a baseline for assessing impacts of contaminant releases from within the affected area.

105.204(2) *Determination of background standards.* Background standards shall be based on sampling at appropriate site-specific background locations. Background sampling locations shall be outside the influence of any possible contamination associated with releases occurring on the property in which the enrolled site is located. Sufficient supporting information shall be provided to demonstrate the appropriateness of background sampling locations. Appropriateness for background sampling locations has two aspects that shall be addressed:

a. Background samples shall be collected from a location that represents a true background condition with respect to the enrolled site. A background groundwater sample shall be collected from an upgradient location relative to groundwater movement.

b. Background samples will represent conditions that are comparable to the contaminated media being addressed. In the case of soils, samples from the affected area and the background areas will be comparable in physical, chemical, and biological attributes.

Sampling conducted for the purpose of establishing a background standard shall meet quality criteria specified for the site assessment, 567—105.208(455H). The minimum number of samples to be collected from the medium of concern for which a background standard is being established shall be consistent with 567—105.210(455H), regarding demonstration of compliance.

567—105.205(455H) Statewide standards.

105.205(1) *Purpose.* This rule defines the basis and procedure for establishing statewide standards for contaminants in groundwater, soil, and surface water. Statewide standards for groundwater and soil represent concentrations of contaminants in these media at which normal exposure via ingestion and dermal contact with soil is considered unlikely to pose a threat to human health. Statewide standards for surface water are based on protection of aquatic life and protection of human health. This rule also describes how air standards are to be addressed.

105.205(2) *Scope.* Statewide standards described herein address what are considered to be the most likely, normal exposure situations within the state of Iowa. Statewide standards for groundwater address direct exposure via ingestion to individual contaminants in the media of concern only. Statewide standards for soil address direct exposure to individual contaminants via ingestion and dermal contact in the media of concern only. In the event exposure to multiple contaminants may occur or exposure from more than one medium may occur, statewide standards alone may not be protective of human health; therefore, cumulative risk standards must be met in accordance with 105.210(7). In addition, the department may deny the use of the statewide standards prescribed herein and require the use of site-specific standards based on site-specific conditions pursuant to 105.206(10). Examples of exposure concerns not anticipated by the statewide standards include but are not limited to:

a. Significant plant uptake of contaminants from soil or groundwater;

b. Contaminants entering drinking water lines from contact with soil or groundwater;

c. Ecological concerns, other than for surface water;

d. Groundwater in a nonprotected groundwater source that is used or likely to be used for drinking water or other use.

105.205(3) *Establishment of risk-based contaminant concentrations.*

a. Risk-based concentration formula. Risk-based contaminant concentrations for soil and groundwater, except lead, shall be computed using the following formula, where appropriate:

(Formula I)

$$C = \frac{RF \times AT \times 365 \text{ days/year}}{Abs \times [(ER_c \times EF_c \times ED_c) \div BW_c + (ER_a \times EF_a \times ED_a) \div BW_a] \times CF}$$

NOTE: When a risk-based concentration is computed for two routes of exposure to the same medium (e.g., soil oral exposure and soil dermal exposure), the composite risk-based concentration equals the multiple of the risk-based concentration for each route of exposure divided by the sum of the risk-based concentration for each route of exposure.

Where: C = Concentration of contaminant (soil: mg/kg, water: mg/l)
RF = Risk factor

For protection from cancer health risks:

$RF = TR \div SF$

Where: TR = Target cancer risk (unitless)
SF = Slope factor $[(mg/kg)/day]^{-1}$ for a route of exposure; see 105.205(3)*"c"* for source.

For protection from noncancer health risks:

$RF = THQ \times RfD$

Where: THQ = Target hazard quotient (unitless)
RfD = Reference dose (mg/kg)/day for a route of exposure; see 105.205(3)*"c"* for

source.

AT = Averaging time (years); time over which exposure is averaged and potential adverse effects may occur

Abs = Absorption factor (unitless); portion of exposed contaminant absorbed by the body

ER_c = Exposure rate by a child (soil: mg/day, water: l/day)

EF_c = Exposure frequency by a child (days/year)

ED_c = Exposure duration by a child (years)

BW_c = Body weight of exposed child (kg)

ER_a = Exposure rate by an adult (soil: mg/day, water: l/day)

EF_a = Exposure frequency by an adult (days/year)

ED_a = Exposure duration by an adult (years)

BW_a = Body weight of exposed adult (kg)

CF = Conversion factor: 10^{-6} kg/mg for soils; 1 (unitless) for water

b. Carcinogenic classification of chemicals. The potential carcinogenicity of chemicals will be based on the weight-of-evidence classification system utilized by the EPA. Risk-based concentrations will be based on cancer health effects for individual chemicals that are classified as Group A or Group B. The risk-based concentration for an individual chemical will be based on noncancer health effects for chemicals that are classified as Group C, Group D or Group E. In the absence of such classification for a chemical, the Group D classification will be assumed. Noncancer risks for a Group A or Group B chemical will be included in the determination of cumulative noncancer risk in accordance with 105.210(7), if a reference dose exists for that chemical. Cancer risk associated with a Group C chemical shall be included in the determination of cumulative cancer risk in accordance with 105.210(7), if a cancer slope factor exists for that chemical.

c. Source of toxicity values. EPA's Integrated Risk Information System (IRIS) shall be the primary source of information on toxicity factors (e.g., oral reference doses and oral slope factors), carcinogenic classification for chemicals, and the target organs. Such information that is not available on IRIS shall be obtained from other sources consistent with current EPA guidelines. The Iowa department of health and human services (HHS) shall be consulted regarding toxicity values not available on IRIS. Absorption factors for dermal soil exposure shall be based on best available information, which will usually be obtained from EPA guidance documents.

105.205(4) *Statewide standards for groundwater.*

a. Protected groundwater source. Statewide standards for groundwater in a protected groundwater source will be the enforceable MCL established by the EPA pursuant to the Safe Drinking Water Act as amended in 1996, if an MCL exists. If no enforceable MCL exists, the statewide standard for chemicals will be the HAL as provided in the Drinking Water Regulations and Health Advisories by the EPA's Office of Water. Interim or provisional HALs can also be used. If no MCL or HAL exists, the statewide standard for a chemical will be calculated using Formula I and input variables for groundwater ingestion in accordance with Table I.

b. Groundwater in a nonprotected groundwater source. The statewide standard for a chemical in groundwater in a nonprotected groundwater source will be five times the statewide standard for the chemical in a protected groundwater source or a risk-based concentration using Formula I with input variables specified in Table I, whichever is larger. The statewide standards for groundwater in a nonprotected groundwater source are based on groundwater ingestion only.

Table I

Input Variables for Risk-Based Statewide Standards for Groundwater from Protected and Nonprotected Groundwater Sources

Parameter	Units	Cancer Group	Protected	Nonprotected
TR	unitless	A, B	5×10^{-6}	1×10^{-4}
SF	$[(mg/kg)/day]^{-1}$	A, B, C	Chem.-spec.	Chem.-spec.*
THQ	unitless	C	0.02	0.1/1*

Parameter	Units	Cancer Group	Protected	Nonprotected
		D, E	0.2	1
RfD	(mg/kg)/day	C, D, E	Chem.-spec.	Chem.-spec.
AT	years	A - E	70	70
Abs	unitless	A - E	1	1
ER_c	l/day	A - E	1	1
EF_c	days/yr	A - E	0	0
ED_c	years	A - E	6	6
BW_c	kg	A - E	15	15
ER_a	l/day	A - E	2	2
EF_a	days/yr	A - E	365	365
ED_a	years	A - E	70	70
BW_a	kg	A - E	70	70
CF	unitless	A - E	1	1

The risk-based concentration using Formula I for Cancer Group C chemicals that have an SF value established per 105.205(3)"c"* will be the larger of a value based on the risk factor for protection from noncancer health risks with a THQ = 0.1 or the risk factor for protection from cancer health risks. Risk-based concentrations using Formula I for Cancer Group C chemicals that do not have an SF value established per 105.205(3)*"c"* will be a value based on the risk factor for protection from noncancer health risks with a THQ = 1.

105.205(5) *Statewide standards for soil.* Statewide standards for chemicals in soil, except lead, will be calculated using Formula I based on incidental ingestion of soil and dust and dermal contact with soil with input variables in accordance with Table II. The statewide standard for lead in soil shall be 400 mg/kg.

Table II

Input Variables for Statewide Soil Standards

			Route of Exposure	
Parameter	Units	Cancer Group	Oral	Dermal
TR	unitless	A, B	5×10^{-6}	5×10^{-6}
SF	$[(mg/kg)/day]^{-1}$	A, B, C*	Chem.-spec.	Chem.-spec.
THQ	unitless	C*	0.1/1	0.1/1
		D, E	1	1
RfD	(mg/kg)/day	C, D, E	Chem.-spec.	Chem.-spec.
AT	years	A, B	70	70
		C, D, E	6	6
Abs	unitless	A - E	1	Chem.-spec.
ER_c	mg/day	A - E	200	560**
EF_c	days/yr	A - E	350	350
ED_c	years	A - E	6	6
BW_c	kg	A - E	15	15
ER_a	mg/day	A - E	100	400**
EF_a	days/yr	A - E	350	350
ED_a	years	A, B	24	24
		C, D, E	0	0
BW_a	kg	A - E	70	70
CF	kg/mg	A - E	10^{-6}	10^{-6}

The risk-based concentration using Formula I for Cancer Group C chemicals that have an SF value established per 105.205(3)"c"* will be the larger of a value based on the risk factor for protection from noncancer health risks with a THQ = 0.1 or the risk factor for protection from cancer health risks. Risk-based concentrations using Formula I for Cancer Group C chemicals that do not have an SF value

established per 105.205(3)*"c"* will be a value based on the risk factor for protection from noncancer health risks with a THQ = 1.

**Dermal exposure rate is based on 2,800 cm^2 of exposed skin on a child with 0.2 mg/cm^2 of soil adhering to the child's skin and 5,700 cm^2 of exposed skin on an adult with 0.07 mg/cm^2 of soil adhering to the adult's skin per each dermal exposure event. A dermal exposure event is assumed to be one event per day of exposure.

105.205(6) *Statewide standards for surface water.* Water quality standards pursuant to 567—Chapter 61 shall be considered statewide standards for surface water. If a promulgated water quality standard does not exist for a contaminant of concern, the department may establish an appropriate standard in a manner consistent with 567—Chapter 61.

105.205(7) *Statewide standards for air.* Ambient air quality standards pursuant to 567—Chapter 22 constitute statewide standards for air. Air emission sources must meet air quality emission standards as set forth in 567—Chapters 21 through 33 inclusively, as applicable. Any relevant air quality standard that is subsequently promulgated by statute or rule shall become a statewide standard for air upon the effective date of adoption by the state. In the absence of applicable, adopted standards, site-specific air standards must be met, in accordance with 105.206(9), when air quality issues are addressed at a site.

105.205(8) *Point of exposure for statewide standards.* The point of exposure associated with the use of only statewide standards in the determination of compliance will be assumed to be anywhere and everywhere, except for surface water. The point of exposure associated with the use of statewide standards for surface water will be assumed to be the point of groundwater or other site runoff immediately before it discharges to the surface water body.

105.205(9) *Practical quantification limits.* In no case will the statewide standard be less than the practical quantification limit, as determined by the department.

105.205(10) *Maintenance of statewide standards.* The toxicity values, absorption factors for dermal exposure to soils, and promulgated standards that are a basis for statewide standards are subject to periodic revision due to actions not governed under this rule. The department in conjunction with the HHS will maintain a current list of toxicity values, absorption factors for dermal exposure to soils, target organs for cumulative noncarcinogenic health risks, promulgated standards, and the resultant statewide standards that will be readily available to the public. This guidance document will reference all the sources of the information. In the absence of a dermal slope factor or a dermal reference dose for a chemical, the oral slope factor or oral reference dose will be used with adjustments made to account for differences in oral and dermal absorption rates in accordance with current EPA guidance. Statewide standards for individual sites will be locked-in at the beginning of the site assessment process pursuant to 567—105.208(455H). If a statewide standard does not exist for a chemical, it will be the department's responsibility to establish a statewide standard, pursuant to 105.205(4) and 105.205(5), for groundwater and soil, and to add the newly established statewide standard to the comprehensive list of statewide standards in the guidance document maintained by the department.

567—105.206(455H) Site-specific standards.

105.206(1) *Purpose.* As opposed to statewide standards, site-specific standards are derived by applying exposure and risk assumptions applicable to the conditions at a particular site. Like statewide standards, site-specific standards must always be shown to be protective of public health and safety and the environment. Statewide standards may be used in combination with site-specific standards to address different exposure pathways. Site-specific standards may be required to address exposure pathways that the department determines must be evaluated to be protective of human health, safety and the environment and for which statewide standards have not been established under 567—105.205(455H). Site-specific standards may involve development of target levels for contaminants of concern based on site-specific exposure assumptions for use in lieu of background or statewide standards. Site-specific standards may also include consideration of the actual or potential location where exposure to contaminants occurs or may occur, the likelihood of an exposure occurring, and the overall magnitude and extent of contamination. Site-specific standards may involve use of site-specific target levels for

contaminants of concern alone or in conjunction with other site-specific criteria, such as the location where the standard is applied.

105.206(2) *General provisions.*

a. This rule establishes a minimum protocol that must be met at all enrolled sites that have not established compliance by application of background or statewide standards. Groundwater ingestion and soil ingestion pathway standards under this rule must be evaluated. Surface water and air quality standards under 105.206(8) and 105.206(9) must be met whenever exposure concerns are evident and the participant or the department determines these pathways may present an unacceptable risk for current or future exposures. This rule is not intended to preclude the department or the participant from addressing other exposure pathways, and the department expressly reserves the right to require evaluation of other exposure pathways and compliance with site-specific standards developed for them, such as dermal contact, ingestion of vegetables containing contaminants from soil or irrigation water, migration of contaminants from groundwater or soil into water distribution lines or into air in a confined space, migration of contaminants from soil to groundwater, and migration of contaminants in a nonprotected groundwater source to a protected groundwater source. Participants must establish compliance with standards applicable to all exposure pathways required by the department under this rule in order to qualify for no further action classification under 567—105.211(455H) unless granted a waiver as provided in Iowa Code section 455H.205.

b. Site-specific standards are subject to the approval of the department. Assurances in the form of technological or institutional controls in accordance with 567—105.207(455H) will be required, as needed, to ensure continued protectiveness of site-specific standards.

c. 105.206(3) through 105.206(11) provide options for site-specific standards. The participant may select any of these options, or combinations thereof, for use as site-specific standards.

105.206(3) *Site-specific groundwater point of exposure.* A site-specific groundwater standard may be an appropriate target level applied at groundwater points of exposure that are limited by technological or institutional controls.

a. A point of exposure for groundwater is a location within the affected area where a well exists or could be placed (potential point of exposure). Where technological or institutional controls are determined to effectively restrict the placement of groundwater wells, the points of exposure apply outside the area of restriction. A sufficient number of points of exposure may be established for determining compliance such that compliance with appropriate target levels at these points will ensure compliance at all points of exposure. A compliance point of exposure will be a location at the boundary of the area restricted by an institutional control where a groundwater well could be installed that would have the highest contaminant concentration, unless otherwise approved by the department. More than one compliance point of exposure must be established due to uncertainties within the environment such as spatial and temporal variabilities in groundwater flow and contaminant occurrence, unless the department approves otherwise.

b. Target levels. The point of exposure target level for drinking water wells is the statewide standard applicable to groundwater ingestion or an alternative site-specific target level approved under 105.206(10) or 105.206(11). The point of exposure target level for non-drinking water wells is the statewide standard applicable to nonprotected groundwater or an alternative site-specific target level approved under 105.206(10) or 105.206(11). The point of exposure target level for nonused groundwater meeting the conditions in 105.206(5) is the statewide standard for a nonprotected groundwater source.

c. Nonprotected groundwater sources. A nonprotected groundwater source that is affecting or likely to affect an existing drinking water well shall be required to meet the same site-specific standards, including point of exposure target level(s), as applied to a protected groundwater source.

d. Unless conditions can be demonstrated to be stable, predictive techniques in accordance with 105.209(4) must be used to determine the future effects of groundwater contamination on existing drinking and non-drinking water wells and to determine the area predicted to exceed the point of exposure target level(s) where wells could be installed. When using predictive techniques, determining the location(s) where the applicable point of exposure target level is expected to be exceeded may involve comparison of the appropriate numerical standard to the predicted contaminant concentration

at a passive monitoring well at the groundwater point of exposure. Alternatively, predictive techniques using site-specific models pursuant to 105.209(4)*"b"* may involve simulation of pumping at a well located at the point of exposure, in which case the pumping rate used in the simulation shall be the rate that is reasonably possible for the area that yields water with the highest contaminant concentration. In absence of site-specific justification for doing otherwise, long-term pumping will be assumed to be at a rate of 100 gallons per day; the sustainable yield, if less than 100 gallons per day; or a reasonable, higher rate, if such a rate results in higher contaminant concentration.

e. Institutional controls. For a protected groundwater source or a nonprotected groundwater source as described in 105.206(3)*"b,"* institutional controls must be shown to effectively prohibit the installation of wells for the period of time in which contaminant concentrations might otherwise be expected to result in an exceedance of the appropriate target levels. For a nonprotected groundwater not described in 105.206(3)*"b,"* a less stringent standard of effectiveness as well as the type of future well installation to be restricted may be utilized for those areas of potential concern. Unless there is a history of usage of what might otherwise be considered nonprotected groundwater or there is uncertainty as to the uniformity in the hydraulic characteristics of the nonprotected groundwater source, notice to the authority responsible for permitting private wells under 567—Chapters 39 and 49 may be adequate, especially if combined with a municipal or county ordinance prohibiting installation of private wells based on the availability of a public water supply.

105.206(4) *Site-specific groundwater point of compliance.* A site-specific standard may be established for a site-specific groundwater point of compliance that is different from a compliance point of exposure. A site-specific groundwater point of compliance must be used in conjunction with all groundwater compliance points of exposure pursuant to 105.206(3) to provide an alternative monitoring location. Target levels for contaminants of concern at a site-specific groundwater point of compliance must be established using predictive techniques as specified in 105.209(4). A target level established for a groundwater point of compliance must ensure that the appropriate target level at the groundwater compliance points of exposure will be achieved. A groundwater point of compliance shall be located on the contaminant migration path from the contaminant source to the point of exposure to the maximum extent practicable.

105.206(5) *Nonused groundwater in a protected water source.*

a. Statewide standards for groundwater in a nonprotected groundwater source, pursuant to 105.205(4)*"b,"* may be used as target levels for contaminants in an otherwise protected groundwater source when groundwater in the affected area is not used and is not likely to be used in the future in accordance with the following. It must be demonstrated to the satisfaction of the department that contaminants from the enrolled site do not currently, and likely will not in the future, have an impact on any existing water supply well. Any detection, or predicted detection above the practical quantification limit, of a chemical that can be attributed to a release from the enrolled site will be considered to constitute an impact. In addition, it must be demonstrated to the satisfaction of the department that the impacted or potentially impacted aquifer is not a locally significant water resource. Factors that will go into this determination may include but are not limited to:

1. Existence of a nonimpacted public water supply in the potentially affected area;
2. General availability of other water resources in the vicinity;
3. Plans for development of public water supplies in the vicinity;
4. Potential for use of the impacted aquifer as a water supply (e.g., yield, natural water quality); and
5. Identification of the aquifer(s) commonly used for water supply in the vicinity.

b. A local ordinance prohibiting installation of private drinking water wells or notification to the local water utility and water permitting authority, or both, may constitute acceptable institutional controls for site-specific standards under this subrule.

c. The target levels that may be used in accordance with this subrule are based solely on groundwater ingestion. Compliance with this site-specific standard will not guarantee that contaminants in groundwater may not cause unacceptable exposure via other pathways (e.g., groundwater to air in a confined space, groundwater to surface water, or groundwater to a water distribution line).

105.206(6) *Site-specific soil standards based on land use and soil depth.* Site-specific soil standards based on land use and soil depth in conjunction with institutional controls may be used. Predetermined site-specific soil exposures based on land use and soil depth are provided in the following paragraphs. Lists of resulting site-specific soil standards for individual contaminants for these land-use and soil-depth categories will be maintained by the department in a guidance document and made readily available to the public. Use of these site-specific soil standards must be supported by appropriate institutional controls. Site-specific soil standards based on land use and soil depth, as described herein, address ingestion of and dermal contact with soil. Compliance with these standards will not guarantee that contaminants in soils may not cause unacceptable exposure via other pathways (e.g., ecological exposure, soil to groundwater, subsurface movement of vapors from soil to indoor air). In addition, the risk factors that form the bases for site-specific soil standards for individual contaminants, with the exception of some Group C chemicals, are the same as acceptable cumulative risk factors allowed for exposure to multiple contaminants in the same medium and multiple media. Therefore, compliance with site-specific soil standards for individual contaminants may not result in compliance with cumulative risk requirements pursuant to 567—105.210(455H).

a. Deep soil in a residential land-use area. Site-specific soil standards for deep soils equaling ten times the statewide standard for soils, except for lead, may be used. The site-specific standard for lead in deep soil in a residential land-use area shall be calculated using the EPA's Exposure Model for Assessing Risk Associated with Adult Exposures to Lead in Soil (U.S. EPA, 1996). Soils at a depth of ten feet and greater will normally be classified as deep soils. The department may deny the use of a deep soil standard associated with a residential land use or require a modification to the standard due to site-specific considerations including topography, development potential, and actual development plans. The use of a site-specific standard for deep soil in a residential land-use area shall be supported by an institutional control that permanently records the existence of contaminants above statewide standards in deep soils and restricts excavation resulting in deep soils being placed on the surface.

b. Nonresidential land use. The nonresidential land-use designation will be applicable to areas that are not classified as residential. Site-specific soil standards, except for lead, for nonresidential areas may be based on Formula I using the risk and exposure factors shown in Table III. A value of 1,100 mg/kg may be used as a site-specific soil standard for lead in soils less than 2 feet deep in a nonresidential land-use area. In lieu of this default site-specific lead standard, a site-specific standard for lead in soil less than 2 feet deep may be calculated using the EPA's Exposure Model for Assessing Risk Associated with Adult Exposures to Lead in Soil (U.S. EPA, 1996). The site-specific standard for lead in soils greater than 2 feet deep in a nonresidential land-use area shall be calculated using the EPA's Exposure Model for Assessing Risk Associated with Adult Exposures to Lead in Soil (U.S. EPA, 1996). The use of a nonresidential land-use classification must be supported by an environmental protection easement that prevents a change in land use to residential.

Table III

Input Variables for Site-Specific Soil Standards for Individual Contaminants for Nonresidential Area Land-Use Designation

Parameter	Units	Cancer Group	Soil Depth (ft.)	
			<2	≥2
TR	unitless	A, B	1×10^{-4}	1×10^{-4}
SF (oral)	$[(mg/kg)/day]^{-1}$	A, B, C*	Chem.-spec.	Chem.-spec.
SF (dermal)	$[(mg/kg)/day]^{-1}$	A, B, C*	Chem.-spec.	Chem.-spec.
THQ	unitless	C*	0.1/1	0.1/1
		D, E	1	1
RfD (oral)	(mg/kg)/day	C, D, E	Chem.-spec.	Chem.-spec.
RfD (dermal)	(mg/kg)/day	C, D, E	Chem.-spec.	Chem.-spec.
AT	years	A, B	70	70
		C, D, E	1	1
Abs (oral)	unitless	A - E	1	1
Abs (dermal)	unitless	A - E	Chem.-spec.	Chem.-spec.

Parameter	Units	Cancer Group	Soil Depth (ft.)	
			≤2	≥2
ER_c	mg/day	A - E	0	0
EF_c	days/yr	A - E	0	0
ED_c	years	A - E	0	0
BW_c	kg	A - E	15	15
ER_a (oral)	mg/day	A, B	100	330
		C, D, E	330	330
ER_a (dermal)	mg/day	A, B	660**	990**
		C, D, E	660**	990**
EF_a	days/yr	A, B	225	200
		C, D, E	200	200
ED_a	years	A, B	25	1
		C, D, E	1	1
BW_a	kg	A - E	70	70
CF	kg/mg	A - E	10^{-6}	10^{-6}

NOTE: Oral and dermal factors are the same unless otherwise noted.

The risk-based concentration using Formula I for Cancer Group C chemicals that have an SF value established per 105.205(3)"c"* will be the larger of a value based on the risk factor for protection from noncancer health risks with a THQ = 0.1 or the risk factor for protection from cancer health risks. Risk-based concentrations using Formula I for Cancer Group C chemicals that do not have an SF value established per 105.205(3)*"c"* will be a value based on the risk factor for protection from noncancer health risks with a THQ = 1.

**Dermal exposure rate is based on 3,300 cm^2 of exposed skin on an adult with 0.2 mg/cm^2 of shallow soil adhering to the skin and 0.3 mg/cm^2 of deep soil adhering to the skin per each dermal exposure event. A dermal exposure event is assumed to be one event per day of exposure.

105.206(7) *Site-specific cumulative risk for residential exposures to soil.* A cumulative risk standard may be used as a site-specific standard for soil in lieu of statewide standards that are provided in 105.205(5) for individual chemicals and soil. Cumulative risk will be determined using the toxicity values and exposure factors (i.e., the input variables less TR and THQ) from Table II in 105.205(5). Criteria for compliance with the cumulative risk standard are specified in 105.210(7). No institutional control will be required with the use of this site-specific standard.

105.206(8) *Site-specific surface water standards.* The department will establish site-specific surface water standards at the request of the participant. The participant shall provide the department with information necessary to make this determination upon request from the department. Site-specific surface water standards will be generally equivalent to effluent limitations under a National Pollutant Discharge Elimination System (NPDES) permit pursuant to 567—Chapter 62. Mixing zones and allocation of contaminant loads in a surface water body will be considerations in attainment of in-stream water quality standards. If the site-specific surface water quality standards are met, best practical control technology currently available will not be imposed.

105.206(9) *Site-specific air standards.* If there are air quality concerns at a site, they will be addressed with site-specific standards until such time as ambient air quality or source-specific standards are adopted for hazardous air pollutants, unless an alternative method is approved by the department.

a. Explosivity. In no case shall contaminants from the enrolled site cause an explosivity level in a confined space of greater than 10 percent of the lower explosivity limit.

b. Background. In addition to the establishment of a background standard pursuant to 567—105.204(455H), a site-specific air standard may be set at twice the typical background level based on published information for a comparable setting, if approved by the department.

c. Health risk. Site-specific standards for air in a confined space shall be risk-based using the chemical-specific toxicity values of inhalation unit risk (UR) and inhalation reference concentration (RfC) determined in accordance with 105.205(3)*"c."* Formulas II and III shall be used to calculate

risk-based, site-specific air standards based on carcinogenic and noncarcinogenic effects, respectively, where C is the risk-based contaminant concentration in air. If a value for both RfC and UR exists for a compound, the risk-based site-specific standard will be the smaller of C resulting from Formulas II and III.

(Formula II)

$$C = AF \times TR \div UR$$

(Formula III)

$$C = AF \times RfC$$

The UR and RfC toxicity values are based on a continuous exposure of 20 cubic meters per day by a 70 kg adult. The adjustment factor (AF) in Formulas II and III may be used to adjust for site-specific exposure conditions. A target cancer risk (TR) of 10^{-4} shall be used unless another value is approved by the department.

d. Institutional or technological controls. Institutional or technological controls may be used to prevent future exposure to contaminants in air in confined spaces and will be required to prevent residential use of the affected area when a nonresidential air standard is used.

105.206(10) *Site-specific standards based on site-specific factors.* Numerical site-specific standards (i.e., target levels) for groundwater or soil may be established using site-specific exposure factors in Formula I. Site-specific pumping rates greater than specified in 105.206(3)*"d"* herein may be used when approved by the department. Site-specific exposure factors must be approved by the department. For the department to approve any such site-specific factor there must be well documented rationale for doing so and appropriate institutional or technological controls must be provided.

105.206(11) *Site-specific standards or approaches not anticipated by this rule.* Nothing in this rule precludes the use of site-specific standards derived in some way not anticipated by this rule, provided that the rationale is adequately presented and the approach is both approved by the department and provides a level of protection comparable to standards set forth under this rule.

567—105.207(455H) Technological and institutional controls.

105.207(1) *Technological controls.* The purpose of a technological control is to effectively sever a pathway by use of technologies such that an applicable receptor could not be exposed to hazardous substances above an applicable target risk level. Subject to limitations in this division, technological controls are an acceptable response action either alone or in combination with other remediation systems and institutional controls. The purpose of technological controls may be to control plume migration through use of containment technologies, barriers, or other methods, as an interim or permanent response action or to permanently sever a pathway to a receptor. Technological controls may also be appropriate to treat or control contamination at the point of exposure. Any technological control proposed as a permanent response action option without meeting the reduction in contaminant concentrations objectives must establish that the pathway to a receptor will be permanently severed or controlled. The effectiveness of a technological control must be monitored under a department-approved plan. The department may require reasonable proof of financial assurance when necessary to ensure that a technological control remain effective.

105.207(2) *Institutional controls.* The purpose of an institutional control is to restrict access to or use of an affected area such that an existing or future receptor could not be exposed to hazardous substances addressed by the controls for as long as the target level is exceeded at applicable points of exposure and compliance.

105.207(3) *Institutional and technological controls.* Single or multiple institutional controls may be used alone or in combination and may also be employed with technological controls and response action to effectively achieve, maintain and enforce an approved level of risk reduction and risk management. The following enumeration of types of institutional and technological controls is not a finding that each is per se an effective control. The effectiveness of any institutional or technological control or combination of controls must be evaluated on a case-by-case basis and in accordance with specified conditions in this division. Institutional and technological controls include:

a. A state or federal law or regulation that can be shown to effectively achieve, maintain and enforce the required land-use restrictions and controls.

b. An ordinance of any political subdivision of the state that can be shown to effectively achieve, maintain and enforce the required land-use restrictions and controls.

c. A contractual obligation recorded and executed in a manner satisfying Iowa Code chapter 558. Recorded notices and affidavits, including a no further action certificate as provided in 567—105.211(455H), which do not create rights or obligations or restrict land use but serve to put current and future property owners on notice of present or future conditions within the affected area.

d. A control that the participant demonstrates to the department reduces or manages the risk from a release through the period necessary to comply with the applicable standards, including but not limited to, informational devices such as public notices, informational registries, notices to regulatory authorities and continuing site activities such as periodic inspections, equipment repair and maintenance, and soil and groundwater monitoring.

e. An environmental covenant established in accordance with Iowa Code chapter 455I and section 455H.206.

105.207(4) *No further action certificates.* Any no further action certificate shall contain a specific reference to any applicable institutional and technological control and shall meet the requirements in 567—105.211(455H). The reference must identify the location of any recorded instrument, contractual agreement or other documents applicable to the control, provide a brief description of the terms of the control and, where appropriate, site diagrams.

105.207(5) *Failure of an institutional and technological control(s).* The effectiveness of institutional and technological controls may be jeopardized for several reasons including situations where the technological controls are no longer effective in achieving their technical objectives, the validity of technological or institutional control is challenged due to a pending or final administrative or judicial action or legislative action changing its regulatory effect (e.g., change in an ordinance), or persons fail to comply with the terms of the institutional or technological control. The effect of the failure of a technological or institutional control to achieve its intended purpose is to remove the no further action classification and put all interested parties in the same position had the no further action classification not been made. When the department has reason to believe a technological or institutional control is jeopardized or determines that the control is no longer effective, the following policy and procedure shall apply:

a. The department shall make reasonable efforts to provide notice of the failure or noncompliance to the participant(s), protected parties, persons having legal standing to enforce the terms of the controls, other persons who may be legally responsible for contamination at the site and persons legally obligated to comply with the terms of the controls. The notice shall inform these parties of the consequences of failure of the controls and provide the opportunity for one or more of them to correct the deficiency by taking further response action or undertaking enforcement action to obtain compliance with the terms of the controls.

b. The participant(s) and other persons legally responsible for contamination at the site shall have primary responsibility to correct deficiencies or seek enforcement of the terms of controls, if they wish to maintain a no further action classification and any attendant statutory protections. The department may in its discretion seek enforcement of controls where persons fail to comply with the terms when it determines there is a strong likelihood of success, other participant(s) or legally responsible persons are unable or unwilling to undertake enforcement, and utilization of the controls remains consistent with these rules and site conditions currently in effect at the site. However, the department is not obligated to seek enforcement of the terms of any technological or institutional controls nor does the election not to undertake enforcement constitute a defense to further action by responsible parties or a basis for challenging the rescission of the no further action classification.

c. The department may also elect to require statutorily responsible parties to correct the deficiency as an alternative to rescinding the no further action classification.

d. Failure of a participant to timely undertake additional response action may result in termination of enrollment and loss of benefits under these rules and Iowa Code chapter 455H. Any person found to

have intentionally violated an environmental protection easement or other institutional or technological control, whether included in a no further action certificate or as part of an approved response action, may lose any of the benefits under these rules or Iowa Code chapter 455H.

105.207(6) *Modification and termination of institutional and technological controls.* A participant or successor in interest to a participant, or an owner of property subject to an institutional or technological control, may seek approval from the department for the removal, discontinuance, modification or termination of an institutional or technological control. The person must demonstrate that the control in its present form is no longer required to ensure compliance with applicable standards. The person seeking revision must undertake sufficient risk assessment and provide sufficient assessment data to establish that the applicable compliance standards can be met based on the proposed modification. The department may also determine based on a revised assessment that the applicable controls are no longer effective to meet compliance standards and may require other response action. The department shall issue an amendment to any previously issued no further action certificate specifying the approved modification of the institutional or technological controls. Modification and termination of an environmental covenant shall be consistent with these rules and shall conform with Iowa Code chapter 455I.

567—105.208(455H) Site assessment.

105.208(1) *Purpose.* A participant must create a site assessment for every enrolled site. A participant may submit a site assessment to the department to characterize the attributes related to the enrolled site and facilitate the risk evaluation/response action. The purpose of the site assessment is to define the nature and extent of contamination, along with identifying likely exposure pathways, with the aim of characterizing potential, current and future risks and making an informed decision concerning an appropriate response in the context of probable future land uses at the site and in the surrounding area. Assessment is to be conducted with the recognition that contaminant fate and transport may alter the current areal extent and depth of contamination. It is recognized that the scope of such an assessment may be appropriately varied dependent upon interrelated factors including the nature and severity of the contamination, the complexity of specific details of the site and its setting, and the nature of the chosen response, if known.

105.208(2) *Site assessment plan; notice of proceeding without plan.*

a. The participant may submit for department review a site assessment plan prior to proceeding with the site assessment. Participants choosing to initiate site assessment without department review and approval of a work plan shall notify the department in writing of their intentions. Likewise, participants choosing to proceed to the risk evaluation/response action phase in accordance with 567—105.209(455H) without seeking review of the site assessment report shall give prior notice to the department of their intentions. The notice shall include a schedule for implementation and completion, a description of the area to be assessed and the scope of the proposed assessment to be undertaken, any planned construction activities in the affected area and a proposed date for submission of the site assessment report for department review.

b. The plan is intended to lay out the rationale to be followed in the conduct of the site assessment and to provide an opportunity for the participant and the department to reach a consensus regarding the appropriate scope of the site assessment.

c. In order to accomplish this, the plan should address relevant, known characteristics related to the site and its history, including the results of any preliminary investigations performed at the site, as well as plans for addressing pertinent details spelled out in the subsequent sections on the site assessment and the site assessment report. Departmental review of the site assessment plan may result in suggestions regarding perceived shortcomings or proposed activities that are deemed to be unnecessary.

105.208(3) *Site assessment details.* An acceptable site assessment shall address one or more of the following items, as applicable, and any other objective the department deems necessary to characterize the attributes related to the enrolled site and its setting.

a. Identify and address the medium or media of concern associated with the contamination situation for which the site is enrolled. The regulatory classification or jurisdiction of contaminants

shall be indicated if applicable and, if known, whether the compound is regulated under the Resource Conservation and Recovery Act (RCRA), Toxic Substances Control Act (TSCA), or Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

b. Characterize the nature, extent, and degree of contamination in both horizontal and vertical dimensions. This should involve appropriate sample numbers and locations within the contaminated area and beyond the area contaminated in excess of the background or statewide standard. Analyses shall be conducted for the contaminants of concern, breakdown products, and other contaminants likely to be present at significant levels. The department may also require analyses for additional contaminants that are not the focus of enrollment in the program, but that may be of special concern. Special concerns might include waste handling or treatment problems posed by the additional contaminants, or unacceptable risks remaining unaddressed within the affected area, due to the presence of the additional contaminants. In the case of groundwater, attention should also be given to the possibility of contaminant accumulation in strata overlying confining layers and to the possible presence of non-aqueous phase liquids (NAPL). In the case of groundwater, more than one round of sampling shall be incorporated, appropriately separated in time. In the case of soils, particular attention should be given to characterizing shallow soil contamination, from zero to six inches in depth.

c. Characterize the nature of the source of contamination or propose a conceptual model explaining the presence of the contamination of concern.

d. Characterize local contamination maxima or hot spots for the purposes of evaluation against relevant standards and to identify handling or treatment concerns that they may pose.

e. Characterize the stratigraphy. This should be done to a depth extending to the first significant confining layer below the deepest contamination. Descriptions should rely primarily on results gathered in the site assessment, but relevant reference materials or geologic logs from other sources may be incorporated as a supplement.

f. Characterize the hydrologic properties of the site and its vicinity to a distance appropriate to the fate, transport and exposure concerns associated with the site. This characterization should consider both horizontal and vertical components of groundwater movement as well as other influences on groundwater hydrology such as pumping wells, injection wells, surface water bodies, effects of seasonal or precipitation-driven variability, and possible aquifer interconnections, including those related to existing or abandoned wells. Water level measurements, related to a common datum, screening of appropriate depth intervals, and determination of hydraulic conductivity will generally be considered as necessary.

g. Characterize physical and chemical properties of the site and its environs associated with contaminant fate and transport, e.g., percent organic matter, redox potential, soil bulk density, and transmissivity.

h. Characterize topographic and cultural features of the site and its immediate vicinity. Cultural features may include but not be limited to buildings, basements, paved areas, roadways, utilities, storage tanks and associated piping, piles, impoundments, wells, and waste disposal systems.

i. Evaluate concerns related to whether the contamination situation is dynamic or stable; if dynamic, address fate and transport and breakdown products appropriately.

j. Identify and characterize receptor or exposure concerns. This most clearly involves concerns for drinking water and exposures to contaminated soils, as suggested by the statewide standards, but additional concerns should be identified and addressed by the participant or the department, as the situation warrants, e.g., vapors to basements, threats to water supply lines, threats to surface waters, or environmental threats.

k. Characterize current and probable future uses of the site and its surroundings. If probable future uses differ significantly from current uses, then characterize them separately and conduct the assessment in a fashion that addresses concerns arising from the possible change in use.

l. Evaluate the potential for contaminants to migrate from one medium to another. The following subparagraphs prescribe requirements for assessing potential migration of contamination from one medium to another. Requirements in the following subparagraphs may be waived if it can be demonstrated in accordance with procedures established in 567—Chapter 135 or ASTM standards

E1903-19 related to the Phase II environmental site assessment process that migration of contamination from one medium to another will not cause a violation of the applicable standard in the receiving medium. The assessment activities prescribed in the following subparagraphs are intended to determine if significant migration of contamination from one medium to another has occurred. If evidence of significant migration of contamination from one medium to another (i.e., generally a contaminant concentration in the receiving medium in excess of the statewide standard) is discovered, full-scale characterization of the receiving medium may be required.

(1) The water from any pond or lake on the site or within 300 feet of the site shall be sampled and analyzed for the contaminants of concern, if it is reasonably possible that contaminants from the site could impact the pond or lake. Any surface stream that runs through the site or within 300 feet of the site shall be sampled at a location downstream of any potential impact from the site and analyzed for the contaminants of concern. Depending on the characteristics of the contaminants (e.g., solubility), associated sampling and analysis of sediments may be required.

(2) Groundwater at the location most likely to be impacted by each known substantial area of soil contamination shall be sampled and analyzed for the contaminants of concern. If the area of soil contamination exceeds 10,000 square feet, additional groundwater samples may be required.

(3) Soil vapors in each area that is most likely to be impacted by known groundwater or soil contamination shall be sampled and analyzed for the contaminants of concern. If the area of soil or groundwater contamination exceeds 10,000 square feet, additional soil vapor samples may be required. If vapors may be impacting an existing enclosed space, a soil vapor sample shall be collected from a location that is most likely to have vapor contamination adjacent to the enclosed space.

1. If the potential for the existence of problematic concentrations of the vapors in the enclosed space cannot be dismissed based on soil vapor sampling, sampling and analysis of vapors inside the enclosed space may be conducted to determine whether or not a problem exists. Appropriate measures for distinguishing between contaminant vapors originating from within the enclosed space versus those from the external sources that are under investigation may be made with the approval of the department.

2. Ambient air sampling may be required if a very large area or extremely high concentrations of highly volatile contaminants exist in shallow soil or evidence of vapor contamination exists, such as odors or a high vapor reading on a vapor-screening instrument.

(4) If a water line exists within the zone of known contamination of soil, groundwater or soil vapor and the potential for significant diffusion of contaminants into the water line cannot otherwise be dismissed, a sample from the water line shall be collected at the nearest location where any impact may exist and that sample shall be analyzed for the contaminants of concern. All such samples should be collected at times following minimum movement within the water line (e.g., early morning following a weekend).

105.208(4) *Site assessment report.* The site assessment report shall include the presentation of all information gathered during the site assessment, arranged in appropriate sections of the report. It shall include a summary of preliminary information on which the site assessment is based, including but not limited to background and site history. The report shall discuss the sampling strategy and methods used in the assessment. The department encourages the use of innovative or screening techniques to expedite investigations and to control costs, provided that such techniques are approved by the department before implementation and are supported through verification by accepted scientific practices. The report shall also include a description of the quality assurance/quality control (QA/QC) protocols followed during the investigation. QA/QC protocols shall be consistent with accepted scientific practices.

The presentation shall be organized so as to facilitate the assimilation of information by the reader. Maps to be presented, as appropriate, might include maps illustrating the location of the site in a larger geographical context; maps showing cultural features associated with the site and its environs; maps illustrating the contamination extent and concentration in three dimensions; maps illustrating the site hydrology in three dimensions; and maps illustrating receptors, potential receptors, and relevant pathways of exposure. Cross-sectional diagrams shall be included to illustrate stratigraphy, geological boring information, and hydrologic and contaminant factors with depth. Tables and graphs shall be designed for the purpose of summarizing data in a meaningful fashion, including information about

successive rounds of sampling. Appendices shall include well logs, copies of laboratory analytical reports, and raw data used to calculate parameters presented elsewhere in the report. Appended material shall be labeled in a fashion permitting the cross-referencing of appended materials and the body of the report.

105.208(5) *Approval of site assessment report.* Unless notice has already been given prior to initiation of the site assessment, participants choosing to proceed to the risk evaluation/response action phase without department review and approval of the site assessment report must notify the department in advance as provided in 105.208(2).

105.208(6) *Public notification.* Before or upon completion of the site assessment, the participant shall provide the department with the names and addresses of the owners and occupants of all property adjacent to the site enrolled in the Iowa land recycling program and any additional properties where contaminants from the enrolled site have migrated or are likely to migrate in the future. The department shall notify by direct mailing all such property owners and occupants, the city or county in which the property is located, and officials of any potentially impacted public water supply of the site's enrollment in the Iowa land recycling program and of the scope of work described in the participation agreement. The department shall give the notified parties the opportunity to obtain updates regarding the status of activities relating to the site that is enrolled in the Iowa land recycling program. The department may also require the participant of a site enrolled in the Iowa land recycling program to publish public notice in a local newspaper if the department determines that widespread interest in the site exists or is likely to exist. The department may provide additional opportunities for public participation if, after consultation with the participant, the department determines such opportunities are warranted.

567—105.209(455H) Risk evaluation/response action.

105.209(1) *Purpose; notice of proceeding without department review of assessment.* The purpose of risk evaluation/response action is to utilize information from the site assessment as a basis for:

a. Determining whether current exposures result in excessive risks, based on evaluation against appropriate background, statewide, or site-specific standards.

b. Determining whether future exposures may result in excessive risks, based on evaluation against appropriate background, statewide, or site-specific standards. This will likely include:

(1) Evaluation of potential changes in usage, e.g., installation of a new well, change in land use, or other activities, that result in unacceptable, potential exposures not evaluated as current exposures, and

(2) Evaluation of exposure concerns related to the movement of contamination such that potential exposures might arise that are not considered under current exposure assumptions, e.g., groundwater plume migration creating a potential for future contamination of existing wells or creating newly contaminated areas in which new well installation may result in unacceptable exposures.

c. Proposing an appropriate and acceptable response action or strategy to address the identified, unacceptable exposures or potential exposures.

d. Establishing the test criteria to be applied under 567—105.210(455H) for determining final compliance with the selected standard. In some cases this may consist of proving that standards are currently met; in other cases it may result in an assessment of whether the response action succeeds in bringing about compliance with a selected standard.

The risk evaluation/response action is intended only for application to the specific contaminants and situations for which the site is enrolled. Participants choosing to proceed to the risk evaluation/response action phase without seeking review of the site assessment report shall give prior notice to the department of their intentions. The notice shall include the information required in 105.208(2), a general description of the site assessment results, a schedule for submission of the risk evaluation/response action document, and the reasons for not requesting department review and approval of the site assessment report.

105.209(2) *Risk evaluation/response action document submission.* A risk evaluation/response action document shall be submitted for review and approval by the department. When considered in conjunction with the site assessment report, these documents shall present a complete picture of the site from its characterization, through the evaluation of risk, to the development of a strategy to address

the situation. An effort shall be made to ensure that the reviewer, or other interested parties, can gain an understanding of the existing situation and proposed actions. The risk evaluation/response action document shall include a summary of findings regarding present risks and potential future risks; a pathway-specific identification of the standards to be applied, including the supporting rationale, if appropriate; a discussion of the proposed response actions, including remedial actions to be taken and institutional or technological controls to be implemented; and a discussion of the proposed verification strategy. Any modeling used for purposes of assessing future risk or establishing site-specific standards shall be presented in sufficient detail to permit evaluation of the results by the department.

105.209(3) *Department review and approval.* It is recommended that the risk evaluation/response action be submitted for review and approval prior to proceeding with implementation of the response action. The final, department-approved document shall be the basis for assessing subsequent activities at the site. Parties choosing to proceed with response actions without prior review and approval by the department proceed at their own risk and may not assume the response action implemented will result in a no further action certificate.

a. Parties choosing to implement a response action without prior review and approval by the department shall submit to the department a proposed risk evaluation/response action document accompanied by an explanation of the reason(s) for proceeding without prior approval. Documentation shall also include a schedule for implementation, a description of construction or other activities to be undertaken, and date for submission of the final report demonstrating compliance, as described in 567—105.210(455H).

b. The department shall provide opportunity to comment on proposed response actions to any party that is potentially impacted by off-site migration of contaminants for which notification is required in accordance with 105.208(6). The department shall consider reasonable comments from potentially impacted parties in determining whether to approve or disapprove a proposed response action or site closure.

105.209(4) *Risk evaluation.* The risk evaluation/response action document shall identify all locations or areas, and associated exposure pathways, where exposure currently exceeds a statewide standard or where a statewide standard may be exceeded in the future, due to either a change in exposure-related usage or contaminant migration. Current and future exposure pathways shall be evaluated and presented separately. This evaluation shall not be limited to exposure pathways for which the department has formulated risk-based values in 567—105.205(455H) or 567—105.206(455H) but should include any pathway related to the situation for which the site is enrolled, for which a no further action certificate is sought, or for which an unacceptable risk may now or in the future exist, including but not limited to high concentrations of volatile compounds in proximity to a confined space, high concentrations of solvents in proximity to a water distribution line, or environmental concerns unrelated to human health.

a. In a case where a background standard is to be applied and there is no violation of a statewide standard, it will be necessary to identify only locations or areas where the background standard is exceeded.

b. A risk evaluation may be appropriately abbreviated from the preceding description based on the specific details of the contamination and the proposed response action.

105.209(5) *Establishing cleanup standards.* The risk evaluation/response action document shall identify the cleanup standards to be applied in accordance with 567—105.204(455H), 567—105.205(455H), or 567—105.206(455H), outlining respectively the background, statewide, or site-specific standards. These standards may be applied in any combination to address specific components of the contamination problem for which the site is enrolled. If cleanup standards other than those specifically formulated under the statewide standard (567—105.205(455H)) are to be applied, then the rationale behind the determination of such standards shall be justified, in the document, to the department's satisfaction.

105.209(6) *The use of models.* Models may be necessary in order to evaluate potential future exposures and may be used to develop target levels.

a. Standard models. Standard models may be used to predict future contaminant concentrations at potential points of exposure to contaminants or at other locations used for determining compliance when such models are appropriate, as determined by the department. Applicable Tier 2 models approved for use in accordance with 567—Chapter 135 for underground storage tanks (USTs) and applicable Tier 2 models provided in ASTM standards are acceptable standard models. Models that provide a two-dimensional representation of groundwater flow will not be considered to be appropriate when significant three-dimensional components to groundwater flow are anticipated. Default values for input parameters for ASTM and UST Tier 2 models, as provided in applicable ASTM standards and approved for use in accordance with 567—Chapter 135, may be utilized without approval by the department. The department shall maintain a guidance document that includes a list of other chemical-specific default values for all chemicals having statewide standards.

b. Site-specific models. Site-specific models may be used to predict future contaminant concentrations at potential points of exposure to contaminants or at other locations used for determining compliance when such models are appropriate, as determined by the department. Site-specific models may include standard models with site-specific input parameters or models utilizing more sophisticated analytical techniques. A site-specific groundwater model shall have proven reliability and be able to simulate, as needed:

(1) A fixed contaminant source,

(2) Groundwater and contaminant flow in three dimensions,

(3) Groundwater and contaminant flow through as many distinct geologic layers as necessary for the site in question,

(4) Effects of pumping,

(5) Effects of groundwater recharge and discharge,

(6) Impacts of hydrologic boundaries,

(7) Contaminant advection, dispersion and chemical reactions, as appropriate for the site in question, and

(8) Other site-specific variables as appropriate.

Default values for input parameters approved for standard models will be approved for use in site-specific models. Otherwise, input parameters used in site-specific models are subject to the department's approval.

105.209(7) *Response action.* The risk evaluation/response action document shall include a proposal for a response action or strategy to achieve and maintain compliance with the selected standard(s). This may consist of activities designed to remove or treat contaminants; prevent exposure to unacceptable levels of contamination through technological controls, institutional controls or monitoring; or a combination thereof. If the response action involves the use of a standard that is less stringent than the statewide standard, it will be necessary to implement institutional controls to prevent the type of exposure on which the statewide standard is based unless otherwise authorized by the department. It is the intent of the department to permit the participant to identify and carry out those options by which this may be accomplished, insofar as the department deems the selected options to be reasonable, protective of the public health and safety and the environment, and consistent with provisions of this rule.

105.209(8) *Free product and gross contamination.*

a. Contaminants presented as free product and gross contamination shall not be addressed through the implementation of institutional or technological controls. For purposes of this rule, gross contamination will be considered to be contamination present at concentrations in excess of a standard by an amount sufficient to reasonably expect that institutional or technological controls will not be adequately protective of the public health and safety and the environment.

b. If treatment or removal of free product or gross contamination is not feasible, the participant may request a waiver of this subrule, subject to all provisions of Iowa law related to waivers.

105.209(9) *Compliance verification strategy.* The risk evaluation/response action document shall outline a strategy for determining whether the relevant standards are met by the site and will continue to be met in the future. For response strategies that call for longer-term monitoring, standard-based values shall be identified that, if exceeded, would indicate a failure of the response action and necessitate

the development and implementation of a new response action. The terms under which monitoring may cease may be proposed. The proposed strategy shall be consistent with 567—105.210(455H) related to demonstration of compliance and shall indicate the standard to be applied and the point of compliance at which it is to be applied, consistent with 567—105.204(455H), 567—105.205(455H), and 567—105.206(455H).

567—105.210(455H) Demonstration of compliance.

105.210(1) *Purpose.*

a. The purpose of the demonstration of compliance is to provide a mechanism by which to verify that:

(1) Appropriate and acceptable standards are complied with and that compliance can be reasonably expected to continue in the future;

(2) Any and all remedial measures proposed under 567—105.209(455H) have achieved their purpose; and

(3) Appropriate institutional and technological controls, or monitoring mechanisms, have been successfully implemented.

b. In some cases, the demonstration of compliance may mark the final step, taken by the participant prior to the issuance of an unconditional no further action certificate by the department. In other cases, it may mark the transition to the longer term closure activities associated with the site, such as monitoring, maintenance of technological controls, and continuing enforcement of institutional controls. In this latter case, demonstration of compliance activities may or may not result in the issuance of an unconditional no further action certificate, depending on the approach proposed in the response action. In some cases, it may be necessary to successfully complete a monitoring program or to fulfill other agreed-upon obligations prior to the issuance of the no further action certificate.

c. In all cases, sampling of environmental media shall comply with QA/QC requirements addressed in 567—105.208(455H).

105.210(2) *General requirements for demonstrating compliance with soil standards.*

a. For the standard being applied, the demonstration of compliance shall be at the point of compliance or point of exposure as set forth in 567—105.204(455H), 567—105.205(455H), or 567—105.206(455H) relating to background standards, statewide standards, and site-specific standards and as described in a site-specific context pursuant to 105.209(7) relating to risk evaluation/response action.

b. Minimum sample numbers for the demonstration of compliance with the background standard for soils pursuant to 105.210(4)*"b"* or with the statewide standard when applying 105.210(5)*"a"*(1) shall be based on the volume of soil to which the selected standard is being applied as follows:

(1) For volumes less than or equal to 125 cubic yards, a minimum of eight samples.

(2) For volumes greater than 125 cubic yards, but less than or equal to 3,000 cubic yards, a minimum of 12 samples.

(3) For each additional volume of less than or equal to 3,000 cubic yards, a minimum of 12 additional samples.

(4) Additional samples may be required based on site-specific conditions.

c. When EPA applicable guidance used pursuant to these rules requires demonstration of a 95 percent upper confidence limit, the minimum sample number shall be as specified in that guidance.

d. Sample locations for demonstration of compliance shall be selected in a random fashion to be representative, both horizontally and vertically, of the volume of soil being evaluated for compliance.

e. Sampling for the purpose of demonstrating compliance shall be conducted after the completion of site assessment activities and after the implementation of applicable remedial measures.

105.210(3) *General requirements for demonstrating compliance with groundwater standards.*

a. For the standard being applied, the demonstration of compliance shall be at the point of compliance or point of exposure as set forth in 567—105.204(455H), 567—105.205(455H), or 567—105.206(455H) relating to background standards, statewide standards, and site-specific standards

and as described in a site-specific context pursuant to 105.209(7) relating to risk evaluation/response action.

b. Monitoring wells installed for the purpose of demonstrating compliance shall be of sufficient number and appropriate location to evaluate all hydrologic strata of concern, based on site-specific considerations, as identified pursuant to 105.209(7), relating to risk evaluation/response action.

c. For statistical methods under 105.210(5)*"b"*(1), compliance with the statewide groundwater standard shall be based on eight consecutive quarters of groundwater data. As an alternative, the department may accept four consecutive quarterly sampling events or less with prior written approval from the department under the following conditions:

(1) There is adequate spatial monitoring of the plume upgradient that indicates a decreasing concentration trend toward the downgradient property boundary.

(2) Parameters affecting the fate and transport of regulated substances within the plume have been fully evaluated.

(3) Concentrations of regulated substances in the plume at the point of compliance monitoring wells along the downgradient property boundary are all less than or equal to the groundwater standard or the limit relating to the PQL, whichever is higher, in all samples collected during the quarters of monitoring.

(4) One of the following is met:

1. The age of the plume is sufficiently well known to permit a judgment to be made regarding its stability.

2. The remediation includes source removal or containment actions that would reduce chemical flux into the plume.

d. When applying a 95 percent upper confidence limit, according to EPA applicable guidance, to demonstrate compliance with the statewide standard for groundwater pursuant to 105.210(5)*"b"*(2) or a site-specific standard for groundwater pursuant to 105.210(6), the minimum sample number shall be as specified in that guidance.

e. Sampling for the purposes of demonstrating compliance shall be conducted after the completion of site assessment activities and after the implementation of applicable remedial measures.

105.210(4) *Demonstration of compliance with a background standard.*

a. To apply a background standard the participant shall demonstrate to the department, in writing, that the apparent background contamination at the site is due to widespread or naturally occurring contamination and shall obtain the department's approval to apply this subrule. Data collected for the purpose of determining the applicable background standard is subject to department approval, interpretation, and manipulation, if necessary for the purpose of establishing a meaningful background standard.

b. For soil, the minimum sample number to determine the background standard shall be ten, unless a lesser number is approved by the department, and the number of samples from the affected area shall be based on volume as described in 105.210(2)*"b."* No sample collected from the affected area may exceed the sum of the background arithmetic mean and three times the sample standard deviation, as calculated based on the background sampling.

c. For groundwater, a minimum of 12 locations shall be sampled in the background reference area, unless a lesser number is approved by the department, and an equal number shall be collected from the affected area. In areas involving more than one hydrologic strata, more samples may be required. Sampling shall be conducted concurrently in the background reference area and the affected area. No sample collected from the affected area may exceed the sum of the background arithmetic mean and three times the sample standard deviation, as calculated based on the background sampling.

105.210(5) *Demonstration of compliance with the statewide standard.* The following requirements shall be met in order to demonstrate compliance with the statewide standard. Testing shall be performed individually for each contaminant being addressed and for which a no further action certificate is sought.

a. To demonstrate compliance with the statewide standard for soils in each affected area, soil samples taken at the enrolled site must be within the statistical limits of either 105.210(5)*"a"*(1) or *"a"*(2), as well as all other applicable requirements of this rule.

(1) Seventy-five percent of all soil samples, collected during a single event, shall be less than or equal to the statewide standard, with no individual sample exceeding ten times the statewide standard.

(2) In accordance with EPA-approved methods (OSWER 9285.6-10, 2002), the 95 percent upper confidence limit of the arithmetic mean of soil sample values from the affected area shall be at or below the statewide standard.

b. To demonstrate compliance with the statewide standard for groundwater in each compliance monitoring well, water samples taken from the wells must be within the statistical limits of either 105.210(5)*"a"*(1) or *"a"*(2), as well as all other applicable requirements of this rule.

(1) Seventy-five percent of all samples collected in each compliance monitoring well over time shall be less than or equal to the statewide standard, with no individual sample exceeding ten times the statewide standard.

(2) In accordance with EPA-approved methods (OSWER 9285.6-10, 2002), the 95 percent upper confidence limit of the arithmetic mean of samples collected from a compliance well over time shall be at or below the statewide standard.

105.210(6) *Demonstration of compliance with a site-specific standard.* To demonstrate compliance with a site-specific standard, the participant shall use the tests identified in 105.210(5)*"a"*(2) and *"b"*(2), except that the 95 percent upper confidence limit of the arithmetic mean for samples from the medium of concern shall be at or below the site-specific standard.

105.210(7) *Compliance with cumulative risk.* In addition to standards for individual contaminants as prescribed above, cumulative risk criteria must be attained, except that for the soil pathway only, the cumulative risk criteria may be attained in lieu of the standards for individual contaminants. Cumulative carcinogenic health risks shall not exceed 1 in 10,000. Noncarcinogenic health risks affecting the same target organ shall not exceed a cumulative hazard quotient of 1. Cumulative risk criteria are applicable to multiple contaminants in the same medium and multiple media in which exposure is likely to occur to the same individual. Cumulative risks shall be based on the same exposure assumptions that are used for determining the selected standard.

a. Risks associated with background levels of contaminants shall not be included in the cumulative risk determination. Background levels of contaminants shall be determined in accordance with 105.210(4) or, if approved by the department, by the use of generally available information on background levels of contaminants.

b. In situations where the risk associated with exposure to a contaminant at a concentration equal to the selected standard is greater than the acceptable cumulative risk, the cumulative risk may be calculated assuming the risk associated with exposure to the contaminant at a concentration equal to the selected standard is equal to the acceptable cumulative risk criterion. The department will provide a guidance document for calculating cumulative risk and make it readily available to the public.

105.210(8) *Final report.* A final report shall be submitted to the department that documents the accomplishment of all provisions set forth in the risk evaluation/response action document. This shall include, as applicable to the specific situation, discussions related to verification of compliance with selected standards, successful completion of remedial actions, implementation of necessary institutional or technological controls, and initiation of any required monitoring strategy. Sufficient details shall be included to permit the department to verify that the terms proposed in the response action have been met with regard to the statistical determination of compliance with standards.

105.210(9) *Department review and approval.*

a. The final report is subject to review and approval by the department. Following review, the department will either approve the report or make a written response indicating the reason(s) why the report is unacceptable. Acceptance of the report may result in the issuance of an unconditional no further action certificate or it may mark a transition to the long-term closure activities associated with the site, as proposed in the response action. A decision that the report is unacceptable may be based upon an insufficiency of the report or it may be based on a judgment that the terms of the response action have not been met.

b. In cases where a participant has elected to proceed through this program without department interaction and without submitting site assessment pursuant to 567—105.208(455H), or risk evaluation/

response action documents pursuant to 567—105.209(455H), the final report shall contain the substantive information related to those rules in addition to information required under this rule in a manner that clearly sets forth for departmental review the same process.

567—105.211(455H) No further action classification.

105.211(1) *Eligibility.*

a. An enrolled site shall be eligible to obtain a no further action classification when the department determines the participant has met all compliance standards of this division applicable to the affected area, and the hazardous substances identified and evaluated such that no further response action is required other than maintenance of institutional or technological controls or certain specified continuing site activities. Upon request of a participant or other protected party, and compliance with applicable standards, the department will issue a no further action certificate to each protected party requesting it.

b. A no further action classification may be conditioned upon the continued maintenance and effectiveness of any applicable institutional or technological control in accordance with 567—105.207(455H).

105.211(2) *No further action certificate.* A no further action certificate shall be in a form recordable in the county real estate records as provided in Iowa Code chapter 558 and consistent with the model forms developed by the department. The no further action certificate may be recorded as provided by law.

105.211(3) *No further action certificates conditioned on institutional and technological controls.* A no further action certificate conditioned upon the continuing effectiveness and maintenance of institutional and technological controls or other continuing requirements must be recorded with the consent of the fee titleholder for each parcel of affected property subject to the controls and for parcels of property for which prevention of exposure is dependent upon the continuing effectiveness and maintenance of the controls. If a participant is not able to record the no further action certificate on a parcel within the affected area due to objections of the fee titleholder or other legal restraints, this alone shall not be a basis for denying or rescinding the no further action classification or the certificate or the legal protections attendant to the no further action classification. Any modification or termination of institutional and technological controls shall be noted in an amended no further action certificate and shall be recorded as to any property subject to an earlier recorded certificate or institutional control. If a no further action certificate is required to be recorded, the no further action classification is not effective until the document is recorded with the county recorder.

105.211(4) *Public notification.* The department shall prepare a public notice prior to approval of any no further action classification that is conditioned upon use of institutional or technological control(s). The public notice will describe the results of the risk assessment conducted in the affected area, any proposed or completed response action, the vertical and horizontal extent and concentrations of existing soil and groundwater contamination in the affected area, and the actual and potential pathways of exposure the controls are intended to address. The notice will describe the purpose of the institutional and technological control(s) being proposed and the predicted period of coverage. The notice will provide the opportunity for members of the public to review department files, make written comments and request a public hearing. The department may schedule a public hearing on the basis of requests from the public and when it determines the particular remedial options proposed for a site warrant public consideration, for example, when issues of whether and to what concentrations gross contamination should be allowed to remain within the affected area given the relative effectiveness of institutional controls and other community concerns and development plans.

a. The notice will be served by certified mail on all property owners that the actual or modeled data indicates are or may be affected by the present or future conditions addressed by the control. The notice will be published in a newspaper of general circulation most likely to reach persons in the immediate locality.

b. If the controls are intended to restrict surface or subsurface future land use, the notice shall be sent to each local regulatory body having jurisdiction and control over or a direct interest in regulation of these activities. These may include but are not limited to municipal or county zoning boards, municipal

building authorities, public utilities, and economic development agencies. If the controls are intended to restrict groundwater use, the notice shall be sent to the county or city board of health responsible for private well permitting.

c. Failure to provide notice to an interested party shall not constitute a basis for invalidating a subsequently approved no further action certificate.

105.211(5) *Scope of liability protection.* Upon issuance of the no further action certificate by the department, the liability protection provisions contained in Iowa Code chapter 455H, subchapter 3, apply. The scope of the no further action classification and the scope of liability protection extend only to that area of affected property as defined by actual and modeled contaminant data and the specific environmental condition for which a regulatory standard has been met and approved by a no further action classification. The scope of protection corresponds to the scope of the site assessment conducted by the participant, the exposure pathways actually evaluated by the assessment report and reviewed by the department, and the hazardous substances identified in that assessment for which compliance with a department-approved standard has been achieved. Liability protection does not apply to releases, sources of contamination, hazardous substances or other environmental conditions not expressly addressed in the participant's site assessment, response action or specifically referenced in the no further action certificate.

105.211(6) *Reopener and reclassification conditions.*

a. The department shall have grounds to reopen and rescind a no further action certificate and consider reclassification of the affected area if specified conditions of the no further action certificate are not maintained, or if institutional or technological controls fail to meet their intended purpose or are determined to be ineffective and unenforceable. If the conditions upon which the no further action certificate was issued cannot be corrected or reinstated, the department may rescind the certificate. The effect of termination is to put all parties in the same position as if the no further action certificate had not been issued.

b. If a no further action certificate is issued without conditions or technological and institutional controls, and conditions should arise that might require further corrective action, the department may require further response action by a participant or protected party only as provided in Iowa Code section 455H.301. The department may require further response action against a statutorily responsible party who is not a participant or other protected party. If the participant was a person having control over a hazardous substance, as defined in Iowa Code section 455B.381, at the time of the release, a no further action certificate may require further response action to protect against an imminent and substantial threat to public health and safety and the environment. Another protected party who was a person having control over a hazardous substance, as defined above, may be required by the department to conduct a further response action, where appropriate, to protect against an imminent and substantial threat to public health and safety and the environment.

These rules are intended to implement Iowa Code chapter 455H.

ITEM 2. Rescind and reserve **567—Chapter 131**.

ITEM 3. Rescind and reserve **567—Chapter 133**.

ITEM 4. Rescind and reserve **567—Chapter 137**.

ARC 9930C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to beverage container deposits and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 107, "Beverage Container Deposits," Iowa Administrative Code, and to adopt a new Chapter 107 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 455C.9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 455C.

Purpose and Summary

Proposed Chapter 107 regulates the beverage container redemption system in Iowa. The beverage container redemption system in Iowa reduces litter and promotes recycling of beverage containers through a deposit-refund system. This rulemaking is necessary to align Chapter 107 with the requirements of Executive Order 10. The proposed revisions rescind provisions that are out of date and duplicative of Iowa Code chapter 455C.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 17, 2025. A public hearing was held on the following date(s):

- October 7, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 29, 2026. Comments should be directed to:

Mary Klemesrud
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.802.8835
Email: mary.klemesrud@dnr.iowa.gov

Free Language Access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at mary.klemesrud@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al mary.klemesrud@dnr.iowa.gov.

Public Hearing

Public hearing at which persons may present their views orally will be held by videoconference call as follows:

January 27, 2026	Virtual Meeting (via Google Meet or Zoom)
10 a.m.	A meeting registration link will be provided prior to the hearing
January 29, 2026	Virtual Meeting (via Google Meet or Zoom)
10 a.m.	A meeting registration link will be provided prior to the hearing

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Persons who wish to attend a videoconference call should contact Mary Klemesrud at mary.klemesrud@dnr.iowa.gov. A videoconference call number will be provided prior to the hearing. Persons who wish to make oral comments at the videoconference call public hearing must submit a request to Ms. Klemesrud prior to the hearing to facilitate an orderly hearing.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: If you need assistance in a language other than English, contact the Department at mary.klemesrud@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.802.8835 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al mary.klemesrud@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.802.8835 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 567—Chapter 107 and adopt the following **new** chapter in lieu thereof:

CHAPTER 107
BEVERAGE CONTAINER DEPOSITS

567—107.1 Reserved.

567—107.2(455C) Definitions. In addition to the definitions in Iowa Code section 455C.1, for the purpose of this chapter, the following terms shall have the meaning indicated in this rule.

"Act" means Iowa Code chapter 455C.

"Approved redemption center" means a redemption center approved by the department pursuant to 107.4(1).

"Carbonated" means charged under pressure with carbon dioxide.

"Distributor redemption center" means a redemption center that satisfies the requirements of Iowa Code section 455C.14.

"Emboss" means to raise the surface in relief.

"Exempt beverage container" means a beverage container that is not marked with the words "Iowa Refund 5¢" because it is a refillable glass beverage container having a brand name permanently marked on it and having a refund value of 5 or more cents or because it is a refillable metal or plastic beverage

container that has been exempted, in accordance with the procedure of 107.3(7), from the requirement of having the refund value marked on the container. An exempt beverage container is exempt from having the words "Iowa Refund 5¢" indicated on the container but is not necessarily exempt from the minimum deposit and redemption requirements of this chapter.

"Handling fee" or *"fee"* means the amount reimbursed by a distributor, in addition to the return of the 5 cent refund value, in an amount that is 1 cent per beverage container for containers accepted from a dealer agent or 3 cents per beverage container accepted from a participating dealer or redemption center. Only one fee shall be charged per container.

"High-contrasting color" in reference to labeling requirements means a clear differentiation in hue, value, and intensity with the background on which the redemption message appears, surrounding artwork, and other nearby printed information.

"Incise" means to scratch the surface to produce legible letters or characters at a precise width and depth.

"Indelibly" means that the refund value is permanently affixed on the beverage container and cannot be smeared or removed during regular use from the point of being offered for sale until the point of redemption.

"Mineral water" means water naturally or artificially infused with mineral salts or gases. Mineral water may be carbonated or uncarbonated.

"Soda water" means water that has been carbonated.

"Soft drink" means any nonalcoholic liquid other than mineral water or soda water intended for human consumption.

"Unapproved redemption center" means a redemption center that is not an approved redemption center.

This rule is intended to implement Iowa Code sections 455C.1 and 455C.9.

567—107.3(455C) Labeling requirements.

107.3(1) All beer, wine, alcoholic liquor, mineral water, soda water and similar carbonated soft drink containers (other than exempt containers) sold or offered for sale in Iowa by a dealer shall have the words "Iowa Refund 5¢" or "IA 5¢" clearly, indelibly and legibly indicated on the container. Any abbreviation of the words "Iowa Refund" other than as provided in this subrule shall be submitted to and approved by the department.

107.3(2) The minimum size of the words "Iowa Refund 5¢" or "IA 5¢" and all approved abbreviations shall be a minimum of 9-point type (approximately .125 inch or 3 millimeters) if the words are embossed or incised and 18-point type (approximately .25 inch or 6 millimeters) if the words are otherwise affixed to the container. A stamp or label may have the words "Iowa Refund 5¢" or "IA 5¢" in less than 18-point type if the label is submitted to the department and the department determines that the high-contrasting color or the characteristics of the stamp or label make the stamp or label as easy to discern as a stamp or label with 18-point type.

107.3(3) The words "Iowa Refund 5¢" or "IA 5¢" shall be indicated by embossing (raised letters), by incising, by printing in high-contrasting color, by a stamp or label of high-contrasting color, or by other method approved by the department securely and permanently affixed to the container.

107.3(4) Reserved.

107.3(5) The words "Iowa Refund 5¢" or "IA 5¢" shall be on the top or on the cylindrical portion of a metal beverage container. The words "Iowa Refund 5¢" or "IA 5¢" shall be on the conical portion of a glass or plastic beverage container so that the words are visible from above or shall be on the product label. The placement of refund information solely on the bottom of the beverage container is prohibited.

107.3(6) An example of the label or labeled container may, but need not, be submitted to the department for informal approval.

107.3(7) An application for exemption from the requirement of having the words "Iowa Refund 5¢" or "IA 5¢" indicated on the container shall be submitted to the department and shall contain:

a. The name, address and telephone number of the applicant;

b. The refund value of the container; and

c. A statement of why the container can be readily and permanently identified by consumers as subject to a deposit.

107.3(8) An example of the container for which the exemption is being requested shall be sent to the department along with the application required in 107.3(7). The example may consist of photographic images or empty containers. Examples submitted to the department shall not contain any liquid.

107.3(9) The department may exempt the container if the department determines that the container is subject to a deposit of 5 or more cents and that consumers can readily and permanently identify the container as one subject to a deposit.

107.3(10) Automatic exemption. Beverage containers sold in Iowa containing alcoholic liquor as defined in Iowa Code section 123.3(5) where the total capacity of the container is not more than 50 milliliters are automatically exempted from the labeling requirement of 567—107.3(455C). However, such beverage containers remain subject to the remainder of this chapter.

567—107.4(455C) Redemption centers. The Act provides for both approved and unapproved redemption centers. Both approved and unapproved redemption centers redeem empty beverage containers and pay the refund value to consumers. Only approved redemption centers can satisfy the requirements of Iowa Code section 455C.4(2)*"a"*(2) and *"a"*(3) and 2022 Iowa Acts, Senate File 2378, section 19.1(a) or 19.1(b). Additionally, only approved redemption centers will be listed on the department's electronic database pursuant to Iowa Code section 455C.4(2)*"c."*

107.4(1) *Approved redemption centers.*

a. Any person may file with the department an application for approval of a redemption center.

b. An annual application for approval of a redemption center shall be submitted to the department electronically.

(1) Initial application. Redemption centers that wish to be considered approved under this chapter should file their application within 30 days of starting their business.

(2) Annual renewals. All redemption centers should file their annual renewal application by January 31 of each subsequent year to allow the department to update its approved redemption center list in a timely manner.

(3) Application requirements. A redemption center must submit a separate application for each facility, including if a redemption center is operating a mobile redemption system for a dealer or dealers. The information on the application will be included in an electronic database for consumers to locate the nearest approved redemption center; as such, applications must be resubmitted annually to ensure that contact information remains accurate. There is no fee to submit the application. The application shall include the following information:

1. Name, address and telephone number of the redemption center;
2. Name, address and telephone number of the person or persons responsible for the establishment and operation of the redemption center;
3. A statement that the operator of the redemption center understands it must accept all redeemable containers, except for those containers exempted in 567—107.13(455C);
4. Whether the redemption center will be operating a mobile redemption system and the location(s) where the system will be operated.

c. The department will issue an electronic order of approval once a complete application is received.

d. The department may at any time rescind the order approving a redemption center if the department determines, after notice and hearing, that the redemption center is in violation of the Act or this chapter or that the redemption center is no longer meeting the above criteria.

e. An approved redemption center shall accept from consumers and shall pay the refund value for all beverage containers that bear an Iowa refund value and those containers exempted from the labeling requirement pursuant to 107.3(10).

f. When an approved redemption center is closing permanently, it shall give to the department notice that includes the redemption center's final date of operation. As of the final date of operation, the

redemption center's approval as a redemption center shall be terminated and a dealer it was approved to serve shall no longer be an exempt dealer. An approved redemption center must notify the department and any dealers or distributors with which the redemption center has agreements 30 days prior to the redemption center's closing.

107.4(2) *Refused container redemption centers.* Redemption centers required by Iowa Code section 455C.14 may be either "approved" or "unapproved." To be "approved," the facility must submit an application pursuant to 107.4(1), which includes the requirement to accept all redeemable beverage containers except for those containers exempted in 567—107.13(455C).

567—107.5 to **107.7** Reserved.

567—107.8(455C) Miscellaneous requirements.

107.8(1) Beverage containers sold on interstate carriers, such as trains, planes, or buses that travel through Iowa, are not subject to the deposit and labeling requirements of the Act.

107.8(2) Transfer tanks, premix tanks and beer kegs are not subject to the deposit and labeling requirements of the Act.

107.8(3) Return limits. Dealers may limit the number of containers returned by an individual to 120 containers in a 24-hour period. Redemption centers may limit the number of containers returned by an individual to 500 containers in a 24-hour period.

567—107.9(455C) Partial pickup and acceptance of redeemed containers by distributor.

107.9(1) *Notification of frequency.* A distributor shall notify each participating dealer served by the distributor of the intended frequency of pickup. A distributor shall notify each redemption center from which the distributor is required to pick up containers of the intended frequency of pickup.

107.9(2) *Partial pickup.* A distributor who picks up containers more often than the required frequency shall not be required to pick up all available containers from a participating dealer or redemption center at each pickup provided that all available containers are picked up from the dealer or redemption center within the required frequency.

567—107.10(455C) Dealer agent lists. A dealer agent shall provide to a distributor upon request a list of the dealers that the dealer agent is serving.

567—107.11 and **107.12** Reserved.

567—107.13(455C) Refusing payment of the refund value. A distributor, participating dealer, or redemption center may refuse to pay the refund value and, if applicable, the handling fee pursuant to Iowa Code section 455C.4 and in the following situations:

107.13(1) *Refusal of certain brands (e.g., store brands).*

a. For any beverage container subject to the Iowa beverage container control law, all distributors and manufacturers must charge a 5-cent deposit for each container delivered by that distributor or manufacturer to a dealer and must pick up, or facilitate the pickup of, the container from a participating dealer or an approved redemption center. This includes, at a minimum, reimbursing the participating dealer or approved redemption center for the refund value and the applicable handling fee. The requirements of this paragraph apply regardless of the relationship between the distributor or manufacturer and the dealer.

b. Any approved redemption center may refuse to accept containers for redemption if there is no distributor or manufacturer providing reimbursement and paying the requisite fee for the given container. In such cases, the redemption center shall notify the department and must post a notice of the brands it will not accept.

107.13(2) *Redeemed containers must be reasonably clean and intact.* Consumers shall return containers in a reasonably clean and intact condition. For a refillable beverage container, the container must hold liquid, be able to be resealed and be in its original shape. A nonrefillable glass container may be chipped, but it may not have the bottom broken out or the neck broken off. A nonrefillable metal

container may be dented or partially crushed but may not be crushed flat. In order to be redeemed, an empty beverage container shall be dry and free of foreign materials other than the dried residue of the beverage. Redemption centers and participating dealers may refuse to redeem containers that are not reasonably clean and intact, as well as containers that do not have an Iowa 5-cent redemption label and containers that have had the Iowa 5-cent label removed or if the label is illegible for any reason.

567—107.14(455C) Payment to redemption centers and dealer agents delivering containers to distributors. A distributor shall issue to a redemption center or dealer agent payment of the refund value and handling fee within one week of delivery and acceptance of empty beverage containers, unless otherwise agreed to by both the redemption center and the distributor or by both the dealer agent and the distributor, as the case may be.

567—107.15(455C) Sales tax on deposits. The department of revenue has determined that the payment of the deposit by a consumer is not a sale subject to the payment of additional sales tax.

These rules are intended to implement Iowa Code chapter 455C.

ARC 9928C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to landfill alternatives financial assistance programs and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 109, "Special Waste Authorizations"; to adopt a new Chapter 109, "Landfill Alternatives Financial Assistance Programs"; and to rescind Chapter 209, "Landfill Alternatives Financial Assistance Programs," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455B.301A, 455B.306 and 455E.9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 455B.301A, 455B.306 and 455E.11.

Purpose and Summary

Existing Chapter 209 was reviewed and simplified consistent with Executive Order 10. This rulemaking will rescind Chapter 209 and move it into proposed new Chapter 109, after removing language that is unnecessary, redundant and duplicative. Rescinding and replacing this chapter will not impact the Department's ability to implement its landfill alternatives programs, nor will it impact the ability of interested parties to voluntarily apply for and implement financial assistance awards.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 17, 2025. A public hearing was held on the following date(s):

- October 8, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 30, 2026. Comments should be directed to:

Jennifer Wright
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: jennifer.wright@dnr.iowa.gov

Free Language Access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at eo10_solidwaste@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita, comuníquese con el Departamento al eo10_solidwaste@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held digitally as follows:

January 28, 2026 9 a.m.	Virtual Meeting (via Google Meet or Zoom) A meeting registration link will be provided prior to the hearing
January 30, 2026 9 a.m.	Virtual Meeting (via Google Meet or Zoom) A meeting registration link will be provided prior to the hearing

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Persons who wish to attend a public hearing must contact the Department at EO10_solidwaste@dnr.iowa.gov for a link to the hearing.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: If you need assistance in a language other than English, contact the Department at EO10_solidwaste@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.452.1794 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.452.1794 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 567—Chapter 109 and adopt the following **new** chapter in lieu thereof:

CHAPTER 109
LANDFILL ALTERNATIVES FINANCIAL ASSISTANCE PROGRAMS

567—109.1(455B,455E) Purpose. The purpose of this chapter is to provide direction for the department's implementation of certain financial assistance programs that are funded from the solid waste account within the groundwater protection fund as described in Iowa Code section 455E.11, including the solid waste alternatives program as described in Iowa Code section 455E.11(2)*"a"*(1)(e); the derelict building program as described in Iowa Code section 455E.11(2)*"a"*(1)(d); the Iowa solid waste environmental management systems program as described in Iowa Code section 455E.11(2)*"a"*(1)(c); and other waste management assistance programs as described in Iowa Code section 455E.11(2)*"a"*(2)(a)(1)(iv). All rules, standards, technical guidance, and other similar legal or technical documents referenced in this chapter shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—109.2(455B,455E,455J) Definitions. For the purposes of this rule, the definitions in 567—Chapter 100, those found in Iowa Code section 455B.301 and chapters 455E and 455J, and the following definitions shall apply.

"Abandoned" means that the building has been unoccupied for a minimum of six continuous months.

"Asbestos-containing material" or *"ACM"* means any material that contains more than 1 percent of asbestos.

"Building renovation" means repairs that stabilize or improve the structural integrity of the building, including but not limited to roof repair or replacement, building stabilization, and the tuck-pointing of exterior walls.

"Cost share" means the applicant's share of the eligible costs of the proposed project.

"Deconstruction" means the selective dismantlement of a building for the purpose of maximizing reuse and recycling opportunities through source separation while minimizing disposal costs.

"Derelict building grant eligibility" means any city with a population of 5,000 or less is eligible to apply for a derelict building grant. An applicant may partner with a local nonprofit organization on a project.

"Financial assistance" means monetary assistance in the form of grants, loans, or forgivable loans awarded by the department.

"Phase I environmental assessment" means review of known environmental records and land use information about the site and vicinity.

"Phase II environmental assessment" means actual soil, groundwater and structural material sampling and testing to confirm or deny the presence of contamination.

"Recipient" means any applicant selected to receive financial assistance under these rules.

567—109.3(455B,455E) Funding sources. The department will use moneys that are appropriated by the legislature and that may be obtained from other sources for the purpose of achieving the goals outlined in these rules.

567—109.4(455B,455E,455J) Requirements for financial assistance programs. In addition to any of the requirements of Iowa Code chapters 455B, 455E and 455J, the following requirements shall be met.

109.4(1) *Requests for financial assistance.* Requests for financial assistance must be made by applicants on the relevant program application form provided by the department and according to accompanying guidance documentation that specifies program criteria.

109.4(2) *Awards and agreements for financial assistance.*

a. Recipients shall enter into a written agreement with the department for the purposes of implementing the project for which financial assistance has been awarded. The agreement shall be signed by the appropriate department signatory and the recipient's authorized signatory.

b. A written agreement must be executed between the department and the award recipient prior to the recipient incurring expenses. Awarded funds are disbursed on a reimbursable basis and are not to be incurred prior to executing a written agreement.

c. The department may terminate agreements and seek the return of funds released under the agreement for failure by the recipient to perform under the terms and conditions of the agreement.

d. Amendments to agreements may be adopted by mutual written consent of the department and the recipient.

e. The department reserves the right to offer financial assistance awards in an amount less than that requested by the applicant.

f. For funds to be disbursed, the recipient shall be in compliance with all applicable statutes and regulations as specified in the written agreement.

567—109.5(455B,455E,455J) Denial of financial assistance. The department reserves the right to deny financial assistance requests for any reason, including the following:

109.5(1) Funds are insufficient to award financial assistance to all qualified applicants.

109.5(2) An applicant does not meet eligibility requirements pursuant to the provisions of 109.6(1) for the solid waste alternatives program, 109.7(1) for the derelict building program or 109.8(2) for the environmental management system program.

109.5(3) An applicant does not provide sufficient requested information on forms provided by the department pursuant to 567—109.4(455B,455E,455J).

109.5(4) An applicant has previously received financial assistance under these rules and is determined by the department to be delinquent in repaying the loan or delinquent in submitting required documentation.

109.5(5) The goals or scope of the project is not consistent with 109.6(2) for the solid waste alternatives program, 109.7(2) for the derelict building grant program or 109.8(2) for the environmental management system program.

567—109.6(455B,455E) Solid waste alternatives program. Financial assistance awarded under the solid waste alternatives program shall be used to implement activities that support the practical and beneficial use of solid waste materials and for activities leading to a reduction in the reliance on sanitary landfills for disposal of solid waste.

109.6(1) *Eligible applicants.* Any unit of local government, public or private group, individual or business that has an interest in or has responsibility for solid waste management in Iowa and is currently in compliance with all applicable state statutes and regulations is eligible to apply for the solid waste alternatives program.

109.6(2) *Eligible projects.* The department may provide financial assistance to applicants for the following types of projects that are consistent with the goal and purpose of this program:

a. Best practices—practices and programs that will move Iowa toward long-term pollution prevention, waste reduction and recycling sustainability;

b. Education—practices and programs that are consistent with a coordinated statewide message on pollution prevention, waste reduction, and recycling to ensure ongoing support of these integrated solid waste management activities; and

c. Market development—practices and programs that develop a demand for value-added recyclables sufficient to provide increased and stable commodity markets.

109.6(3) *Type of financial assistance.* The types of financial assistance offered to an applicant may include a forgivable loan, zero interest loan, or low-interest loan. The department reserves the right to offer any combination of types of financial assistance to any selected project.

109.6(4) *Loans.* The term of all loans executed under these rules shall be determined on a case-by-case basis and shall be based on the specific capital costs financed, as well as the terms of other financing provided for the project. The written agreement between the department and the recipient will establish other conditions or terms needed to manage or implement the project.

567—109.7(455B,455E) Derelict building grant program. Financial assistance awarded under the derelict building grant program is available to cities of 5,000 or less to help improve the attractiveness and appearance of their jurisdictions by providing financial assistance for eligible projects. Each project must have a landfill diversion component.

109.7(1) *Eligible applicants.* Any city with a population of 5,000 or less is eligible to apply for a derelict building grant. An applicant may partner with a local nonprofit organization on a project.

109.7(2) *Eligible projects.* A city's building is eligible for the program if the building meets the following criteria:

a. The building is an abandoned commercial or public building of which a city has ownership or will obtain ownership no later than June 30 of the fiscal year in which the city applies.

b. The building is not on the National Register of Historic Places.

109.7(3) *Eligible activities and amount of financial assistance.* The eligible activities and amount of financial assistance for each are:

a. Asbestos-containing material inspections: 100 percent reimbursement for inspection costs conducted by a state of Iowa-licensed asbestos contractor.

b. Abatement of asbestos-containing material: 100 percent reimbursement, not to exceed $10,000, for abatement of ACM performed by a state of Iowa-licensed asbestos contractor. A 50 percent cost share is required for those costs exceeding $10,000.

c. Structural engineering analysis: 100 percent reimbursement not to exceed $1,500 for a structural engineering analysis conducted by a licensed structural engineer or architectural historian to determine the ability to renovate the building. The recipient is responsible for all costs exceeding $1,500.

d. Phase I environmental assessment: 100 percent reimbursement not to exceed $3,000 for conducting a Phase I environmental assessment. The recipient is responsible for all costs exceeding $3,000.

e. Phase II environmental assessment: 50 percent reimbursement not to exceed $2,500 for conducting a Phase II environmental assessment. The recipient is responsible for all costs exceeding $5,000. The need for this assessment is determined by the results of the Phase I environmental assessment and involves the sampling of structure components, soil, and groundwater to confirm or deny the presence of contamination.

f. Building renovation: 50 percent reimbursement not to exceed $50,000 for renovation costs, including but not limited to:

(1) Restoration or removal of materials for reuse, either at the site or off site, or for recycling.

(2) Roof repair or replacement.

(3) Building stabilization.

(4) Tuck-pointing of exterior walls.

g. Deconstruction: 50 percent reimbursement not to exceed $50,000 for costs related to deconstruction. All deconstruction projects must achieve a minimum landfill diversion rate of 30 percent of the structure by weight to receive reimbursement for deconstruction costs.

109.7(4) *Deconstruction cost-share incentive.* For every additional 10 percent above 30 percent of landfill diversion by weight that is documented upon completion of the project, the applicant's cost share is reduced by 5 percent and the grant award amount will increase by 5 percent. The maximum grant award for deconstruction projects shall not exceed $75,000.

567—109.8(455E,455J) Environmental management system program. Financial assistance awarded under the environmental management system program is to support projects that pursue continuous improvement by mitigating the environmental impacts of solid waste disposal.

109.8(1) *Eligible applicants.* Any solid waste planning or service area designated as an environmental management system is eligible to apply.

109.8(2) *Eligible projects.* The department may provide financial assistance to applicants for projects that pursue continuous improvement in organics waste management, hazardous household materials collection, water quality improvement, greenhouse gas reduction, recycling services, or environmental education.

These rules are intended to implement Iowa Code sections 455B.301A and 455E.11 and chapter 455J.

ITEM 2. Rescind and reserve **567—Chapter 209**.

ARC 9935C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to rescission of chapters and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 119, "Used Oil and Used Oil Filters," Chapter 145, "Household Batteries," and Chapter 213, "Packaging—Heavy Metal Content," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455D.6, 455D.10A and 455D.19(7).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 455B and sections 455D.6(4), 455D.7(1), 455D.10A, 455D.10B and 455D.19.

Purpose and Summary

Chapters 119, 145, and 213 were reviewed consistent with Executive Order 10. These chapters are duplicative relative to the underlying provisions in Iowa Code chapter 455D. As such, these rules are unnecessary. This rulemaking proposes to rescind all three chapters in their entirety.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 17, 2025. A public hearing was held on the following date(s):

- October 8, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 30, 2026. Comments should be directed to:

Jennifer Wright
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: EO10_solidwaste@dnr.iowa.gov

Free Language Access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at EO10_solidwaste@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held digitally as follows:

January 28, 2026 9 a.m.	Virtual Meeting (via Google Meets or Zoom) A meeting registration link will be provided prior to the hearing
January 30, 2026 9 a.m.	Virtual Meeting (via Google Meets or Zoom) A meeting registration link will be provided prior to the hearing

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Persons who wish to attend a public hearing must contact the Department at EO10_solidwaste@dnr.iowa.gov for a link to the hearing.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.452.1794 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **567—Chapter 119**.

ITEM 2. Rescind and reserve **567—Chapter 145**.

ITEM 3. Rescind and reserve **567—Chapter 213**.

ARC 9938C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to underground storage tank certification programs and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 134, "Underground Storage Tank Licensing and Certification Programs," and to adopt a new Chapter 134, "Underground Storage Tank Certification Programs," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 252J and section 455B.474.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 252J and 455B and 40 CFR Parts 280 and 281.

Purpose and Summary

Proposed Chapter 134 establishes the requirements to regulate groundwater professionals, underground storage tank (UST) compliance inspectors, and UST professionals. UST professionals include UST installers, UST removers, UST testers, cathodic protection testers, UST liners, and UST installation inspectors.

The purpose of these rules is to ensure that groundwater professionals, UST compliance inspectors, and UST professionals have sufficient knowledge, experience, and continuing education to properly perform the necessary duties to assess and remediate releases at underground storage tank systems and to install, test, inspect, and remove equipment associated with underground storage tanks to ultimately protect the public health and safety of the citizens and natural resources of Iowa.

Iowa's underground storage tank rules have been approved by the U.S. Environmental Protection Agency into Iowa's required State Program Approval.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 23, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 29, 2026. Comments should be directed to:

Keith Wilken
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.681.0794
Email: keith.wilken@dnr.iowa.gov

Free Language Access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at USTEO10@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al USTEO10@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 8 to 10 a.m.	Lake Darling Conference Center 6200 Park Avenue, Suite 200 Des Moines, Iowa Also via videoconference
January 28, 2026 8 to 10 a.m.	Woods Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa Also via videoconference
January 29, 2026 8 to 10 a.m.	Walnut Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa Also via videoconference

Persons who wish to attend a public hearing should contact Keith Wilken at USTEO10@dnr.iowa.gov. A link will be provided prior to the hearing. Persons who wish to make oral comments at a public hearing must submit a request to Keith Wilken prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: If you need assistance in a language other than English, contact the Department at USTEO10@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.681.0794 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al USTEO10@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.681.0794 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 567—Chapter 134 and adopt the following **new** chapter in lieu thereof:

CHAPTER 134
UNDERGROUND STORAGE TANK CERTIFICATION PROGRAMS

567—134.1(455B) Scope. The purpose of this chapter is to provide rules for the certification of groundwater professionals, compliance inspectors, and other UST professionals, including certification qualification, fees and administration. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this chapter shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—134.2(455B) Definitions incorporated by reference. The definitions in 567—Chapter 135, Iowa Code section 455B.471, and 40 CFR §280.12 (2015) shall apply to this chapter.

567—134.3(455B) Certification classifications for individuals and companies

134.3(1) A separate certification will be issued for:

a. UST installers;
b. UST removers;
c. UST testers;
d. UST cathodic protection testers;
e. UST liners;
f. UST installation inspectors;
g. UST compliance inspectors;
h. Groundwater professionals.

134.3(2) A company employing certified individuals for compliance inspections, installation, upgrading, removal, lining or testing of UST systems shall be certified as a company. A company may have its certification revoked if it employs uncertified individuals to do work requiring a certification.

134.3(3) Service technicians as defined in 567—Chapter 135 are exempt from certification under this chapter.

567—134.4(455B) General certification requirements.

134.4(1) *Applications and certificates.*

a. Applications for certifications shall be submitted on a form provided by the department along with all required supporting documentation. Certificates shall be issued and renewed on a two-year calendar basis. Groundwater professional certificates expire on December 31 of each odd-numbered year and all other certificates expire on December 31 of each even-numbered year. All applicants must be at least 18 years of age.

b. Applications shall contain the following information:

(1) Evidence that the applicant meets the experience, education, and other qualification prerequisites contained in this chapter for each certification.

(2) Contact information for the applicant.

(3) Other information necessary for a determination of the applicant's qualifications.

134.4(2) *Certification fees.* A $200 fee shall be submitted for each groundwater professional certification. For all other certifications, a $200 fee shall be submitted with each application for an initial company and individual certification application, including when an individual applies for multiple non-groundwater professional certifications using a single department-approved form. Fees are nonrefundable, are payable to the Department of Natural Resources, and will not be prorated.

134.4(3) *Reciprocity.* Persons who are certified as a UST installer, installation inspector, tester, liner, or remover under another state or federal regulatory program that has been approved by the department may be eligible for certification in Iowa without having to take a course of instruction or pass the examination. Applicants for reciprocity shall still pay the application fee and follow certification renewal requirements.

567—134.5(455B) Liability insurance

134.5(1) *Environmental liability insurance.* All certificate holders, except for compliance inspectors and groundwater professionals, must hold environmental liability insurance as required by Iowa Code section 455B.474(10). A company may provide insurance for all of its employees who are UST certificate holders.

134.5(2) *Employer exception.* Individuals certified by this chapter, except for groundwater professionals, employed by owners or operators of UST systems to work only on the owner's or operator's private system(s) are exempt from insurance requirements.

134.5(3) *Forms of acceptable insurance.* All parties certified by this chapter, except groundwater professionals and compliance inspectors, will provide evidence of environmental liability insurance to the department.

a. Environmental liability insurance may be provided by a private insurer authorized to do business in Iowa.

b. Evidence of environmental liability insurance may be provided using methods of self-insurance as outlined in 567—Chapter 136.

134.5(4) *Professional liability insurance requirements.* All certified compliance inspectors are required to have professional liability insurance with minimum liability limits of $1 million per occurrence and in the aggregate.

567—134.6(455B) Training courses and examinations.

134.6(1) *Requirements.*

a. Prior to the issuance of a certification as a groundwater professional, compliance inspector, installer, installation inspector, or remover, the applicant will successfully complete a department-led or department-approved training course and pass a qualification examination offered or approved by the department.

b. Examination requirements for all individual certificate holders.

(1) A passing grade of not less than 75 percent is required on the respective examinations for installers, installation inspectors, removers and compliance inspectors. A passing grade of not less than 70 percent is required on the groundwater professional examination.

(2) Applicants who have failed the examination will not perform work unless supervised by an appropriately certified individual.

(3) A fee reflecting the actual costs of developing and administering each course of instruction and examination may be charged.

(4) Nothing in this chapter shall limit the right of the department to require additional educational requirements of certification holders.

c. An applicant who receives less than a passing score on an examination may retake the test within 180 days without reapplying. The application of an applicant who fails the second examination will be denied. An applicant who fails the second examination may reapply for certification but will not retake the examination until the applicant has successfully completed a course of instruction that is administered or approved by the department and that is administered after the applicant's second test.

134.6(2) *Educational offering requirements.*

a. Courses approved by the department. The requirement for educational offerings may be met only by those courses that have been approved by the department.

b. Form of course approval. Approval of a course may take the form of:

(1) Program approval granted by the department to the sponsor or instructor of an educational offering;

(2) Individual requests for credit granted by the department to an installer or inspector for an educational offering whose sponsor or instructor did not seek program approval; or

(3) Blanket approval granted by the department to educational offerings sponsored by the department or other professional organizations whose standards have been approved by the department.

c. Procedures for course approval.

(1) Application for program approval shall be made by the sponsor or instructor to the department and include an agenda or an outline of the content of the proposed educational offering.

(2) The application shall be reviewed by the department, and notice of approval or denial of program approval shall be sent to the sponsor or instructor. Credit hours may be limited by the department based on program content.

d. Proof of participation. Any approved course must provide participants a certificate of satisfactory completion of the course or provide the department a list of participants who have satisfactorily completed the course.

134.6(3) *Exceptions to required training.*

a. An applicant may be issued a compliance inspector certification without the required training if all other requirements are satisfied and the required training is not offered within 60 days of the date of application. The applicant must attend required training when required training is next offered. If an applicant receives a certification under this temporary exception, the individual must attend required training, if offered, before renewal of the certification.

b. If an applicant receives a compliance inspector certification under the temporary training exception above, all compliance inspection activities must be conducted under the supervision of a trained Iowa-certified compliance inspector. Supervision does not require the trained Iowa-certified compliance inspector to be on site for compliance inspections conducted by an inspector who has not completed the required training. The trained Iowa-certified compliance inspector must co-sign compliance inspections conducted by the inspector who has not completed the required training.

c. Cathodic protection testers are not required to complete a course of instruction but are required to maintain AMPP certification, STI cathodic protection certification, or equivalent certification approved by the department.

d. UST liners and UST testers are exempt from the requirement to complete a course of instruction or pass a state qualifying examination for initial certification purposes.

134.6(4) *Exemption from examination.*

a. A professional engineer exempted from groundwater professional certification examination pursuant to Iowa Code section 455B.474(9)*"g"* must meet the continuing education requirements of 567—134.8(455B) for the exemption to apply.

b. An engineer who is conducting business as an installation inspector or remover and who has met the requirements in Iowa to be a registered professional engineer (P.E.) is exempt from the educational requirements so long as UST-related work is in the scope of the engineer's P.E. license and regular practice. Professional engineers must meet the continue education requirement of 567—134.8(455B) for this exemption to apply.

567—134.7(455B) Certification issuance. Upon receipt, review, and acceptance of an application and corresponding fee, the department will furnish the applicant with a certificate showing the name of the individual or company and the expiration date.

567—134.8(455B) Certification renewal.

134.8(1) *Renewal period.* Applications for renewal must be submitted on a form provided by the department and no later than 30 days prior to the expiration date. If a certificate holder fails to renew the certification by the expiration date, the department may grant a grace period during which the applicant may submit the application and payment of the renewal fee.

134.8(2) *Renewal requirements.*

a. The renewal application shall be accompanied by a $200 renewal fee. Company renewal applications will include proof of liability insurance as required under 567—134.5(455B). Applications received after the December 1 deadline will be accepted with an additional $50 late fee.

b. To be eligible for renewal, an individual certificate holder shall fulfill all continuing education requirements, along with any other requirements set forth in each certification classification rule in this chapter. The department will consider all past disciplinary actions against the certificate holder when evaluating renewal eligibility.

134.8(3) *Continuing education.* Individual certificate holders must complete continuing education requirements as follows:

a. Groundwater professionals must complete 12 hours of continuing education every two years in the areas relating to underground storage tank contamination assessment and corrective action activities.

b. Cathodic protection testers must complete continuing education sufficient to maintain AMPP (NACE) or STI cathodic protection certification or department-approved equivalent certification.

c. All other certificate holders must complete eight hours of department-approved continuing education every two years.

d. Proof of completion of continuing education must be submitted to the department no later than the date of each renewal application. The department may limit the number of hours granted for similar courses during a renewal period.

e. An individual's first certification period's continuing education requirements can be waived. Continuing education hours cannot be carried forward to the next renewal period.

f. Courses other than those currently approved by the department may be submitted to the department for consideration of approval.

567—134.9(455B) Groundwater professional certification requirements. In order to be certified as a groundwater professional, a person must meet one or more of the criteria described in Iowa Code section 455B.474(9). For a person to qualify under Iowa Code section 455B.474(9)*"b"*(4), at least two years of related formal education is required. Pursuant to Iowa Code section 455B.474(9)*"c,"* for persons qualified to be certified under this rule, the failure to obtain a certificate prior to conducting applicable work will result in a $50 civil penalty.

567—134.10(455B) UST compliance inspector certification requirements.

134.10(1) *Qualifications.*

a. A person retained by an owner or operator of a UST facility for the purpose of determining compliance of a UST system for a compliance inspection required by the department under 567—135.19(455B) must hold a current UST compliance inspector certification issued by the department.

b. Inspector certification will be issued by the department to a person who:

(1) Meets the certification requirements listed under 567—134.6(455B);

(2) Satisfies one of the following:

1. Is a certified installer;
2. Is a certified installation inspector;
3. Has participated on a minimum of 50 onsite compliance inspections with a certified compliance inspector;
4. Has two years of experience working with petroleum equipment, including installations, maintenance, or testing; or
5. Has other relevant experience approved by the department; and

(3) Is not found to be in violation of this chapter and has not had a certification issued by the department under this chapter revoked.

134.10(2) *Renewal qualifications.* To be eligible for certification renewal, a compliance inspector shall have:

a. Fulfilled the department's continuing education requirements in 567—134.8(455B); and

b. Conducted at least 12 compliance inspections in the past two years.

134.10(3) *UST compliance inspector responsibilities.*

a. Compliance inspection. The UST compliance inspector shall conduct a compliance inspection in accordance with this rule and 567—Chapter 135. The inspector shall notify the department of the date of a site inspection at least ten days prior to the inspection or another time frame approved by the department.

b. Inspection process.

(1) Upon completion of the site inspection, the inspector shall send an inspection report to the owner and operator within ten business days. At a minimum, the report shall provide the following:

1. Any violations or deficiencies related to 567—Chapter 135 or other applicable state or federal law and those specific actions necessary to correct the violations or deficiencies.

2. Applicable time frames to correct violations or deficiencies if established in 567—Chapter 135 or within 60 days of receipt of the inspection report or another reasonable time period approved by the department.

(2) A final electronic report shall be submitted to the department and a copy provided to the owner and operator as provided in 134.10(3)*"c"* within the following time frames:

1. Within ten business days of the inspection if the results of the inspection find no violations or deficiencies requiring corrective action.

2. Within ten business days of the inspector's receipt of all necessary documentation of all action required to correct violations and deficiencies.

3. In any case, no later than 90 days of the site inspection.

4. Any deficiencies identified on the day of a compliance inspection must be reported to the department as a deficiency, regardless of when it is addressed.

c. Electronic inspection reporting. The inspector shall prepare an electronic report in accordance with the following:

(1) The inspector shall enter the results of the site inspection discovered at the time of the inspection and any actions taken to correct violations and deficiencies on an internet-based electronic format developed by the department and in accordance with guidance. The department's software will be capable of generating an inspection report.

(2) The department will develop a generally compatible electronic platform using XML or another approved format. The department will provide the XML schema file format to describe the data needed to allow an inspector to transfer multiple site inspection results in an electronic batch process over the internet using the department's inspection website.

(3) The inspector shall provide a print copy of the electronically generated inspection report to the owner and operator or an alternative report approved by the department.

(4) The inspection report submitted to the department electronically will include at least one overall site photo.

d. Evidence of violations or deficiencies. Any evidence of violations or deficiencies observed during the inspection must be photographed using a digital photograph. Digital photographs must be submitted as part of the electronic inspection report and maintained by the inspector for five years as part of the inspector's records.

e. Records. The inspector must provide any inspection records provided by the owner and operator to the department upon request.

f. Inspection technical requirements. An inspector of a UST system must check for compliance with the technical standards of 567—Chapter 135. The inspection of a UST system currently in operation shall include but not be limited to the following:

(1) The material currently stored in the UST.

(2) The type of tank and lines currently at the site as compared to the registered information on the department's database.

(3) Checking site records demonstrating operational compliance (567—subrule 135.4(5)).

(4) Checking release detection records (567—subrule 135.5(6)).

(5) Visually checking for product releases or other violations by opening covers of dispensers, manways, and containment sumps for submersible pumps and other piping connections for:

1. Damaged or deteriorated product lines and underground fuel delivery components.
2. Proper anchoring of emergency shutoff (shear) valves.

(6) Current operating status of impressed current cathodic protection system, if present.

(7) Presence and operational condition of spill and overfill equipment (567—paragraph 135.3(1)*"c"*).

134.10(4) *Conflict of interest.* A compliance inspector shall not conduct a compliance inspection if the compliance inspector is the owner or operator of the UST system, an employee of the owner or operator of the UST system, or a person having daily onsite responsibility for the operation and maintenance of the UST system.

567—134.11(455B) UST installer certification requirements.

134.11(1) *Qualifications.* An installer of an UST system shall apply for a certification as an installer. In addition to the certification requirements listed under 567—134.6(455B), an installer must:

a. Provide documentation of at least two years of relevant experience;

b. Provide documentation of manufacturer certification for work, including but not limited to tank systems, piping systems, leak detection and monitoring systems, and corrosion protection systems; and

c. Have completed a 40-hour OSHA Hazardous Waste Operations and Emergency Response (HAZWOPER) training.

134.11(2) *Renewal qualifications.* To be eligible for certification renewal, an installer shall:

a. Fulfill the department's continuing education requirements in 567—134.8(455B);

b. Maintain manufacturer certification; and

c. Complete an annual eight-hour HAZWOPER refresher course.

134.11(3) *Responsibilities.*

a. Certified installer. A certified installer shall be on site during the performance of all work, including subcontracted work, for which the owner/operator has contracted to have completed by the installer. The certified installer is responsible for all UST-related work at the site and must ensure that the performance of the work and the finished work conform to industry standards and codes and manufacturers' requirements.

b. Local permits and notification. The certified installer is responsible for ensuring that all local installation permits and notice requirements are satisfied.

c. Work performed. UST system installation includes all work associated with the placement of the tanks, piping, pumps, dispensers, gauging systems, monitoring systems, containment sumps, spill and overfill devices, and ancillary systems that, if installed incorrectly, could cause or delay detection of a leak. Installation specifically includes excavation, equipment placement, backfilling, piping, electrical work, testing calibration, and start-up. Tank installation also includes installation of the appropriate equipment to meet National Emissions Standards for Hazardous Air Pollutants (NESHAP) requirements (40 CFR §63.6580, Subpart ZZZZ), including submerged fill and vapor balance systems (Stage 1 vapor recovery) and the testing of those systems.

d. Testing of UST equipment. Spill prevention equipment, containment sumps and UDC at new installations must be tested to ensure the equipment is liquid-tight before the UST system is placed into service. Acceptable test methods include vacuum, pressure, or liquid testing used in accordance with requirements developed by the manufacturer; a code of practice such as PEI RP1200; or methods determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

134.11(4) *Documentation of work performed.* Installing a new UST system or upgrading a UST system requires an installer to submit department forms and testing documents applicable to the

installation, signed by the owner, to the department no later than 30 days after the final third-party inspection or 30 days after completion if no inspection is required. Each certified installer responsible for the new system installation or the upgrading of an existing system shall sign DNR Form 148 as required by 567—paragraph 135.3(3)*"e."* Secondary containment testing performed at installation or to meet periodic testing requirements shall be recorded on the department's Secondary Containment Testing form unless otherwise approved by the department. Test results shall be dated and signed by the certified installer who performed the test.

567—134.12(455B) UST tester certification requirements.

134.12(1) *Qualifications.* A tester of UST systems shall apply for certification as a tester. A person engaging in testing described in 567—subparagraph 134.12(3)*"a"*(2) need not be certified if that person is under the supervision of an individual certified under this chapter when conducting those tests. In addition to the certified requirements listed under 567—134.6(455B), a tester shall provide documentation of the following:

a. Current manufacturer certification(s) for equipment being used for testing; and

b. Experience as documented by at least one of the following:

(1) One year of relevant experience.

(2) Completion of a minimum of 80 on-site tests with a certified tester.

(3) Other relevant experience as approved by the department.

134.12(2) *Renewal qualifications.* To be eligible for certification renewal, a tester shall fulfill the department's continuing education requirements in 567—134.8(455B) and shall maintain manufacturer certification.

134.12(3) *Responsibilities.*

a. The certified tester is responsible for testing tanks, lines, leak detection systems, or monitoring systems as required by 567—Chapter 135 and this chapter.

(1) A precision test is required when the system is covered and is ready to be placed into service; a volumetric, nonvolumetric, or vacuum test may be used as a method for testing the system and a hydrostatic pressure test may be used for testing the lines. Systems used for leak detection or monitoring (such as statistical inventory reconciliation, vapor or water monitoring wells, or tracer-type tests) shall not be acceptable as a precision test at the completion of the installation of a new system or the upgrading of an existing system. Automatic in-tank gauging may be acceptable if third-party U.S. EPA approval as a precision test has been received for testing tanks.

(2) A certified tester may also perform periodic testing of spill prevention equipment and overfill devices, containment sumps, and UDC as required by 567—Chapter 135. Spill prevention equipment, containment, sumps and UDC at new installations must be tested to ensure the equipment is liquid-tight before the UST system is placed into service. Acceptable methods include vacuum, pressure, or liquid testing used in accordance with requirements developed by the manufacture; a code of practice such as PEI RP1200; or methods determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

(3) An individual does not need to be certified to conduct periodic testing of spill prevention equipment, containment sumps, and UDC as required by 567—subrule 135.4(12).

b. Reserved.

EXCEPTION: Installation inspectors are not required for the testing of UST systems, lines, leak detection, and cathodic protection as required by 567—Chapter 135 after the system has been put into service.

134.12(4) *Documentation of work performed.* A copy of the test results shall be attached to DNR Form 148 when testing is done in connection with an installation. The test results shall identify the tanks and piping tested, the test method employed, and the results of the test. Periodic testing shall be recorded on the department's Secondary Containment Testing form unless otherwise approved by the department. Test results shall be dated and signed by the certified tester who performed the tests.

567—134.13(455B) UST liners certification requirements.

134.13(1) *Qualifications.* A person installing or repairing the lining for a UST system shall be certified as a liner. In addition to the certification requirements listed under 567—134.6(455B), a liner shall provide documentation of at least two years of relevant experience, provide documentation of current manufacturer certification, and have completed a 40-hour HAZWOPER training.

134.13(2) *Renewal qualifications.* To be eligible for certification renewal, a liner shall:

a. Fulfill the department's continuing education requirements in 567—134.8(455B);

b. Maintain manufacturer certification; and

c. Complete an annual eight-hour HAZWOPER refresher course.

134.13(3) *Lining system investigation and installation requirements.*

a. Inspection of internal lining. A steel underground storage tank that satisfies the corrosion protection requirement as set forth in 567—subparagraph 135.3(2)*"b"*(1) by the addition of an internal lining shall be internally inspected within ten years of the date the tank was lined and every five years thereafter. The purpose of the inspection is to determine if the lining continues to perform according to the manufacturer's specifications, state and federal rules, and national standards and codes and to determine if the tank is still structurally sound. The department accepts both manned entry and video camera periodic inspections. The lining method employed must be specifically designed for the purpose, be compatible with the product stored, and meet acceptable federal and state standards as set forth in 567—Chapter 135.

b. Integrity testing for tanks. Liners shall verify structural integrity, including thickness and strength of the underground storage tanks, whenever tanks are physically entered (manned entry) for periodic inspections. The following standards must be used for lining and periodic inspections and integrity testing:

(1) Manned entry inspection. American Petroleum Institute (API) Standard 1631: Interior Lining and Periodic Inspection of Underground Storage Tanks.

(2) Video camera inspection. API Standard 1631; "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera" developed by Ken Wilcox Associates Inc. (KWA), Methods A and C; and ASTM G-158 (approved prediction models).

(3) Repairs to lining. Standard 631 of the National Leak Prevention Association (NLPA): Entry, Cleaning, Interior Inspection, Repair and Lining of Underground Storage Tanks. Repaired lining must meet the requirements of API 1631 §8.

(4) Documentation of the inspection. API 1631—Form C: Tank Re-Inspection Affidavit. Liners shall document any defects noted in the system including but not limited to holes and perforations using API 1631—Form C: Tank Re-Inspection Affidavit and shall include photographs of all methods of repair.

c. Documentation of work performed. A liner shall submit the API 1631 report form to the department certifying that all work was performed in accordance with applicable industry standards.

567—134.14(455B) UST installation inspector certification requirements.

134.14(1) *Qualifications.* A person inspecting the installation of any UST system shall be certified as an installation inspector. In addition to the certification requirements listed under 567—134.6(455B), an installation inspector shall provide documentation of at least two years of relevant experience and documentation of current manufacturer certification.

134.14(2) *Renewal qualifications.* To be eligible for certification renewal, an installation inspector shall fulfill the department's continuing education requirements in 567—134.8(455B) and shall maintain manufacturer certification.

134.14(3) *Responsibilities.*

a. A copy of the inspection report must be submitted within 14 days after the inspection is complete. Both the inspection form and DNR Form 148 must be received by the department before the UST system can be activated.

b. The installation inspector shall be present on site, shall visually observe all inspections, and shall be able to attest to the results. A video or other recording device showing the work completed by

the installer shall not be used, nor shall it be an acceptable method of providing independent inspection of the work completed.

c. Inspections are required when concrete is cut or excavation is required that could affect the integrity or operation of the UST system or when a component that routinely contains product is installed, replaced, or repaired. Inspections shall occur when the component is uncovered and replaced or repaired and during testing when required (i.e., piping replacement or repair) but before operation recommences.

(1) An inspection shall occur before the tanks or piping are installed.

(2) An inspection shall occur before the covering of tank or piping when all tanks and piping are exposed. The inspector shall witness testing of the primary and secondary piping and testing of the secondary containment, including sumps, UDC, and secondary containment leak detection equipment.

(3) A final inspection shall occur when all components are operational and the system has been covered but before actual operation.

(4) Whenever secondary containment (such as sumps or UDC) is installed, at least one inspection is required after the equipment is installed and before the system is backfilled.

d. Replacing, repairing, or installing the following does not require an inspection: drop tubes, overfill devices, spill buckets, ATG systems, dispensers, submersible turbine pumps, automatic line leak detectors, internal lining and periodic inspections or lining repair, cathodic protection systems, interstitial sensors, flex connectors, and line and tank tightness testing.

e. Prework notification requirement.

(1) A certified company/individual hired by an owner/operator to perform work shall notify the owner's/operator's certified installation inspector of choice prior to commencing work. Additionally, the owner/operator is responsible for supplying the name of the installation inspector if it is not a governmental entity to any state or local agency with rules affecting installations or upgrades.

(2) The prework notice given to the installation inspector shall include, at a minimum, the following information:

1. Description of the work planned.
2. The certified individual responsible for the work to be performed.
3. A schedule of the work to be performed.
4. A copy of the UST notification of intent to install form submitted to the department.

(3) The installation inspector shall review the work plan, and any required changes by the installation inspector must be submitted to the company/individual prior to the beginning of the described work. An inspection schedule must be agreed upon before work commences. Changes to the work schedule, including the inspection schedule, because of weather or unforeseen jobsite conditions shall be agreed upon as soon as the extenuating circumstances are recognized.

f. Preinstallation and installation checklist.

(1) The certified company/individual performing the work shall submit to both the installation inspector and the department a notification of intent to install form 30 days prior to an installation or upgrade.

(2) Installation inspectors are required to use the department's installation inspection checklist. The installation inspection checklist must be submitted within 14 days following the tank installation inspection.

134.14(4) *Conflict of interest.* In addition to the conflict-of-interest provisions outlined in 567—134.16(455B), the department may require the owner/operator to seek alternative inspection services for any reason deemed prudent to ensure quality installations.

134.14(5) *Miscellaneous requirement.* An installation inspector has the right to postpone work or to stop work on a job if standards as outlined in this chapter are not followed by the installer. Furthermore, once an installation inspector has been placed on a job, that installation inspector cannot be replaced without the department's approval. Installation inspectors must verify that any local permit and notice requirements are in place.

567—134.15(455B) UST remover certification requirements.

134.15(1) *Qualifications.* A person removing any UST system shall be certified as a remover. In addition to the certification requirements listed under 567—134.6(455B), a remover shall provide documentation of at least two years of removal or other relevant experience and complete a 40-hour OSHA HAZWOPER training.

134.15(2) *Renewal qualifications.* To be eligible for certification renewal, a remover shall:

a. Fulfill the department's continuing education requirements in 567—134.8(455B);

b. Comply with department-issued UST closure guidance in 567—Chapter 135; and

c. Complete an annual eight-hour HAZWOPER refresher course.

134.15(3) *Responsibilities and documentation of work performed.* A certified remover shall be on site during the performance of all UST closure-related work, including subcontracted work, for which the owner/operator has contracted to have completed by the remover. Removers are responsible for ensuring that all work performed complies with OSHA safety requirements. Removers shall submit to the department a notification of closure form 30 days prior to the scheduled removal or fill in place as required in 567—subrule 135.15(2). Removers shall submit to the department the closure report within 45 days of removal or fill in place as required in 567—paragraph 135.15(3)*"e."* Removers shall ensure that all local permits and notice requirements are satisfied.

567—134.16(455B) Conflict of interest.

134.16(1) A certified individual or a company will not conduct a UST installation inspection for any facility at which the certificate holder is engaged in other professional services regulated under this chapter.

134.16(2) A person working for a certified company as an installer, liner, remover, or tester shall not provide services as an installation inspector on sites where UST systems are being installed or lined by the person's prior employer until six months after leaving the prior employer's certified company. If a certified individual is no longer employed by a certified company, the certified company shall notify the department within 30 days of that occurrence.

567—134.17(455B) Duty to report. Any individual or company certified as a compliance inspector, installer, installation inspector, tester, liner, or remover shall timely report suspected and confirmed releases within 24 hours of discovery (6 hours if a hazardous condition exists) as described in 567—135.6(455B) to the owner and operator. The certificate holder shall recommend to the owner and operator any release confirmation actions or other investigatory and response actions that in the certificate holder's judgment would be consistent with the requirements of 567—135.6(455B). The certificate holder shall report to the department within seven days of discovering a confirmed release. The certificate holder is not responsible for reporting a suspected release as described in 567—135.6(455B) directly to the department.

567—134.18(455B) Disciplinary actions—suspension, revocation and denial of certification.

134.18(1) *General.*

a. It is the policy of the department to enforce standards of professional and ethical conduct that are generally accepted within the professions that qualify a person for certification in Iowa. The department intends to investigate and enforce standards of conduct by a certificate holder that fall within the scope of the certificate holder's relationship with the department. The department may impose disciplinary actions, which may include notice of deficiency, probation, suspension, revocation, or denial of a certificate.

b. The suspension or revocation of a certificate shall prevent the certificate holder from engaging in activities for which certification is required. A certificate holder shall immediately surrender the certificate after the effective date of a suspension or revocation decision. The department may reinstate the certification if it is determined the person has satisfied the terms of the suspension order and the certification has not expired. Additional education, training, and reexamination may be required as a condition of reinstatement.

c. A notice of deficiency may be issued to any certificate holder for any reason below and is not appealable pursuant to 134.18(5).

134.18(2) *Reasons for discipline for groundwater professionals.* The department may impose probationary requirements or suspend, revoke or deny certification as a groundwater professional for any of the following reasons:

a. A material misstatement of fact in an application for certification.

b. Failure to provide the fee for certification.

c. Loss of license, certification, or registration necessary to meet the certification requirements in 567—134.9(455B).

d. Insufficient proof of qualifications required under 567—134.9(455B).

e. Failure to successfully complete the certification requirements.

f. Default on an obligation owed to or collected by the state as provided in Iowa Code section 421.17(27)*"e."*

g. Fraudulent omissions or misstatements of material fact in any reports, correspondence or communications with the department.

h. Violation of an ethical standard that the person knew or should have known and that results in or reasonably could have resulted in material consequences.

i. Failure to report the presence of contamination to the parties reasonably believed to be responsible for reporting the contamination to the department as provided in 567—Chapter 131 and 567—135.6(455B).

j. Knowingly making a materially false statement, representation or certification on any application, record, report, or document maintained or submitted to the department.

k. Gross incompetence in the performance of groundwater professional services and corrective action.

l. Material misstatement of facts or misrepresentation of information provided pursuant to Iowa Code chapter 455B, subchapter IV, part 8.

m. Repeated acts or omissions that, when taken together, indicate a lack of competency, professionalism, ethical conduct, or adherence to standards of performance generally expected by the profession. The severity of the sanction may be based on the gravity of the acts or omissions and the degree of culpability. Disciplinary sanctions under this subrule will not be applied without providing the person with at least one written notice of the deficiency and a written warning that future repetition may result in discipline. Conduct or omissions that may be a basis for discipline include but are not limited to the following:

(1) Repeated incidents of substandard field investigation will result in suspension or revocation.

(2) Repeated incidents of substandard, inaccurate or incomplete site cleanup reports and failure to follow site cleanup report instructions will result in suspension or revocation.

(3) Conduct warranting a sanction after prior suspension will result in a revocation.

134.18(3) *Reasons for discipline for compliance inspectors.*

a. Probation or suspension. The department may impose probationary requirements or suspend the certification of a certified inspector for good cause. The suspension may require the certificate holder to take remedial measures intended to correct or prevent future acts and omissions. Good cause includes but is not limited to:

(1) A violation of these rules.

(2) Negligent misrepresentation of material facts in a compliance report.

(3) Negligent failure to identify a material violation of UST operation and maintenance standards set out in 567—134.10(455B).

(4) Repeated failure to conduct compliance inspections and submit reports in accordance with the standards set out in 567—134.10(455B).

(5) Incompetence on the part of the certified inspector as evidenced by errors in the performance of duties and activities for which the certification was issued.

(6) Repeated failure to submit reports of inspection activities to the department or the owner and operator as provided in 567—134.10(455B).

b. Revocation. The department may revoke the inspector certification for one or more of the following:

(1) Willful disregard of, or willful or repeated violations of, this chapter or 567—Chapter 135.

(2) Fraudulent omissions or misstatements of material facts in a compliance inspection report or in other written or oral communications with the department.

(3) A knowing and willful failure to detect and report a material violation of UST operation and maintenance standards as part of a compliance inspection required by 567—135.19(455B).

(4) Acts or omissions warranting suspension after having certification previously suspended.

(5) The revocation of a certification as an installer or installation inspector under 567—134.11(455B) or 567—134.14(455B).

134.18(4) *Reasons for discipline for all other UST professionals.*

a. Probation or suspension. The department may impose probationary requirements or suspend the certificate of any other individual or company certified under this chapter for good cause. A suspension may require the certificate holder to take remedial measures intended to correct or prevent future acts or omissions. Good cause includes but is not limited to:

(1) A violation of these rules.

(2) Negligent misrepresentation of material facts in a report submitted to the department.

(3) Incompetence on the part of the certificate holder as evidenced by errors in the performance of duties and activities for which the certificate was issued.

(4) Repeated failure to submit reports of activities to the department or the owner/operator as provided in this chapter.

b. Revocation. The department may revoke the certification of a company or individual for one or more of the following:

(1) Willful disregard of, or willful or repeated violations of, this chapter or 567—Chapter 135.

(2) Omissions or misstatements of material facts in a report or in other written or oral communications with the department.

(3) A knowing and willful failure to detect and report a material violation of UST operation and maintenance standards.

(4) Acts or omissions warranting suspension after a certification was previously suspended.

134.18(5) *Disciplinary procedure for all certificate holders.*

a. Prior to issuance of a final department action imposing a disciplinary sanction of probation, suspension, revocation, or denial of certification, the department shall conduct such lawful investigation as it deems necessary to substantiate material facts sufficient to warrant a disciplinary sanction.

b. Written notice of a sanction shall be sent by certified mail to the person against whom the sanction is imposed. The notice shall provide a brief explanation of the facts relied upon and the sanction to be imposed. The notice shall inform the recipient of applicable appeal rights.

c. A person may appeal a decision imposing a probation, suspension, revocation or denial of certification within 30 days of receipt of the notice. Upon timely receipt of the notice of appeal, contested case procedures, including informal settlement, shall apply as provided in 561—Chapter 7. In accordance with 561—subrule 7.5(2), the department shall initiate pleading by the filing of a petition.

d. If a timely appeal has not been filed, the sanction is effective after 30 days from receipt of the notice. A party may request stay of the sanction, as provided in 561—subrule 7.15(7), after issuance of a proposed decision.

134.18(6) *Noncompliance with support order procedures.* Upon receipt of a certification of noncompliance with a support obligation as provided in Iowa Code section 252J.7, the department will initiate procedures to deny an application for certification or renewal or to suspend a certification in accordance with Iowa Code section 252J.8(4). The department shall issue a notice by certified mail to the person of its intent to deny or suspend professional certification based on receipt of a certification of noncompliance. The suspension or denial shall be effective 30 days after receipt of the notice unless the person provides the department with a withdrawal of the certificate of noncompliance from the child support recovery unit as provided in Iowa Code section 252J.8(4)*"c."* Pursuant to Iowa Code section 252J.8(4), the person does not have a right to a hearing before the department to contest the denial or

suspension action under this subrule but may seek a hearing in district court in accordance with Iowa Code section 252J.9.

These rules are intended to implement Iowa Code section 455B.474 and chapter 252J.

ARC 9933C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to technical standards and corrective action requirements and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 135, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks," Iowa Administrative Code, and to adopt a new Chapter 135 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 455B.474.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 455B.474 and 40 CFR parts 280 and 281.

Purpose and Summary

Proposed Chapter 135 establishes the requirements to regulate underground storage tanks (USTs) used for storage of regulated substances and includes rules relating to detection, prevention, and correction of releases of regulated substances from such USTs; maintenance of financial responsibility by owners or operators of USTs; new UST performance standards; notice and reporting requirements; and designation of regulated substances.

The purpose of these rules is to protect the public health and safety and the natural resources of Iowa by the timely and appropriate detection, prevention, and correction of releases of regulated substances from USTs. Proposed Chapter 135 has been reviewed consistent with Executive Order 10. Unnecessary and obsolete rules have been removed, and updates and clarification have been made.

Iowa's UST rules have been approved by the U.S. Environmental Protection Agency into Iowa's required State Program Approval.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 23, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 29, 2026. Comments should be directed to:

Keith Wilken
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.681.0794
Email: USTEO10@dnr.iowa.gov

Free Language Access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at USTEO10@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al USTEO10@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 10 a.m. to 12 noon	Lake Darling Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa
January 28, 2026 10 a.m. to 12 noon	Woods Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa
January 29, 2026 10 a.m. to 12 noon	Walnut Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Persons who wish to attend a public hearing should contact Keith Wilken at USTEO10@dnr.iowa.gov. A link will be provided prior to the hearing. Persons who wish to make oral comments at the public hearing must submit a request to Keith Wilken prior to the hearing to facilitate an orderly hearing.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: If you need assistance in a language other than English, contact the Department at USTEO10@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.681.0794 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el DNR al USTEO10@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.681.0794 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 567—Chapter 135 and adopt the following **new** chapter in lieu thereof:

CHAPTER 135
TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS

567—135.1(455B) Authority, purpose and applicability.

135.1(1) *Authority.* Iowa Code chapter 455B, subchapter IV, part 8, authorizes the department to regulate underground tanks used for storage of regulated substances, and to adopt rules relating to detection, prevention and correction of releases of regulated substances from such tanks, maintenance of financial responsibility by owners or operators of such tanks, new tank performance standards, notice and reporting requirements, and designation of regulated substances.

135.1(2) *Purpose.* The purpose of these rules is to protect the public health and safety and the natural resources of Iowa by timely and appropriate detection, prevention and correction of releases of regulated substances from underground storage tanks (UST).

135.1(3) *Applicability.*

a. In conjunction with the requirements of Iowa Code chapter 455B, subchapter IV, part 8, the requirements of this chapter apply to all owners and operators of a UST system as defined in 567—135.2(455B) except as otherwise provided in 135.1(3)*"b"* and *"c."*

(1) Previously deferred UST systems. Airport hydrant fuel distribution systems, UST systems with field-constructed tanks, and UST systems that store fuel solely for use by emergency power generators must meet the requirements of these rules as follows:

1. Airport hydrant fuel distribution systems and UST systems with field-constructed tanks must meet the requirements in 567—135.20(455B).

2. UST systems that store fuel solely for use by emergency power generators installed on or before November 28, 2007, must meet the requirements in 567—135.5(455B) by October 13, 2021.

3. UST systems that store fuel solely for use by emergency power generators installed after November 28, 2007, must meet all applicable requirements of this chapter at installation.

(2) Any UST system listed in 135.1(3)*"c"* must meet the requirements of 135.1(4).

b. Exclusions. The following UST systems are excluded from the requirements of this chapter:

(1) Any UST system holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances.

(2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the federal Clean Water Act.

(3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

(4) Any UST system whose capacity is 110 gallons or less.

(5) Any UST system that contains a de minimis concentration of regulated substances.

(6) Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

c. Partial exclusions. Rules 567—135.3(455B), 567—135.4(455B), 567—135.5(455B), 567—135.6(455B), 567—135.15(455B) and 567—135.20(455B) do not apply to any of the following types of UST systems:

(1) Wastewater treatment tank systems;

(2) Any UST systems containing radioactive material that are regulated under the federal Atomic Energy Act of 1954 (42 U.S.C. 2011 and following);

(3) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50 Appendix A;

(4) Aboveground storage tanks associated with:

1. Airport hydrant fuel distribution systems regulated under 567—135.20(455B); and

2. UST systems with field-constructed tanks regulated under 567—135.20(455B).

d. Nonpetroleum underground storage tank systems. Rules 567—135.8(455B) through 567—135.12(455B) do not apply to any nonpetroleum underground storage tank system, except as otherwise provided for by the department.

135.1(4) *Installation requirements for partially excluded UST systems.*

a. Owners and operators must install a UST system listed in 135.1(3)*"c"*(1) through *"c"*(3) storing regulated substances (whether of single- or double-wall construction) that meets the following requirements:

(1) Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

(2) Is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a noncorrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and

(3) Is constructed or lined with material that is compatible with the stored substance.

b. Notwithstanding 135.1(4)*"a,"* a UST system without corrosion protection may be installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this paragraph for the remaining life of the tank.

NOTE: The codes of practice referenced in 40 CFR 280.11(b) may be used as guidance for complying with this subrule.

135.1(5) All rules, standards, technical guidance, and other similar legal or technical documents that are referenced in this chapter shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—135.2(455B) Definitions.

"Aboveground release" means any release to the surface of the land or to surface water. This includes but is not limited to releases from the aboveground portion of a UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from a UST system.

"Active remediation" means corrective action undertaken to reduce contaminant concentrations by other than passive remediation or monitoring.

"Airport hydrant fuel distribution system" or *"airport hydrant system"* means a UST system that fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants (fill stands). The airport hydrant system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.

"Ancillary equipment" means any devices including but not limited to such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from a UST.

"Appurtenances" means devices such as piping, fittings, flanges, valves, dispensers and pumps used to distribute, meter, or control the flow of regulated substances to or from an underground storage tank.

"Asbestos-cement pipe" (AC refers to asbestos-cement) means a pipe or conduit constructed of asbestos fiber and Portland cement, which can be used to transport water.

"ASTM" means the American Society of Testing and Materials.

"Backflow preventer" means a check valve used to ensure water flows in one direction and designed to prevent contamination from an end user, such as a home, from getting into the general water supply. An approved backflow preventer shall be a reduced-pressure backflow preventer or an antisiphon device that complies with the standards of the American Water Works Association and has been approved by the Foundation for Cross-Connection Control and Hydraulic Research.

"Bedrock" means the rock, usually solid, underlying soil or any other unconsolidated surficial cover.

"Below-ground release" means any release to the subsurface of the land and to groundwater. This includes but is not limited to releases from the below-ground portions of an underground storage tank system and below-ground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

"Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

"Best available technology" means those practices that most appropriately remove, treat, or isolate contaminants from groundwater, soil or associated environment, as determined through professional judgment considering actual equipment or techniques currently in use, published technical articles, site hydrogeology and research results, engineering and groundwater professional reference materials, consultation with experts in the field, capital and operating costs, and guidelines or rules of other regulatory agencies.

"Best management practices" means maintenance procedures, schedule of activities, prohibition of practices, and other management practices, or a combination thereof, that, after problem assessment, is determined to be the most effective means of monitoring and preventing additional contamination of the groundwater and soil.

"Biodiesel" means a renewable fuel comprised of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats that is blended with petroleum-based diesel fuel that meets the standards provided in Iowa Code section 214A.2.

"Carcinogenic risk" means the incremental risk of a person developing cancer over a lifetime as a result of exposure to a chemical, expressed as a probability such as one in a million (10^{-6}). For carcinogenic chemicals of concern, probability is derived from application of certain designated exposure assumptions and a slope factor.

"Cast iron pipe" means a pipe or conduit used as a pressure pipe for transmission of water, gas, or sewage or as a water drainage pipe. It comprises predominantly a gray cast iron tube historically used uncoated, with newer types having various coatings and linings to reduce corrosion and improve hydraulics.

"Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended on October 17, 1986.

"Certified company" means a person or company that employs a person who meets all of the qualifications to install, upgrade, repair, test or line underground storage tank systems.

"Certified individual" means an individual who has received a certification to perform any of the activities regulated under this chapter.

"Change-in-service" means changing the use of a tank system from a regulated to a nonregulated use.

"Chemicals of concern" means the compounds derived from petroleum-regulated substances that are subject to evaluation for purposes of applying risk-based corrective action decision making. These compounds are benzene, ethylbenzene, toluene, and xylenes (BTEX) and naphthalene, benzo(a)pyrene, benz(a)anthracene, and chrysene. (NOTE: Concentration values for these last four constituents are determined by a conversion method from total extractable hydrocarbons, see 135.8(3).)

"Child support recovery unit" means the child support recovery unit created by Iowa Code section 252B.2.

"Class A operator" means the individual who has primary responsibility to operate and maintain the UST system in accordance with applicable requirements. The Class A operator typically manages

resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements under this chapter.

"Class B operator" means the individual who has day-to-day responsibility for implementing applicable regulatory requirements established by the department. The Class B operator typically implements in-field aspects of operation, maintenance, and associated recordkeeping for the UST systems.

"Class C operator" means the individual responsible for initially addressing emergencies presented by a spill or release from a UST system. The Class C operator typically controls or monitors the dispensing or sale of regulated substances.

"Code of Federal Regulation" or *"CFR"* means the federal administrative rules adopted by the United States as amended through August 1, 2025.

"Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.

"Conduit" means underground structures that act as pathways and receptors for chemicals of concern, including but not limited to gravity drain lines and sanitary or storm sewers.

"Connected piping" means all underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

"Consumptive use" with respect to heating oil means consumed on the premises.

"Containment sump" means a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from piping, dispensers, pumps and related components in the containment area. Containment sumps may be single-walled or secondarily contained and located at the top of the tank (tank top or submersible turbine sump pump), underneath the dispenser (under-dispenser containment sump), or at other points in the piping run (transition or intermediate sump).

"Corrective action" means an action taken to reduce, minimize, eliminate, clean up, control or monitor a release to protect the public health and safety or the environment. Corrective action includes but is not limited to excavation of an underground storage tank for the purpose of repairing a leak or removal of a tank, removal of contaminated soil, disposal or processing of contaminated soil, cleansing of groundwaters or surface waters, natural biodegradation, institutional controls, technological controls and site management practices. Corrective action does not include replacement of an underground storage tank. Corrective action specifically excludes third-party liability.

"Corrective action meeting process" means a series of meetings organized by department staff with owners or operators and other interested parties such as certified groundwater professionals, funding source representatives, and affected property owners. The purpose of the meeting process is to develop and agree on a corrective action plan and the terms for implementation of the plan.

"Corrective action plan" means a plan that specifies the corrective action to be undertaken by the owner or operator in order to comply with requirements in this chapter and that is incorporated into a memorandum of agreement or other written agreement between the department and the owner or operator. The plan may include but is not limited to provisions for additional site assessment, site monitoring, Tier 2 revisions, Tier 3 assessment, excavation, and other soil and groundwater remedial action.

"Corrosion expert" means a person who, 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, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Deductible" means the portion of a claim paid by insureds on the policy.

"Department" means Iowa department of natural resources.

"Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST systems (e.g., tank from piping).

"Dispenser" means equipment located above ground that dispenses regulated substances from the UST system.

"Dispenser system" means the dispenser and the equipment necessary to connect the dispenser to the underground storage tank system.

"Drinking water well" means any groundwater well used as a source for drinking water by humans and groundwater wells used primarily for the final production of food or medicine for human consumption.

"Ductile iron pipe" means a pipe or conduit commonly used for potable water distribution and for the pumping of sewage. The predominant wall material is ductile iron, a spheroidized graphite cast iron, and commonly has an internal cement mortar lining to inhibit corrosion from the carried water and various types of external coatings to inhibit corrosion from the environment.

"Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

"Enclosed space" means space that can act as a receptor or pathway capable of creating a risk of explosion or inhalation hazard to humans and includes "explosive receptors" and "confined spaces." Explosive receptors means those receptors designated in these rules that are evaluated for explosive risk. Confined spaces means those receptors designated in these rules for evaluation of vapor inhalation risks.

"Ethanol" means ethyl alcohol that is to be blended with gasoline if it meets the standards provided in Iowa Code section 214A.2.

"Excavation zone" means the volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

"Existing tank system" means a tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before January 14, 1987. Installation is considered to have commenced if:

1. The owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system; and
2. Either:

- A continuous on-site physical construction or installation program has begun; or
- The owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction at the site or installation of the tank system to be completed within a reasonable time.

"Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

"Field-constructed tank" means a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field or a steel or fiberglass tank primarily fabricated in the field is considered field-constructed.

"Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

"Free product" refers to a regulated substance that is present as a light nonaqueous phase liquid (e.g., liquid not dissolved in water).

"Gasket" means any type of pipe seals made of a variety of rubbers including but not necessarily limited to styrene-butadiene rubber (SBR), nitrile-butadiene rubber (NBR or nitrile), ethylene propylene diene monomer (EPDM), neoprene (CR), and fluoroelastomer rubber (FKM), which are used to seal pipe connections.

"Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Groundwater ingestion pathway" means a pathway through groundwater by which chemicals of concern may result in exposure to a human receptor as specified in rules applicable to Tier 1, Tier 2 and Tier 3.

"Groundwater plume" means the extent of groundwater impacted by the release of chemicals of concern.

"Groundwater professional" is a person who provides subsurface soil contamination and groundwater consulting services, or who contracts to perform or who supervises remediation or corrective action services at leaking underground storage tank sites. Refer to Iowa Code section 455B.474.

"Groundwater to water line pathway" means a pathway through groundwater that leads to a water line.

"Groundwater vapor to enclosed space pathway" means a pathway through groundwater by which vapors from chemicals of concern may lead to a receptor creating an inhalation or explosive risk hazard.

"Hazardous substance UST system" means an underground storage tank system that contains a hazardous substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under subtitle C) or any mixture of such substances and petroleum and that is not a petroleum UST system.

"Hazard quotient" means the ratio of the level of exposure of a chemical of concern over a specified time period to a reference dose for that chemical of concern derived for a similar exposure period. Unless otherwise specified, the hazard quotient designated in these rules is one.

"Heating oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

"Highly permeable soils" means for the purpose of UST closures: fractured bedrock, any soils with a hydraulic conductivity rate greater than 0.3 meters per day, or any soil material classified by the Unified Soil Classification System as published by the United States Department of the Interior or ASTM designation as (1) GW - well graded gravel, gravel-sand mixtures, little or no fines, (2) GP - poorly graded gravel, gravel-sand mixtures, little or no fines, (3) SW - well graded sands, gravelly sands, little or no fines, or (4) SP - poorly graded sands, gravelly sands, little or no fines.

"Hydraulic conductivity" means the rate of water movement through the soil measured in meters per day (m/d) as determined by the following methods. For a saturated soil, the Bouwer-Rice method or its equivalent shall be used. For unsaturated soil, use a Guelph permeameter or an equivalent in situ constant-head permeameter in a boring finished above the water table. If an in situ method cannot be used for unsaturated soil because of depth, or if the soil is homogeneous and lacks flow-conducting channels, fractures, cavities, etc., laboratory measurement of hydraulic conductivity is acceptable.

If laboratory methods are used, collect undisturbed soil samples using a thin-walled tube sampler in accordance with American Society of Testing and Materials (ASTM) Standard D1587. Samples shall be clearly marked, preserved and transported to the laboratory. The laboratory shall measure hydraulic conductivity using a constant-head permeameter in accordance with ASTM Standard D2434 or a falling-head permeameter in accordance with accepted methodology.

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

"Install" or *"installation"* means the physical construction of a UST system including but not limited to activities such as excavating, backfilling, testing, placement of the tank, underground piping, release detection devices, corrosion protection systems, spill and overfill devices and any associated administrative activities such as notifications, recordkeeping and record submissions.

"Installation inspector" means a certified individual who is engaged in the inspection and approval of the installation of new or upgraded underground storage tank systems.

"Installer" means a certified individual or certified company engaged in the installation of a new underground storage tank system or the upgrading of underground storage tank systems.

"Institutional controls" means the restriction on use or access (for example, fences, deed restrictions, restrictive zoning) to a site or facility to eliminate or minimize potential exposure to a chemical(s) of concern. Institutional controls include any of the following:

1. A law of the United States or the state;
2. A regulation issued pursuant to federal or state laws;
3. An ordinance or regulation of a political subdivision in which real estate subject to the institutional control is located;
4. A restriction on the use of or activities occurring at real estate that are embodied in a covenant running with the land that:

- Contains a legal description of the real estate in a manner that satisfies Iowa Code section 558.1 et seq.;
- Is properly executed in a manner that satisfies Iowa Code section 558.1 et seq.;
- Is recorded in the appropriate office of the county in which the real estate is located;
- Adequately and accurately describes the institutional control; and
- Is in the form of a covenant as set out in Appendix C or in such a manner reasonably acceptable to the department.

5. Any other institutional control the owner or operator can reasonably demonstrate to the department that will reduce the risk from a release throughout the period necessary to ensure that no applicable target risk is likely to be exceeded.

"In the aggregate" means for all claims or suits in a single year seeking damages.

"Light, nonaqueous-phase liquid" or *"LNAPL"* refers to an organic compound that is immiscible with, and lighter than water (e.g., crude oil, gasoline, diesel fuel, heating oil).

"Liner" means a certified company or an individual who provides services to install underground storage tank lining and to repair underground storage tanks.

"Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

"Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing product.

"MCLs" means the drinking water primary maximum contaminant levels set out in 567—41.3(455B).

"Memorandum of agreement" means a written agreement between the department and the owner or operator that specifies the corrective action that will be undertaken by the owner or operator in order to comply with requirements in this chapter and the terms for implementation of the plan. The plan may include but is not limited to provisions for additional site assessment, site monitoring, Tier 2 revisions, Tier 3 assessment, excavation, and other soil and groundwater remedial action.

"Modification" means to change a UST system currently in use by the installation of new UST system components. "Modification" includes but is not limited to the addition of corrosion protection to a previously lined tank, installation of new underground piping or replacement of existing underground piping, changing the primary release detection method, or adding secondary containment. "Modification" does not include those activities defined in this rule as "repair" or "replacement."

"Motor fuel" means a complex blend of hydrocarbons typically used in the operation of a motor engine, such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any blend containing one or more of these substances (for example, motor gasoline blended with alcohol).

"New tank system" means a tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after January 14, 1987. (See also "Existing Tank System.")

"Noncarcinogenic risk" means the potential for adverse systemic or toxic effects caused by exposure to noncarcinogenic chemicals of concern, expressed as the hazard quotient.

"Noncommercial purposes" with respect to motor fuel means not for resale.

"Non-drinking water well" means any groundwater well (except an extraction well used as part of a remediation system) not defined as a drinking water well including a groundwater well that is not properly plugged in accordance with department rules in 567—Chapters 39 and 49.

"Nonresidential area" means land that is not currently used as a residential area and that is zoned for nonresidential uses.

"Obligor" means a natural person as defined in Iowa Code section 252B.1 who has been ordered by a court or administrative agency to pay support.

"On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

"Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under 567—135.15(455B).

"OSHA" means the Occupational Safety and Health Administration.

"Overexcavation" refers to the excavation of subsurface materials outside the excavation zone for the purpose of removing contaminated substances.

"Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

"Pathway" means a transport mechanism by which chemicals of concern may reach a receptor(s) or the location(s) of a potential receptor.

"Permanent closure" means removing all regulated substances from the tank system, assessing the site for contamination, and permanently removing tank and piping from the ground or filling the tank in place with a solid inert material and plugging all piping. Permanent closure also includes partial closure of a tank system such as removal or replacement of tanks or piping only.

"Person who conveys or deposits a regulated substance" means a person who sells or supplies the owner or operator with the regulated substance and the person who transports or actually deposits the regulated substance in the underground tank.

"Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

"Pipe" or *"piping"* means a hollow cylinder or tubular conduit that is constructed of nonearthen materials and that routinely contains and conveys regulated substances.

"Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

"Point of compliance" means the location(s) at the source(s) of contamination or at the location(s) between the source(s) and the point(s) of exposure where concentrations of chemicals of concern must meet applicable risk-based screening levels at Tier 1 or other target level(s) at Tier 2 or Tier 3.

"Point of exposure" means the location(s) at which an actual or potential receptor may be exposed to chemicals of concern via a pathway.

"Polybutylene pipe" (PB refers to polybutylene) means a water supply pipe comprised of a form of plastic resin that was used extensively from 1978 until 1995. The piping systems were used for underground water mains and as interior water distribution piping. Polybutylene mains are usually blue in color, but may be gray, black, or white. The pipe is usually ½ inch or 1 inch in diameter, and it may be found entering a residence through the basement wall or floor, concrete slab or through the crawlspace; frequently it enters the residence near the water heater.

"Polyethylene pipe" (PE refers to polyethylene) means a water supply pipe comprised of thermoplastic material produced from the polymerization of ethylene. PE pipe is manufactured by extrusion in sizes ranging from ½ inch to 63 inches. PE pipe is available in rolled coils of various lengths or in straight lengths of up to 40 feet. PE pipe is available in many forms and colors, including single-extrusion colored or black pipe, black pipe with co-extruded color striping, and black or natural

pipe with a co-extruded colored layer. PE pipe has been demonstrated to be very permeable to petroleum while still retaining its flexible structure.

"Polyvinyl chloride pipe" (PVC refers to polyvinyl chloride) means a pipe made from a plastic and vinyl combination material. The pipes are durable, hard to damage, and long-lasting. A PVC pipe is very resistant and does not rust, nor is it likely to rot or wear over time. PVC piping is most commonly used in water systems, underground wiring, and sewer lines.

"Portland cement" means hydraulic cement (cement that not only hardens by reacting with water but also forms a water-resistant product) and is produced by pulverizing clinkers consisting essentially of hydraulic calcium silicates, usually containing one or more forms of calcium sulfate as an inter ground addition.

"Potential receptor" means a receptor not in existence at the time a Tier 1, Tier 2 or Tier 3 site assessment is prepared but that could reasonably be expected to exist within 20 years of the preparation of the Tier 1, Tier 2 or Tier 3 site assessment or as otherwise specified in these rules.

"Precision test" means a tank and line tightness test that meets the requirements in 567—135.5(455B).

"Preferential pathway" means conditions that act as a pathway permitting contamination to migrate through soils and to groundwater at a faster rate than would be expected through naturally occurring undisturbed soils or unfractured bedrock including but not limited to wells, cisterns, tile lines, drainage systems, utility lines and envelopes, and conduits.

"Protected groundwater source" means a saturated bed, formation, or group of formations that has a hydraulic conductivity of at least 0.44 meters per day (m/d) and a total dissolved solids of less than 2,500 milligrams per liter (mg/l) or a bedrock aquifer with total dissolved solids of less than 2,500 milligrams per liter (mg/l) if bedrock is encountered before groundwater.

"Public water supply well" means a well connected to a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

"Receptor" means enclosed spaces, conduits, protected groundwater sources, drinking and non-drinking water wells, surface water bodies, and public water systems that when impacted by chemicals of concern may result in exposure to humans and aquatic life, explosive conditions or other adverse effects on health, safety and the environment as specified in these rules.

"Reference dose" means a designated toxicity value established in these rules for evaluating potential noncarcinogenic effects in humans resulting from exposure to a chemical(s) of concern. Reference doses are designated in Appendix A.

"Regulated substance" means an element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health or welfare or the environment. "Regulated substance" includes:

1. Substances designated in Table 302.4 of 40 CFR Part 302 (September 13, 1988),
2. Substances that exhibit the characteristics identified in 40 CFR 261.20 through 261.24 (May 10, 1984) and that are not excluded from regulation as a hazardous waste under 40 CFR 261.4(b) (May 10, 1984),
3. Any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (but not including any substance regulated as a hazardous waste under subtitle C), and
4. Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). The term "regulated substance" includes but is not limited to petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

"Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

"Removal" means the process of removing and disposing of an underground storage tank system no longer in service or the process of abandoning an underground storage tank system in place in accordance with 567—135.15(455B).

"Remover" means a certified individual who is engaged in permanent closure activities by removal or filling in place of underground storage tank systems in accordance with 567—135.15(455B).

"Repair" means to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment or other UST system component that has caused a release of product from the UST system or has failed to function properly.

"Replace" or *"replacement"* means the installation of a new underground tank system or component, including dispensers, in substantially the same location as an existing tank system or component, and to include but not be limited to the change in any part of a UST system above grade by exchanging one unit for a like or similar unit.

"Replaced" means:

1. For a tank: to remove a tank and install another tank.
2. For piping: to remove 50 percent or more of piping and install other piping, excluding connectors, connected to a single tank. For tanks with multiple piping runs, this definition applies independently to each piping run.

"Residential area" means land used as a permanent residence or domicile, such as a house, apartment, nursing home, school, child care facility or prison, land zoned for such uses, or land where no zoning is in place.

"Residential tank" is a tank located on property used primarily for dwelling purposes.

"Risk-based screening level" or *"RBSL"* means the risk-based concentration level for chemicals of concern developed for a Tier 1 analysis to be met at the point(s) of compliance and incorporated in the Tier 1 Look-up Table in Appendix A.

"Secondary containment" or *"secondarily contained"* means a release prevention and release detection system for a tank or piping. This system has an inner and outer barrier with an interstitial space monitored for leaks. This term includes containment sumps when used for interstitial monitoring of piping.

"Secondary containment tank" or *"secondary containment piping"* means a tank or piping that is designed with an inner primary shell and a liquid-tight outer secondary shell or jacket that extends around the entire inner shell, and that is designed to contain any leak through the primary shell from any part of the tank or piping that routinely contains product, and that also allows for monitoring of the interstitial space between the shells and the detection of any leak.

"Self-insured retention" means the portion of a claim paid by insureds who self-insure a portion of their risk as part of a policy. Expenses included as a part of the self-insured retention are the cost of claims settlements or suits, the cost of adjusting, legal fees, court costs and any other investigative cost associated with the claim.

"Septic tank" is a watertight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

"Service line" means a pipe connected to a business or residence from a water main, typically of a size not exceeding 6 inches in diameter, and including its gaskets and other appurtenances. For purposes of this chapter, service lines refer to pipes specifically used for drinking water transmission.

"Service technician" means a noncertified individual who works for a certified individual or a certified company or who is certified by a manufacturer to conduct modification or replacement activities at UST facilities.

"Site assessment investigation" means an investigation conducted by a certified groundwater professional to determine relevant site historical data, the types, amounts, and sources of petroleum contaminants present, hydrogeological characteristics of the site, full vertical and horizontal extent of the contamination in soils and groundwater, direction and rate of flow of the contamination, ranges of

concentration of the contaminants by analysis of soils and groundwater, the vertical and horizontal extent of the contamination exceeding department standards, and the actual or potential threat to public health and safety and the environment.

"Site cleanup report" means the report required to be submitted by these rules and in accordance with department guidance that may include the results of Tier 2 or Tier 3 assessment and analysis.

"Site-specific target level" or *"SSTL"* means the risk-based target level(s) for chemicals of concern developed as the result of a Tier 2 or Tier 3 assessment that must be achieved at applicable point(s) of compliance at the source to meet the target level(s) at the point(s) of exposure.

"Soil leaching to groundwater pathway" means a pathway through soil by which chemicals of concern may leach to groundwater and through a groundwater transport pathway impact an actual or potential receptor.

"Soil plume" means the vertical and horizontal extent of soil impacted by the release of chemicals of concern.

"Soil to water line pathway" means a pathway that leads from soil to a water line.

"Soil vapor to enclosed space pathway" means a pathway through soil by which vapors from chemicals of concern may lead to a receptor creating an inhalation or explosive risk hazard.

"Storm water or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

"Surface impoundment" is a natural topographic depression, constructed excavation, or diked area formed primarily of earthen materials (although it may be lined with manufactured materials) that is not an injection well.

"Surface water body" means general use segments as provided in 567—paragraph 61.3(1)*"a"* and designated use segments of water bodies as provided in 567—paragraph 61.3(1)*"b"* and 567—subrule 61.3(5).

"Surface water criteria" means, for chemicals of concern, the Criteria for Chemical Constituents in Table 1 of 567—61.3(455B), except that "1,000 µg/L" will be substituted for the chronic levels for toluene for Class B designated use segments.

"Surface water pathway" means a pathway that leads to a surface water body.

"Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

"Target level" means the allowable concentrations of chemicals of concern established to achieve an applicable target risk that must be met at the point(s) of compliance as specified in these rules.

"Target risk" refers to an applicable carcinogenic and noncarcinogenic risk factor designated in these rules and used in determining target levels (for carcinogenic risk assessment, target risk is a separate factor, different from exposure factors, both of which are used in determining target levels).

"Technological controls" means a physical action that does not involve source removal or reduction, but severs or reduces exposure to a receptor, such as caps, containment, carbon filters, point of use water treatment, etc.

"Temporary closure" means a regulated tank or UST system that has been out of operation for three months or more.

"Tester" means a certified company or individual who tests tanks, lines, leak detection systems, or monitoring systems as required by 567—Chapter 135. For the purposes of this definition, an owner, operator or an employee of an owner or operator performing leak detection or cathodic protection monitoring, as required by 567—Chapter 135, is not a tester.

"Testing" means the process of utilizing a system to test underground storage tank systems or any part thereof for tightness, leak detection, cathodic protection or monitoring.

"Tier 1 level" means the groundwater and soil levels in the Tier 1 Look-up Table set out in 567—135.9(455B) and Appendix A.

"Tier 1 site assessment" means the evaluation of limited site-specific data compared to the Tier 1 levels established in these rules for the purpose of determining which pathways do not require assessment and evaluation at Tier 2 and which sites warrant a no further action required classification without further assessment and evaluation.

"Tier 2 site assessment" means the process of assessing risk to actual and potential receptors by using site-specific contaminant concentrations and designated Tier 2 exposure and fate and transport models to determine the applicable target level(s).

"Tier 3 site assessment" means a site-specific risk assessment utilizing more sophisticated data or analytic techniques than a Tier 2 site assessment.

"Training program" means any program that provides information to and evaluates the knowledge of a Class A, Class B, or Class C operator through testing, practical demonstration, or another approach acceptable to the department regarding requirements for UST systems that meet the requirements of 135.4(6) through 135.4(12).

"Under-dispenser containment " or *"UDC"* means containment underneath a dispenser system designed to prevent leaks from the dispenser and piping within or above the UDC from reaching soil or groundwater.

"Underground area" means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

"Underground release" means any below-ground release.

"Underground storage tank compliance inspector" or *"UST compliance inspector"* means a person who inspects a regulated underground storage tank (UST) to satisfy the requirements of 567—135.19(455B) for compliance with UST technical standards in 567—Chapter 135.

"Underground storage tank professional" or *"UST professional"* means an individual certified by the department under 567—Chapter 134, excluding groundwater professionals and compliance inspectors. The certification program includes underground storage tank system installation, installation inspection, UST system testing, tank lining, cathodic protection installation/inspection, and UST removal. The certification issued will list the type of work the individual is certified to perform.

"Underground utility vault" means any constructed space accessible for inspection and maintenance associated with subsurface utilities.

"Unit" means the child support recovery unit created in Iowa Code section 252B.2.

"Unreasonable risk to public health and safety or the environment" means the Tier 1 levels for a Tier 1 site assessment, the applicable target level for a Tier 2 site assessment, and the applicable target level for a Tier 3 site assessment.

"Upgrade" means the addition or retrofit of some systems such as cathodic protection, lining, or spill and overfill controls to improve the ability of an underground storage tank system to prevent the release of product.

"U.S. EPA" means the United States Environmental Protection Agency.

"UST system" or *"tank system"* means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Utility envelope" means the backfill and trench used for any subsurface utility line, drainage system and tile line.

"Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

"Water line" means a hollow cylinder or tubular conduit that routinely contains and conveys potable water and is constructed of nonearthen materials, including but not limited to asbestos-cement, copper, high-density polyethylene (HDPE), polybutylene, polyethylene, and wood. Such piping includes any elbows, couplings, unions, valves, or other in-line fixtures, as well as the gaskets, that contain and convey potable water.

"Water main pipe" means a main line to the water distribution system with feeder lines or service lines connected to it and that typically is 6 inches or greater in diameter, and includes its gaskets and other appurtenances.

567—135.3(455B) UST systems—design, construction, installation and notification.

135.3(1) *Performance standards for new UST systems.* In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new UST systems must meet the following requirements. The UST system must be secondarily contained in accordance with 135.3(9).

a. Tanks. Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

(1) The tank is constructed of fiberglass-reinforced plastic; or

NOTE: The codes of practice referenced in 40 CFR 280.20(a)(1) may be used to comply with 135.3(1)*"a"*(1).

(2) The tank is constructed of steel and cathodically protected in the following manner:

1. The tank is coated with a suitable dielectric material;

2. Field-installed cathodic protection systems are designed by a corrosion expert;

3. Impressed current systems are designed to allow determination of current operating status as required in 135.4(2)*"c."* This shall be accomplished by providing the rectifier with ampere and voltage meters that can be read by the owner and operator for comparison to the design standard set by the corrosion expert or a device that can warn the owner and operator when changes in ampere and voltage occur outside the design standard set by the corrosion expert;

4. Cathodic protection systems are operated and maintained in accordance with 135.4(2) or according to guidelines established by the department; and

5. Impressed current systems must be designed not to cause stray current that can damage other underground structures (metal electrical conduits, water lines, gas lines, etc.); or

NOTE: The codes of practice referenced in 40 CFR 280.2(a)(2)(iv) may be used to comply with 135.3(1)*"a"*(2).

(3) The tank is constructed of steel and clad or jacketed with a noncorrodible material; or

NOTE: The industry codes referenced in 40 CFR 280.20(3) may be used to comply with 135.3(1)*"a"*(3).

(4) The tank is constructed of metal without additional corrosion protection measures provided that:

1. The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and

2. Owners and operators maintain records that demonstrate compliance with the requirements of 135.3(1)*"a"*(4)"1" for the remaining life of the tank; or

(5) The tank construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than 135.3(1)*"a"*(1) through *"a"*(4).

b. Piping. The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified in this rule. This includes piping for remote tank fill locations.

All piping must have secondary containment, installed according to manufacturer's specifications, and be compatible with the product stored and the environment to which it will be exposed. Piping must maintain its original specifications and structural integrity. Piping whose structural integrity has degraded must be replaced. All piping installations must meet National Fire Prevention Association Standard 30 and Standard 30A or the International Fire Code as adopted by the Iowa state fire marshal in 481—Chapter 282, "Flammable or Combustible Liquids."

(1) The piping is constructed of a noncorrodible material; or

NOTE: The codes of practice referenced in 40 CFR 280.20(b)(1) may be used to comply with 135.3(1)*"b"*(1).

(2) The piping is constructed of steel and cathodically protected in the following manner:

1. The piping is coated with a suitable dielectric material;

2. Field-installed cathodic protection systems are designed by a corrosion expert;

3. Impressed current systems are designed to allow determination of current operating status as required in 135.4(2)*"c"*; and

4. Cathodic protection systems are operated and maintained in accordance with 135.4(2) or guidelines established by the department; or

NOTE: The codes of practice referenced in 40 CFR 280.20(b)(2) may be used to comply with 135.3(1)*"b"*(2).

(3) The piping is constructed of metal without additional corrosion protection measures provided that:

1. The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and

2. Owners and operators maintain records that demonstrate compliance with the requirements of 135.3(1)*"b"*(3)"1" for the remaining life of the piping; or

(4) The piping construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in 135.3(1)*"b"*(1) through *"b"*(3).

c. Spill and overfill prevention equipment.

(1) Except as provided in 135.3(1)*"b"*(2), to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment:

1. Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); and

2. Overfill prevention equipment that will:

- Automatically shut off flow into the tank when the tank is no more than 95 percent full; or
- Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank (not allowed for suction product delivery systems, for tanks with stage 1 vapor recovery or when product delivery is by pumping) or triggering a high-level alarm; or
- Restrict flow 30 minutes prior to overfilling, alert the transfer operator with a high-level alarm one minute before overfilling, or automatically shut off the flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.

(2) Owners and operators are not required to use the spill and overfill prevention equipment specified in 135.3(1)*"b"*(1) if:

1. Alternative equipment is used that is determined by the department to be no less protective of human health and the environment than the equipment specified in 135.3(1)*"b"*(1)"1" or "2"; or

2. The UST system is filled by transfers of no more than 25 gallons at one time.

(3) Flow restrictors used in vent lines may not be used to comply with 135.3(1)*"c"*(1)"2" when overfill prevention is installed or replaced.

(4) Spill and overfill prevention equipment must be periodically tested or inspected in accordance with 135.4(12).

(5) Spill prevention equipment must be kept free of any liquid and debris. Any liquid or debris must be removed prior to product delivery.

d. Installation. The UST system must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions. The UST system installation shall be conducted by an installer certified by the department under 567—Chapter 134 and in accordance with 567—subrules 134.11(3) and 134.11(4).

NOTE: Tank and piping system installation practices and procedures described in the codes referenced in 40 CFR 280.20(d) may be used to comply with the requirements of 135.3(1)*"d."*

e. Certification of installation. All owners and operators must ensure that the following methods of certification, testing, and inspection are used to demonstrate compliance with 135.3(1)*"d"* by providing a certification of compliance on the UST registration form in accordance with 135.3(3).

(1) The installer is certified by the department as provided in 567—Chapter 134; and

(2) The installation has been inspected by a certified installation inspector as required by 567—Chapter 134.

f. Dispenser systems. Each UST system must be equipped with under-dispenser containment (UDC) for any new or replaced dispenser system.

(1) A dispenser system is considered new when both the dispenser and the equipment needed to connect the dispenser to the underground storage tank system are installed at a location where there previously was no dispenser (new UST system or new dispenser location at an existing UST system). The equipment necessary to connect the dispenser to the underground storage tank system includes check valves, shear valves, unburied risers or flexible connectors, or other transitional components that are underneath the dispenser and connect the dispenser to the underground piping.

(2) UDC shall be installed whenever an existing dispenser system is removed and replaced with another dispenser and the equipment used to connect the dispenser to the underground storage tank system is replaced. This equipment includes flexible connectors or risers or other transitional components that are beneath the dispenser and connect the dispenser to the piping. UDC is not required when only the emergency shutoff or shear valves or check valves are replaced.

(3) UDC must be liquid-tight on its sides, bottom, and at any penetrations. UDC must allow for visual inspection and access to the components in the containment system or be periodically monitored for leaks from the dispenser system.

135.3(2) *Upgrading of existing UST systems.* Owners and operators must permanently close any UST system that does not meet the new UST system performance standards or has not been upgraded in accordance with 135.3(2)*"b"* through *"d."* This subrule does not apply to previously deferred UST systems. Upgrading is no longer allowed for UST systems not upgraded by December 22, 1998.

a. Alternatives allowed. Not later than December 22, 1998, all existing UST systems had to comply with one of the following requirements:

(1) New UST system performance standards under 135.3(1);

(2) The upgrading requirements in 135.3(2)*"b"* through *"d"*; or

(3) Closure requirements under 567—135.15(455B), including applicable requirements for corrective action under 567—135.7(455B) through 567—135.12(455B).

b. Tank upgrading requirements. Steel tanks had to be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:

(1) Interior lining. Tanks upgraded by internal lining must meet the following:

1. The lining was installed in accordance with the requirements of 135.4(4), and

2. Within ten years after lining, and every five years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.

3. If the internal lining is no longer performing in accordance with original design specifications and cannot be repaired in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, the lined tank must be permanently closed in accordance with 567—135.15(455B).

(2) Cathodic protection. Tanks upgraded by cathodic protection meet the requirements of 135.3(1)*"a"*(2)"2," "3," and "4" and the integrity of the tank was ensured using one of the following methods:

1. The tank was internally inspected and assessed to ensure that the tank was structurally sound and free of corrosion holes prior to installing the cathodic protection system; or

2. The tank had been installed for less than ten years and is monitored monthly for releases in accordance with 135.5(4)*"d"* through *"i"*; or

3. The tank had been installed for less than ten years and was assessed for corrosion holes by conducting two tightness tests that meet the requirements of 135.5(4)*"c."* The first tightness test must have been conducted prior to installing the cathodic protection system. The second tightness test must have been conducted between three and six months following the first operation of the cathodic protection system; or

4. The tank was assessed for corrosion holes by a method that is determined by the department to prevent releases in a manner that is no less protective of human health and the environment than 135.3(2)*"b"*(2)"1" through "3."

(3) Internal lining combined with cathodic protection. Tanks upgraded by both internal lining and cathodic protection must have met the following:

1. The lining was installed in accordance with the requirements of 135.4(4); and

2. The cathodic protection system was installed within six months of lining installation and meets the requirements of 135.3(1)*"a"*(2)"2," "3," and "4."

NOTE regarding 135.3(2)*"b"*: The codes referenced in 40 CFR 280.21 are options for complying with 135.3(2)*"b."*

NOTE regarding 135.3(2)*"b"*(1)"2": The codes referenced in 40 CFR 280.21(b)(1)(ii) may be used to comply with the periodic lining inspection requirement of this subrule.

c. Piping upgrading requirements. Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements of 135.3(1)*"b"*(2)"2," "3," and "4."

NOTE: The codes of practice listed in 40 CFR 280.21(c) may be used to comply with this requirement.

d. Spill and overfill prevention equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with UST system spill and overfill prevention equipment requirements specified in 135.3(1)*"c."*

135.3(3) *Registration and notification requirements.*

a. Except as provided in 135.3(3)*"b,"* the owner of an underground storage tank existing on or before July 1, 1985, shall complete and submit to the department a copy of the registration form provided by the department.

b. The owner of an underground storage tank system taken out of operation between January 1, 1974, and July 1, 1985, shall complete and submit to the department a copy of the registration form provided by the department unless the owner knows the tank has been removed from the ground. For purposes of this subrule, "owner" means the person who owned the tank immediately before the discontinuation of the tank's use.

c. An owner or operator who brings into use an underground storage tank system after July 1, 1985, shall complete and submit to the department a copy of the registration form provided by the department within 30 days of the final installation inspection required in 567—subparagraph 134.14(3)*"c"*(3) by a certified installation inspector. The owner or operator shall not allow the deposit of any regulated substance into the tank without prior approval of the department or until the permanent registration tag and annual tank tag have been attached to the tank fill pipe and the tank system is covered by an approved financial responsibility mechanism in accordance with 567—Chapter 136.

d. All owners and operators of new UST systems must provide UST system details and a site diagram and certify in the registration form compliance with the following requirements:

(1) Installation of tanks and piping under 135.3(1)*"e"*;

(2) Cathodic protection of steel tanks and piping under 135.3(1)*"a"* and *"b"*;

(3) Financial responsibility under 567—Chapter 136;

(4) Release detection methods under 135.5(2) and 135.5(3);

(5) Class A and B operator certification under 135.4(6);

(6) NESHAP Stage 1 vapor recovery.

e. All owners and operators of new UST systems must ensure that the certified installer certifies in the registration form that the methods used to install the tanks and piping comply with the requirements in 135.3(1)*"d."*

f. Exemption from reporting requirement. Paragraphs 135.3(1)*"a"* through *"c"* do not apply to an underground storage tank for which notice was given pursuant to Section 103, Subsection c, of

the Comprehensive Environmental Response, Compensation, and Liabilities Act of 1980. (42 U.S.C. Subsection 9603(c)).

g. Notification requirement for installing a tank. A person installing an underground storage tank and the owner or operator of the underground storage tank must notify the department of their intent to install the tank 30 days prior to installation. Notification shall be on a form provided by the department.

h. Notice requirement for acquiring a UST system. A person, company or lending institution that assumes ownership or operation of a regulated underground storage tank must submit notification to the department on a form provided by the department within 30 days of acquisition and prior to tank operation. The owner must include copies of training certificates for the Class A and Class B operators (135.4(6)) and proof of financial responsibility required in 567—Chapter 136. The new owner is responsible for any current tank management fees that have not been previously paid.

i. It is unlawful for a person to deposit or accept a regulated substance into an underground storage tank if the person has received notice from the department that the underground storage tank is subject to a delivery prohibition or if there is a "red tag" attached to the UST fill pipe or fill pipe cap as provided in 135.3(7).

(1) The department may provide written authorization to receive a regulated substance when conditions warrant.

(2) The department may provide known depositors of regulated substances lists of underground storage tank sites that have been issued tank tags, those that have not been issued tank tags, and those subject to a delivery prohibition pursuant to 135.3(7). These lists do not remove the requirement for depositors to verify that current tank tags are affixed to the fill pipe prior to delivering product.

(3) A person shall not accept or deposit a regulated substance in an underground storage tank after receiving written or oral notice from the department that the tank is not covered by an approved form of financial responsibility in accordance with 567—Chapter 136.

135.3(4) *Farm and residential tanks.*

a. The owner or operator of a farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes is subject to the requirements of this subrule.

b. Farm and residential tanks, installed before July 1, 1987, are required to be registered with the department.

c. Farm and residential tanks installed on or after July 1, 1987, must be in compliance with all the underground storage tank regulations.

135.3(5) *Registration tags and annual management fee.*

a. Tanks of 1,100 gallons or less capacity that have registered with the department will be issued a permanent registration tag.

b. The owner or operator of tanks over 1,100-gallon capacity must submit a tank management fee form and fee payment of $65 per tank by January 15 of each year.

(1) An additional $250 per tank late fee must be paid if the tank management fee is not paid by March 1.

(2) The owner or operator must submit proof that the tanks are covered by an approved form of financial responsibility in accordance with 567—Chapter 136.

(3) Upon proper payment of the fee and acceptable proof of financial responsibility, and a determination there are no outstanding compliance violations, a one-year renewal tag will be issued for the period from April 1 to March 31.

(4) If there are outstanding compliance violations, the annual tank tags may be withheld until the violations are corrected.

(5) The department shall refund a tank management fee if the tank is permanently closed prior to April 1 for that year.

c. The owner or operator shall affix the tag to the fill pipe of the underground storage tank where it will be readily visible.

d. A person who conveys or deposits a regulated substance shall inspect the underground storage tank to determine the existence or absence of a permanent registration tag, a current annual renewal tag, or a delivery prohibition "red tag" as provided in 135.3(7). If a current annual renewal tag, or a silver

permanent tag for regulated tanks less than 1,100 gallons is not affixed to the fill pipe or fill pipe cap or if a delivery prohibition "red tag" is displayed, the person shall not deposit the substance in the tank.

135.3(6) *Previously unregistered petroleum underground storage tanks.* A petroleum underground storage tank required to be registered under 135.3(3) and 135.3(4) that has not been registered shall be registered under the following conditions:

a. The tank registration fee under Iowa Code section 455B.473(4) and 455B.473(5) shall accompany the registration.

b. The storage tank management fee and any late fees under Iowa Code section 455B.473(8)*"b"* shall be paid for past years in which the tank should have been registered.

c. The department may waive the late fee(s).

135.3(7) *Delivery prohibition process.*

a. Identifying sites subject to delivery response prohibition action.

(1) Annual renewal tag and tank management fee process. Owners and operators shall certify to the following on a form prepared by the department when applying for annual tank tags pursuant to 135.3(5):

1. Installation and performance of an approved UST and piping release detection method as provided in 567—135.5(455B), including an annual line tightness test and a line leak detector test if applicable.

2. Installation of an approved overfill and spill protection system as provided in 135.3(1)*"c."*

3. Installation of an approved corrosion protection system as provided in 135.3(1)*"a"* and *"b."*

4. If the UST system has been out of operation for more than three months, that the UST system has been temporarily closed in accordance with 567—135.15(455B) and a certification of temporary closure has been submitted to the department.

5. If the UST system has been removed or filled in place within the last 12 months, the date of removal or filling in place and whether a closure report has been submitted as provided in 567—135.15(455B).

(2) Sites with provisional status. If the UST system has been classified as operating under provisional status as provided in 135.3(7)*"c,"* owners and operators when applying for annual tank tags pursuant to 135.3(5) must certify on a form prepared by the department that the owners and operators are in compliance with an approved provisional status remedial plan as provided in 135.3(7)*"c."*

(3) Compliance inspections. The department may initiate a delivery prohibition response action based on: (1) a finding resulting from a third-party compliance inspection conducted pursuant to 567—135.19(455B); (2) a department investigation and inspection conducted pursuant to Iowa Code section 455B.475; or (3) review of a UST system check or other documentation submitted in response to a suspected release under 567—135.6(455B) or in response to a confirmed release under 567—135.7(455B).

b. Delivery prohibition eligibility criteria. A delivery prohibition response action may be initiated upon a finding that the UST system is out of compliance with department rules and meets the eligibility criteria as specified below. Reinstatement criteria define the standards and process for owners and operators to document that they have taken corrective action sufficient to authorize resumption of fuel to the USTs. Prior to initiation of the delivery prohibition, owners and operators are afforded a minimum level of procedural due process such as prior notice and the opportunity to present facts to dispute the finding. Where notice and the opportunity to take corrective action prior to initiation of a delivery prohibition response action are required, notice by the department or by a certified compliance inspector as provided in 567—135.19(455B) shall be sufficient.

If the department finds that any one of the following criteria has been satisfied, the department may initiate a delivery prohibition response action following the notice procedures outlined in 135.3(7)*"e."* After initiation of the delivery prohibition response action, the department will offer the owner or operator an opportunity to establish reinstatement criteria by written documentation and, if requested, an in-person meeting.

(1) An approved release detection method for USTs or UST piping is not installed, such as automatic tank gauging, groundwater monitoring wells and line leak detectors, and there is no record that

an approved method such as inventory control, statistical inventory reconciliation, or interstitial space monitoring has been employed during the previous three months. If the owner or operator claims to have documentation that an approved release detection method has been conducted, the owner or operator will be given two business days to produce the documentation.

REINSTATEMENT CRITERIA: The owner or operator must submit results of a passing UST system precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(4)*"c"* and 135.5(5)*"b."* The owner or operator must also document installation and operation of an approved release detection system. This may include proof that a contract has been signed with a qualified statistical inventory reconciliation provider or that a qualified inventory control method has been implemented and training has been provided to onsite supervisory personnel.

(2) No documentation of a required annual line tightness test or line leak detector test has been provided, and the owner or operator has failed to conduct the required testing within 14 days of written notice by the department or a certified compliance inspector as provided in 567—135.19(455B).

REINSTATEMENT CRITERIA: The owner or operator must provide documentation of a passing line precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(5)*"b"* and a line leak detector test as provided in 135.5(5)*"a."*

(3) Overfill and spill protection is not installed.

REINSTATEMENT CRITERION: The owner or operator must provide documentation that overfill and spill protection equipment has been installed.

(4) A corrosion protection system is not installed or there is no record that an impressed current corrosion protection system has been in operation for the prior six months.

REINSTATEMENT CRITERIA: A manned entry tank integrity inspection must be completed prior to installation of a corrosion protection system, and the owner or operator must submit results of a passing UST system precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(4)*"c"* and 135.5(5)*"b."* A corrosion protection analysis must be completed and approved by the department.

(5) The owner or operator has failed to provide proof of financial responsibility in accordance with 567—Chapter 136.

REINSTATEMENT CRITERION: The owner or operator must submit acceptable proof of financial responsibility in accordance with 567—Chapter 136.

(6) A qualified UST system release detection method is installed and is being used but the documentation or the absence of documentation is sufficient to question the reliability of the release detection over the past 12-month period. The owner or operator shall be notified of the deficiencies, shall be given at least two business days to produce documentation of compliance and, if necessary, shall be required to conduct a leak detection system analysis and a system tightness test within 14 days. If the owner or operator fails to produce documentation of compliance or to conduct the system analysis and the UST system precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(4)*"c"* and 135.5(5)*"b,"* the department may initiate a delivery prohibition response action. Notice by the department or a compliance inspector as provided in 567—135.19(455B) shall be sufficient to initiate a delivery prohibition response action.

REINSTATEMENT CRITERIA: The owner or operator must submit documentation that the leak detection method analysis sufficiently documents compliance and explains the reasons for the accuracy and reliability concerns. If necessary, the owner or operator must submit passing results of a UST system precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(4)*"c"* and 135.5(5)*"b."*

(7) The owner or operator has failed to document completion of a three-year corrosion protection test or to repair defective corrosion protection equipment within 30 days after notice of the violation by the department or a certified compliance inspector as provided in 567—135.19(455B).

REINSTATEMENT CRITERION: The owner or operator must submit documentation of a three-year corrosion protection test as provided in 567—135.3(455B).

(8) The owner or operator has failed to complete a compliance inspection required by 567—135.19(455B) within 60 days after written notice of the violation by the department.

REINSTATEMENT CRITERION: The owner or operator must submit a compliance inspection report as provided in 567—135.19(455B).

(9) The owner or operator has failed to take necessary abatement action in response to a confirmed release as provided in 135.7(2) and 135.7(3).

REINSTATEMENT CRITERION: The owner or operator must document compliance with the abatement provisions in 135.7(2) and 135.7(3).

(10) The owner or operator has failed to undertake and document release investigation and confirmation steps within seven days in response to a suspected release as provided in 135.6(3)*"a."*

REINSTATEMENT CRITERION: The owner or operator must document release confirmation and system check as provided in 135.6(3)*"a."*

(11) The owner or operator has failed to provide documentation of Class A or B operator training.

REINSTATEMENT CRITERION: The owner or operator must submit a copy of the certificates of training for Class A and B operators.

(12) The owner or operator has failed to install required secondary containment.

REINSTATEMENT CRITERION: The owner or operator must document secondary containment has been installed as provided in 135.3(9).

(13) The owner or operator has failed to pay the annual tank management fee.

REINSTATEMENT CRITERION: The owner or operator must pay the current and any previous unpaid tank management fees in addition to any late fees as provided in 135.3(5)*"b."*

(14) When tanks are no longer in use or in temporary closure.

REINSTATEMENT CRITERION: The owner or operator must provide a completed Return to Service form along with required documents.

c. Provisional status. The department may classify a UST system as operating under a provisional status when the department documents a pattern of UST operation and maintenance violations under 567—135.3(455B) through 567—135.5(455B) and suspected release and confirmed release response actions under 567—135.6(455B) and 567—135.7(455B). The department shall provide the owner or operator with a notice specifying the basis for the proposed classification and a proposed remedial action plan. The objective of the remedial action plan is to provide the owner and operator an opportunity to undertake certain remedial actions sufficient to establish a reasonable likelihood that future regulatory compliance will be achieved.

The remedial action plan may include but is not limited to provisions for owner/operator training, development of a facility-specific compliance manual, more frequent third-party compliance inspections than otherwise required under 567—135.19(455B), monthly reporting, and retention of a third-party compliance manager/consultant. If the owner or operator and the department cannot reach agreement on a remedial action plan, the department may initiate enforcement action by issuance of an administrative order pursuant to 567—Chapter 10. This provision does not grant the owner or operator an entitlement to this procedure, and the department reserves all discretion to undertake an enforcement action and assess penalties as provided in Iowa Code sections 455B.476 and 455B.477.

d. Administrative orders. The department may impose a delivery prohibition as a remedy for violations of the operation and maintenance provisions in 567—135.3(455B) through 567—135.5(455B) and the suspected and confirmed release response actions in 567—135.6(455B) and 567—135.7(455B). This remedy may be in addition to the assessment of penalties as provided in Iowa Code section 455B.476 and other appropriate injunctive relief necessary to correct violations.

e. Due process prior to initiation of a delivery prohibition response action.

(1) Prior to imposing a delivery prohibition response action under 135.3(7)*"b"* above, the department will provide notice to the owner or operator or, if notice to the owner or operator cannot be confirmed, to a person in charge at the UST facility of the basis for the finding and the intent to initiate a delivery prohibition response action. Notice may be by verbal contact, by electronic mail, or by regular or certified mail to the UST facility address or the owner's or operator's last-known address. The owner and operator will be given a minimum of one business day to provide documentation that the finding is inaccurate or that reinstatement criteria in 135.3(7)*"b"*(1) through *"b"*(5) have been satisfied. Additional days and the opportunity for a telephone or in-person conference may be provided the owner and operator to contest the factual basis for a finding under 135.3(7)*"b"*(6) through *"b"*(14). Additional

procedural due process may be afforded the owner and operator on a case-by-case basis sufficient to satisfy Constitutional due process standards.

If insufficient information is submitted to change the finding, the department will notify the owner or operator and a person in charge at the UST facility of the final decision to impose the delivery prohibition response action.

(2) Provisional status. Upon a finding that an owner or operator under provisional status has failed to comply with the terms of a remedial action plan as provided above, the department may initiate a delivery prohibition response action by giving actual notice to the owner or operator of the basis for the finding of noncompliance and the department's intent to initiate a delivery prohibition response action. The delivery prohibition response action shall not be imposed without providing the owner or operator the opportunity for an evidentiary hearing consistent with the provisions for suspension and revocation of certifications under 567—Chapter 7.

f. Delivery prohibition procedure. Upon oral or written notice that the delivery prohibition response action has been imposed, the owner or operator and any person in charge of the UST facility shall be notified that they are not authorized to receive any further delivery of regulated substances until conditions for reinstatement of eligibility are satisfied. Owners and operators are required to provide the department with names and contact information for all persons who convey or deposit regulated substances to the USTs. The department will attempt to notify known persons who convey or deposit regulated substances to the USTs that they are not authorized to deliver to the USTs until further notice by the department as provided in Iowa Code section 455B.473(8)*"a"* and in 135.3(5).

The department shall visit the site and affix a "red tag" to the fill pipes or fill pipe caps of all affected USTs. It is unlawful for any person to deposit or accept a regulated substance into a UST that has a "red tag" affixed to the fill pipe or fill pipe cap. The department may allow the owner and operator to dispense and sell the remainder of existing fuel unless the department determines there is an immediate risk of a release or other risk to human health, safety or the environment. The department shall confirm in writing the basis for the delivery prohibition response action, contacts made prior to the action, and steps the owner or operator must take to reinstate fuel delivery.

135.3(8) *Secondary containment requirements for UST system installations.* All new and replacement underground storage tank systems and appurtenances used for the storage and dispensing of petroleum products shall have secondary containment in accordance with this subrule. The secondary containment provision includes the installation of containment sumps.

a. Tanks and piping installed or replaced after November 28, 2007, must have secondary containment that is designed, installed, and maintained according to the performance standards in 135.3(1) and 135.5(3)*"b."*

(1) The secondary containment may be manufactured as an integral part of the primary containment or constructed as a separate containment system.

(2) At a minimum, the secondary containment must:

1. Contain regulated substances leaked from the UST system until detected and removed.

2. Prevent the release of regulated substances into the environment at any time during the operational life of the underground storage tank system.

3. Be checked for evidence of a release from the tank at least every 30 days as provided in 135.5(2)*"a."*

b. Testing and inspection. Containment sumps shall be liquid-tight and must be inspected and tested in accordance with the following:

(1) Inspections for secondary containment sumps (spill catchment basins, turbine sumps, transition or intermediate sumps, and under-dispenser containment).

1. Inspections for secondary containment sumps shall consist of visual inspection every year.

2. Containment sumps must be intact (no cracks or perforations) and liquid-tight, including sides and bottom.

3. Containment sumps must be maintained and kept free of debris, liquid, and ice at all times.

4. Regulated substances leaked or spilled into any containment sumps shall be immediately removed.

(2) Secondary containment sumps used for interstitial monitoring of piping shall be tested upon installation and periodically in accordance with 135.4(12).

567—135.4(455B) General operating requirements.

135.4(1) *Spill and overfill control.*

a. Owners and operators must ensure that releases due to spilling or overfilling do not occur. The owner and operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.

NOTE: The transfer procedures referenced in 40 CFR 280.30 may be used to comply with 135.4(1)*"a."*

b. The owner and operator must report, investigate, and clean up any spills and overfills in accordance with 135.6(4).

135.4(2) *Operation and maintenance of corrosion protection.* All owners and operators of metal UST systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented until the UST system is permanently closed or undergoes a change in service in accordance with 135.15(2):

a. All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

b. All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(1) Frequency. All cathodic protection systems must be tested within six months of installation and at least every three years thereafter or according to another reasonable time frame established by the department; and

(2) Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this subrule must be in accordance with a code of practice developed by a nationally recognized association.

NOTE: The codes of practice in 40 CFR 280.31(b)(2) may be used to comply with 135.4(2)*"b"*(2).

c. UST systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is running properly.

d. For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with 135.4(5)) to demonstrate compliance with the performance standards in this subrule. These records must provide the following:

(1) The results of the last three inspections required in 135.4(2)*"c"*; and

(2) The results of testing from the last two inspections required in 135.4(2)*"b."*

e. When an impressed current cathodic protection system is failing cathodic protection for the time periods given below, owners and operators must take the following actions:

(1) For impressed current cathodic protection systems that have been inoperative for 0 to 90 days after failing a corrosion protection test or after discovering the system is not operating, all of the following must be completed:

1. Power must be restored to an inoperative corrosion protection system. A damaged or failed corrosion protection system must be repaired by a qualified service technician. A corrosion expert must approve any modifications to the system that are outside of the original design.
2. The corrosion protection system must be retested within six months of repair.
3. A copy of the test and any repairs must be kept as part of the cathodic protection records.
4. A copy of the new design standards must be kept as part of the cathodic protection records.

(2) For impressed current corrosion protection systems that have been inoperative for 90 to 365 days or repaired 90 to 365 days after failing a corrosion protection test, all of the following must be completed:

1. Notify the department.
2. Power must be restored to an inoperative corrosion protection system.

3. The corrosion protection system must be repaired, tested and returned to service under the supervision of a corrosion expert.

4. A precision tightness test must be conducted on the entire UST system.

5. The corrosion protection system must be retested within six months of the repair or power being restored.

6. A copy of the test and any repairs must be kept as part of the cathodic protection records.

7. A copy of the new design standards must be kept as part of the cathodic protection records.

8. If determined the tank is not suitable for corrosion protection, the tank must be permanently closed in accordance with 135.15(2).

(3) If the impressed current corrosion protection system has been inoperative for more than 365 days or was not repaired for more than 365 days after failing a corrosion protection test, all of the following must be completed:

1. Notify the department.

2. Immediately empty and stop using the tank system.

3. An internal inspection of the steel tank must be conducted according to a national standard (e.g., API 1631). If the UST fails the internal inspection, the UST owner must permanently close the tank in accordance with 135.15(2).

4. All metal piping and buried metal components (e.g., flex connectors, couplings) that routinely contain product must be inspected by a UST professional or cathodic protection tester. If the metallic components have no visible corrosion and have passed a line tightness test (unless the piping is exempt from leak detection, e.g., Safe or European Suction), then the cathodic protection system may be repaired or replaced under the supervision of a corrosion expert. Metallic components that show visible corrosion must be replaced.

5. A precision test must be conducted on the entire UST system following repair or replacement of the cathodic protection system.

6. The corrosion protection system must be retested within six months of repair.

7. A copy of the tests and any repairs must be kept as part of the cathodic protection records.

8. A copy of the new design standards must be kept as part of the cathodic protection records.

(4) If the impressed current cathodic protection system has been inoperable for more than 365 days and cannot or will not be brought back into immediate use, the tank system must be permanently closed in accordance with 135.15(2).

135.4(3) *Compatibility.* Owners and operators must use a UST system made of or lined with materials that are compatible with the substance stored in the UST system.

a. Owners and operators must notify the department at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol, greater than 20 percent biodiesel, or any other regulated substance identified by the department.

b. Owners and operators must have a UST installer certified under 567—Chapter 134 submit the department's checklist for equipment compatibility for the UST system to the department at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol or greater than 20 percent biodiesel, or any other regulated substance identified by the department.

c. A retail dealer, as defined in Iowa Code section 214A.1, must show compliance with the requirements of Iowa Code sections 455G.32 and 455G.33, if applicable, by submitting and maintaining the applicable reporting and recordkeeping documentation listed in 135.4(5)*"a"*(10), *"a"*(11), *"b"*(12), and *"b"*(13).

NOTE: Owners and operators storing alcohol blends may use the code in 40 CFR 280.32(b)(2) to comply with the requirements of 135.4(3).

135.4(4) *Repairs and replacement.* Owners and operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements:

a. Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

NOTE: The codes and standards referenced in 40 CFR 280.33(a) may be used to comply with 135.4(4)*"a."*

b. Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

c. Piping and fitting

(1) Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Noncorrodible pipes and fittings may be repaired in accordance with the manufacturer's specifications.

(2) If 50 percent or more of any piping run is removed, the entire piping run must be removed and replaced with secondarily contained piping and interstitial monitoring.

(3) All piping replacements requiring secondary containment shall be constructed with transition or intermediate containment sumps.

d. Repairs to secondary containment areas of tanks and piping used for interstitial monitoring and to containment sumps used for interstitial monitoring of piping must have the secondary containment tested for tightness according to the manufacturer's instructions, a code of practice developed by a nationally recognized association or independent testing laboratory, or according to requirements established by the department within 30 days following the date of completion of the repair. All other repairs to tanks and piping must be tightness tested in accordance with 135.5(4)*"c"* and 135.5(5)*"b"* within 30 days following the date of the completion of the repair except as provided in 135.4(4)*"d"*(1) through *"d"*(3):

(1) The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory; or

(2) The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in 135.5(4)*"d"* through *"i"*; or

(3) Another test method is used that is determined by the department to be no less protective of human health and the environment than those listed above.

NOTE regarding 135.4(4)*"d"*: The codes of practice referenced in 40 CFR 280.33(d)(3) may be used to comply with 135.4(4)*"d."*

e. Within six months following the repair of any cathodically protected UST system, the cathodic protection system must be tested in accordance with 135.4(2)*"b"* and *"c"* to ensure that it is operating properly.

f. Within 30 days following any repair to spill or overfill prevention equipment, the repaired spill or overfill prevention equipment must be tested or inspected, as appropriate, in accordance with 135.4(1) to ensure it is operating properly.

g. Installation of any new or replacement turbine pumps involving the direct connection to the tank shall have secondary containment.

h. UST system owners and operators must maintain records of each repair until the UST system is permanently closed or undergoes a change-in-service pursuant to 135.15(2).

135.4(5) *Reporting and recordkeeping.* Owners and operators of UST systems must cooperate fully with inspections, monitoring and testing conducted by the department, as well as requests for document submission, testing, and monitoring by the owner or operator pursuant to Section 9005 of Subtitle I of the Solid Waste Disposal Act as amended.

a. Reporting. Owners and operators must submit the following information to the department:

(1) Notification for all UST systems (135.3(3)), which includes certification of installation for new UST systems (135.3(1)*"e"*);

(2) Notification of equipment replacement or addition of new equipment;

(3) Reports of all releases including suspected releases (135.6(1)), spills and overfills (135.6(4)), and confirmed releases (135.7(2));

(4) Corrective actions planned or taken including initial abatement measures (135.7(3)), initial site characterization (567—135.9(455B)), free product removal (135.7(4)), investigation of soil and groundwater cleanup and corrective action plan (567—135.8(455B) through 567—135.12(455B));

(5) A notification before permanent closure or change-in-service (135.15(2));

(6) Notification of any change in ownership;

(7) Notification of any change in Class A or Class B operators;

(8) Notification of any loss of financial responsibility (i.e., insurance);

(9) Notification prior to UST systems switching to certain regulated substances;

(10) Documentation establishing compatibility and capability as required in Iowa Code section 455G.32, if applicable;

(11) Documentation establishing compatibility and capability as required in Iowa Code section 455G.33, if applicable.

b. Recordkeeping. Owners and operators must maintain the following information:

(1) A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (135.3(1)*"a"*(4); 135.3(1)*"b"*(3)).

(2) Documentation of operation of corrosion protection equipment (135.4(2));

(3) Documentation of UST system repairs (135.4(4)*"h"*);

(4) Documentation of compliance with release detection requirements (135.5(6));

(5) Results of the site investigation conducted at permanent closure (135.15(3));

(6) Cathodic protection system testing results (135.4(2));

(7) Class A, B and C operator training certificates (135.4(6));

(8) Secondary containment test results (135.3(9));

(9) Documentation of periodic walkthrough inspections (135.4(13));

(10) Documentation of compatibility for UST systems (135.4(3));

(11) Documentation of compliance for spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping (135.4(12));

(12) Documentation establishing compatibility and capability as required in Iowa Code section 455G.32, if applicable;

(13) Documentation establishing compatibility and capability as required in Iowa Code section 455G.33, if applicable.

c. Availability and maintenance of records. Owners and operators must keep the records required either:

(1) At the UST site and immediately available for inspection by the department; or

(2) At a readily available alternative site and be provided for inspection to the department within two business days of department request.

(3) In the case of permanent closure records required under 135.15(5), owners and operators are also provided with the additional alternative of mailing closure records to the department if they cannot be kept at the site or an alternative site as indicated above.

135.4(6) *Training required for UST operators.*

a. An owner or operator shall designate Class A, Class B, and Class C operators for each underground storage tank system or facility that has underground storage tanks regulated by the department, except for unstaffed facilities, which may designate only Class A and Class B operators.

b. A facility may not operate unless operators have been designated and trained as required in this rule or unless otherwise agreed upon by the department based on a finding of good cause for failure to meet this requirement and a plan for designation and training at the earliest practicable date.

c. Trained operators must be readily available to respond to suspected or confirmed releases, equipment shut-offs or failures, and other unusual operating conditions.

d. A Class A or Class B operator should be immediately available for telephone consultation with the Class C operator when a facility is in operation. Class A or Class B operators should be able to be on site at the storage tank facility within four hours.

e. For staffed facilities, a Class C operator must be on site whenever the UST facility is in operation.

f. For unstaffed facilities, a Class B operator must be geographically located such that the person can be on site within two hours of being contacted by the public, the owner or operator of the facility, or the department. Emergency contact information and emergency procedures must be prominently

displayed at the site. An unstaffed facility shall have an emergency shutoff device as provided in 135.5(1) and a sign posted in a conspicuous place that includes the name and telephone number of the facility owner, an emergency response telephone number to contact the Class B operator, and information on local emergency responders.

g. Designated operators must successfully complete required training under 135.4(9).

h. A person may be designated for more than one class of operator.

i. When a facility is found to be out of compliance, the department may require that the designated UST system Class A, B, or C operator be retrained under a plan approved by the department. The retraining must occur within 30 days from departmental notice for Class A and Class B operators and within 15 days for Class C operators.

135.4(7) *UST operator responsibilities.*

a. Class A operator.

(1) Class A operators have the primary responsibility to operate, maintain, and have knowledge of the regulatory requirements for the underground storage tank system and facility. The Class A operator's responsibilities include managing resources and personnel to achieve and maintain compliance with regulatory requirements under this chapter in the following ways:

1. Class A operators assist the owner by ensuring that underground storage tank systems are properly installed and expeditiously repaired and inspected; financial responsibility is maintained; and records of system installation, modification, inspection and repair are retained and made available to the department and certified compliance inspectors. The Class A operator shall properly respond to and report emergencies caused by releases or spills from UST systems, ensure that the annual tank management fees are paid, and ensure that Class B and Class C operators are properly trained.

2. Class A operators shall be familiar with training requirements for each class of operator and may provide required training for Class C operators.

3. Class A operators shall provide site drawings that indicate equipment locations for Class B and Class C operators.

(2) Department-certified installers, installation inspectors, and department-certified compliance inspectors may perform Class A operator duties when employed or contracted by the tank owner to perform these functions so long as they are properly trained and designated as Class A operators pursuant to 135.4(9) through 135.4(11). Class A operators who are also certified compliance inspectors under 567—Chapter 134 may perform in-house facility inspections of the UST system, but shall not perform department-mandated compliance inspections pursuant to 567—135.19(455B). Compliance inspections of a UST facility required by 567—135.19(455B) must be completed by a third-party compliance inspector certified under 567—Chapter 134.

(3) When there is a change in ownership or operator status, the new owner or operator is responsible for designating a Class A operator prior to bringing the UST system into operation. The Class A operator is responsible for ensuring that all necessary documentation for change of ownership is completed and submitted to the department and that all compliance requirements of this chapter are satisfied prior to bringing the UST system into operation. The compliance requirements may be provided to the owner or operator using the department's checklist.

If the UST system was temporarily closed, the designated Class A operator must ensure the department's checklist for returning a UST into service is followed, all compliance requirements of this chapter have been met, and the necessary documentation is submitted to the department.

(4) When there is a change in UST ownership, property ownership or operator status, the designated Class A operator for the current owner and operator is responsible for notifying the department when the change is final and, if possible, prior to the new owner or operator taking possession of the site.

b. Class B operator.

(1) A Class B operator is knowledgeable of the applicable underground storage tank regulatory requirements and standards and implements them in the field or at the tank facility. A Class B operator oversees and implements the day-to-day aspects of operation, maintenance, and recordkeeping for the

underground storage tanks at facilities within four hours of travel time from the Class B operator's principal place of business. A Class B operator's responsibilities include but are not limited to:

1. Performing mandated system tests at required intervals and making sure spill prevention, overfill control equipment, and corrosion protection equipment are properly functioning.
2. Assisting the owner by ensuring that release detection equipment is operational, release detection monitoring and tests are performed at the proper intervals, and release detection records are retained and made available to the department and compliance inspectors.
3. Making sure recordkeeping and reporting requirements are met and that relevant equipment manufacturers' or third-party performance standards are available and followed.
4. Properly responding to, investigating, and reporting emergencies caused by releases or spills from USTs.
5. Performing UST release detection in accordance with 567—135.5(455B).
6. Monitoring the status of UST release detection.
7. Meeting spill prevention, overfill prevention, and corrosion protection requirements.
8. Reporting suspected and confirmed releases and taking release prevention and response actions according to the requirements of 567—135.6(455B).
9. Training and documenting Class C operators to make sure at least one Class C operator is on site during operating hours. Class B operators shall be familiar with Class C operator responsibilities and may provide training for Class C operators.

(2) Department-certified installers, installation inspectors, and department-certified compliance inspectors may perform Class B operator duties when employed or contracted by the tank owner to perform these functions so long as they are properly trained and designated as Class B operators under 135.4(9) through 135.4(11). Class B operators who are also certified compliance inspectors under 567—Chapter 134 may perform in-house facility inspections of the UST system, but cannot perform department-mandated compliance inspections pursuant to 567—135.19(455B). Compliance inspections of a UST facility pursuant to 567—135.19(455B) must be completed by a third-party compliance inspector certified under 567—Chapter 134.

(3) The owner or operator of a site undergoing a change in ownership shall designate a Class B operator prior to bringing the UST system into operation. The Class B operator must conduct an inspection using the department's inspection checklist and submit the completed checklist along with the change of ownership form prior to operation. If a UST system was temporarily closed, the Class B operator shall ensure that the department's checklist for returning a UST to service is followed and that the necessary documentation is submitted to the department prior to operation of the UST system.

c. Class C operator. A Class C operator is an on-site employee who typically controls or monitors the dispensing or sale of regulated substances and is the first to respond to events indicating emergency conditions. A Class C operator must be present at the facility at all times during normal operating hours. A Class C operator monitors product transfer operations to ensure that spills and overfills do not occur. The Class C operator must know how to properly respond to spills, overfills and alarms when they do occur. In the event of a spill, overfill or alarm, a Class C operator shall notify the Class A and Class B operators, as well as the department and appropriate local emergency authorities as required by rule.

(1) Written basic operating instructions, emergency contact names and telephone numbers, and basic procedures specific to the facility shall be provided to all Class C operators and readily available on site.

(2) There may be more than one Class C operator at a storage tank facility, but not all employees of a facility need be Class C operators.

135.4(8) *UST operator training course requirements.* Individuals must attend a department-approved training course covering material designated for each operator class. Individuals must attend every session of the training, take the examination, and attend examination review.

a. Class A operators. To be certified as a Class A operator, the applicant must successfully complete a department-approved training course that covers underground storage tank system requirements as outlined in 567—Chapters 134 through 136. The course must also provide a general

overview of the department's UST program, purpose, groundwater protection goals, public safety and administrative requirements. The training must include but is not limited to the following:

(1) Components and materials of underground storage tank systems.

(2) A general discussion of the content of PEI/RP900-08, Recommended Practices for the Inspection and Maintenance of UST Systems, and PEI/RP500, Recommended Practices for Inspection and Maintenance of Motor Fuel Dispensing Equipment.

(3) Spill and overfill prevention, to include the American Petroleum Institute (API) Publication RP1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," and National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code."

(4) Ensuring product delivery to the correct tank by using color-symbol codes in the API Standard RP1637, "Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Service Stations and Distribution Terminals."

(5) Proper fuel ordering and delivery, including procedures in API RP1007, "Loading and Unloading of MC/DOT 406 Cargo Tank Motor Vehicles."

(6) Release detection methods and related reporting requirements.

(7) Corrosion protection and inspection requirements, including the requirement to have a department-certified cathodic protection tester.

(8) Discussion of the benefits of monthly or frequent inspections and content and use of inspection checklists. Training materials for operators shall include the department's "Iowa UST Operator Inspection Checklist" or a checklist template similar to the department's document.

(9) Requirement and content of third-party compliance inspections.

(10) How to properly respond to an emergency, including hazardous conditions.

(11) Product and equipment compatibility, including the department's ethanol compatibility guidance and certification.

(12) Financial responsibility, including detailed explanation of liability, notice and claim procedures, and the six-month window to check for and report a release prior to insurance termination to maintain coverage for corrective action.

(13) Notification of installation and storage tank registration requirements.

(14) Requirement to use department-certified companies and individuals for UST installation, testing, lining, and removal.

(15) Temporary and permanent closure procedures and requirements.

(16) NESHAP vapor recovery requirements.

(17) Conditions under which the department may stop fuel delivery and take enforcement action.

(18) Ensuring that annual tank management fees are paid.

(19) Ensuring that suspected and confirmed releases are investigated and reported according to 135.6(1).

b. Class B operators. To be certified as a Class B operator, the individual must successfully complete a department-approved training course that provides in-depth understanding of UST system regulations applicable to this class. Training must also provide a general overview of the department's UST program, purpose, groundwater protection goals, public safety and administrative requirements. Training shall cover the operation and maintenance requirements set forth in this chapter, including but not limited to the following:

(1) A general discussion of the content of PEI/RP900-08, Recommended Practices for the Inspection and Maintenance of UST Systems, and PEI/RP500, Recommended Practices for Inspection and Maintenance of Motor Fuel Dispensing Equipment.

(2) Components and materials of underground storage tank systems.

(3) Spill and overfill prevention.

(4) Ensuring product delivery to the correct tank by using color-symbol codes in the API Standard RP1637.

(5) Proper fuel ordering and delivery, including procedures from API RP1007.

(6) Methods of release detection and related reporting requirements.

(7) Corrosion protection and related testing.

(8) Requirements of 30-day and annual walkthrough inspections. Training materials for operators shall include the department's "Iowa UST Operator Inspection Checklist" or a checklist template similar to the department's document.

(9) Requirement and content of third-party compliance inspections.

(10) Emergency response, reporting and investigating releases.

(11) Product and equipment compatibility, including the department's ethanol compatibility guidance and certification.

(12) Financial responsibility, including detailed explanation of liability, notice and claim procedures, and the six-month window to check for and report a release prior to insurance termination to maintain coverage for corrective action.

(13) Notification of installation and storage tank registration requirements.

(14) Requirement to use department-certified companies and individuals for UST installation, testing, lining, and removal.

(15) Reporting and recordkeeping requirements.

(16) Overview of Class C operator training requirements.

(17) NESHAP vapor recovery requirements.

(18) Conditions under which the department may stop fuel delivery and take enforcement action.

(19) Requirements for facilities that operate unstaffed at any time.

c. Class C operators. To be certified as a Class C operator, an individual must complete a department-approved training course. A Class A or Class B operator who has completed a department-approved training course may provide the Class C training. Class C operator training must include at a minimum:

(1) A general overview of the department's UST program and purpose;

(2) Groundwater protection goals;

(3) Public safety;

(4) UST system overview;

(5) Administrative requirements; and

(6) Action to be taken in response to an emergency condition due to a spill or release from a UST system.

Training must include written procedures for the Class C operator, including notification instructions necessary in the event of emergency conditions. The written instructions and procedures must be readily available on site. A Class A or Class B operator may provide additional on-site Class C training specific to the operator's UST system.

135.4(9) *Examination and review requirement.* Class A and Class B operators must complete the department-approved training course and take an examination to verify their understanding and knowledge. The examination may include both written and practical (hands-on) testing activities. The trainer must follow up the examination with a review of missed test questions with the class or individual to ensure understanding of problem areas. Upon successful completion of the training course, the applicant will receive a certificate verifying the applicant's status as a Class A, Class B, or Class C operator.

a. Reciprocity. The department may waive the training course for operators upon a showing of successful completion of a training course and examination approved by another state or regulatory agency that the department determines are substantially equivalent to the UST requirements contained in this chapter.

b. Transferability to another UST site. Class A and Class B operators may transfer to other UST facilities in Iowa provided the operator is properly designated by the facility owner as a Class A or Class B operator according to 567—subrule 135.4(11). Class A and Class B operators transferring from other states shall seek prior approval of training qualifications, unless the department has preapproved the out-of-state program as substantially equivalent to the requirements of this chapter.

135.4(10) *Timing of UST operator training.*

a. An owner shall ensure that Class A, Class B, and Class C operators are trained by approved training providers before an operator assumes duties of that class of operator.

b. When a Class A or Class B operator is replaced, a new operator must be trained prior to assuming duties for that class of operator. A copy of the certificate of training must be submitted to the department within 30 days of assuming duties.

c. Class C operators must be trained before assuming the duties of a Class C operator. Written basic operating instructions, emergency contact names and telephone numbers, and basic procedures specific to the facility shall be provided to all Class C operators and readily available on site. A Class C operator may be briefed on these procedures concurrent with annual safety training required under Occupational Safety and Health Administration regulations, 29 CFR, Part 1910.

135.4(11) *Documentation of operator training.*

a. The owner of an underground storage tank facility shall maintain a list of designated operators. The list shall be made available to the department in accordance with 135.4(5). The list shall represent the current Class A, Class B and Class C operators for the UST facility and must include:

(1) The name of each operator and the operator's class(es); contact information for Class A and Class B operators; the date each operator successfully completed initial training and refresher training, if any; the name of the company providing the training; and the name of the trainer.

(2) For all classes of operators, the site(s) for which an operator is responsible if more than one site.

b. A copy of the certificates of training for Class A and Class B operators shall be on file and readily available for inspection in accordance with 135.4(5). Records verifying completion of training or retraining of Class A, Class B, and Class C operators must identify name of trainee, date trained, operator training class completed, and list the name of the trainer or examiner and the training company name, address, and telephone number. Owners and operators must maintain these records for as long as Class A, Class B, and Class C operators are designated.

c. A copy of the certificates of training for Class B and Class C operators shall be available at each facility for which the operator is responsible.

d. Class A and Class B operator contact information, including names and telephone numbers and any emergency information, shall be conspicuously posted at unstaffed facilities near the dispensers and the station building.

135.4(12) *Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment.*

a. Owners and operators of UST systems with spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping must meet these requirements to ensure the equipment is operating properly and will prevent releases to the environment:

(1) Spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device) and containment sumps used for interstitial monitoring of piping must prevent releases to the environment by meeting one of the following:

1. The equipment is double walled and the integrity of both walls is periodically monitored at a frequency of not less than the frequency of the walkthrough inspections described in 135.4(13). If owners and operators discontinue periodic monitoring of this equipment, they must begin meeting 135.4(12)*"a"*(1)"2" and conduct a test within 30 days of discontinuing periodic monitoring of this equipment; or

2. The spill prevention equipment and containment sumps used for interstitial monitoring of piping are tested at least once every three years to ensure the equipment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:

- Requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements); or
- A code of practice developed by a nationally recognized association or independent testing laboratory; or
- Requirements determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

(2) Overfill prevention equipment must be inspected at least once every three years. At a minimum, the inspection must ensure that overfill prevention equipment is set to activate at the correct level

specified in 135.3(1)*"c"* and will activate when regulated substance reaches that level. Inspections must be conducted in accordance with one of the following criteria:

1. Requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements); or

2. A code of practice developed by a nationally recognized association or independent testing laboratory; or

3. Requirements determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

b. Owners and operators must begin meeting these requirements as follows:

(1) For UST systems in use on or before June 23, 2021, the initial spill prevention equipment test and overfill prevention equipment inspection must be conducted not later than October 13, 2021.

(2) For UST systems brought into use after June 23, 2021, these requirements apply at installation.

c. Owners and operators must maintain records as follows for spill prevention equipment and overfill prevention equipment:

(1) All records of testing or inspection must be maintained for three years; and

(2) For spill prevention equipment and containment sumps used for interstitial monitoring of piping not tested every three years, documentation showing that the prevention equipment is double-walled and the integrity of both walls is periodically monitored must be maintained for as long as the equipment is periodically monitored.

NOTE: The code of practice referenced in 40 CFR 280.35(a)(2) may be used to comply with this section.

135.4(13) *Periodic operation and maintenance walkthrough inspections.* Conduct inspections to properly operate and maintain UST systems.

a. Conduct a walkthrough inspection every 30 days that, at a minimum, checks the following equipment as specified below (Exception: spill prevention equipment at UST systems receiving deliveries at intervals greater than every 30 days may be checked prior to each delivery):

(1) Spill prevention equipment: visually check for damage; remove liquid or debris; check for and remove obstructions in the fill pipe; check the fill cap to make sure it attaches securely on the fill pipe and gasket is in good condition; and, for double-walled spill prevention equipment with interstitial monitoring, check for a leak in the interstitial area, and

(2) Release detection equipment: check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present, and ensure records of release detection testing are reviewed and current.

b. Conduct a walkthrough inspection annually, at a minimum, checking the following equipment as specified below:

(1) Containment sumps: visually check for damage, leaks to the containment area, or releases to the environment; remove liquid (in contained sumps) or debris; and, for double-walled sumps with interstitial monitoring, check for a leak in the interstitial area, and

(2) Handheld release detection equipment: check devices such as tank gauge sticks or groundwater bailers for operability and serviceability;

c. Conduct operation and maintenance walkthrough inspections according to a standard code of practice developed by a nationally recognized association or independent testing laboratory that checks equipment comparable to 135.4(13)*"a"* and *"b"*; or

NOTE regarding 135.4(13)*"c"*: The code of practice referenced in 40 CFR 280.36(a)(2) may be used to comply with 135.4(13)*"c."*

d. Conduct operation and maintenance walkthrough inspections developed by the department that checks equipment comparable to 135.4(13)*"a"* and *"b."*

e. Owners and operators must maintain records (in accordance with 135.4(5)) of operation and maintenance walkthrough inspections for 12 consecutive months. Records must include a list of each area checked, whether each area checked was acceptable or needed action taken, a description of actions taken to correct an issue, and delivery records if spill prevention equipment is checked less frequently than every 30 days due to infrequent deliveries.

567—135.5(455B) Release detection.

135.5(1) *General requirements for all UST systems.*

a. Owners and operators of UST systems must provide a method, or combination of methods, of release detection that:

(1) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product;

(2) Is installed and calibrated in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and

(3) Beginning October 13, 2021, is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following:

1. Manufacturer's instructions;

2. A code of practice developed by a nationally recognized association or independent testing laboratory; or

3. Requirements determined by the department to be no less protective of human health and the environment than the two options listed above.

(4) A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria:

1. Automatic tank gauge and other controllers: test alarm, verify system configuration, test battery backup;

2. Probes and sensors: inspect for residual buildup, ensure floats move freely, ensure shaft is not damaged, ensure cables are free of kinks and breaks, test alarm operability or running condition and communication with controller;

3. Automatic line leak detector: test operation to meet criteria in 135.5(5)*"a"* by simulating a leak;

4. Vacuum pumps and pressure gauges: ensure proper communication with sensors and controller; and

5. Handheld electronic sampling equipment associated with groundwater and vapor monitoring: ensure proper operation.

The code of practice referenced in 40 CFR 280.40(a)(3) may be used to comply with 135.5(1)*"a"*(3) and *"a"*(4).

(5) Meets the performance requirements in 135.5(4) or 135.5(5), with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods conducted in accordance with 135.5(4)*"b," "c,"* and *"d"* and 135.5(5)*"a"* and *"b"* must be capable of detecting the leak rate or quantity specified for that method with a probability of detection of 0.95 and a probability of false alarm of 0.05.

b. When an owner and operator continually show the inability to conduct leak detection with the method being used, the department may require the owner and operator to find an alternative leak detection method.

c. Any UST system that cannot apply a method of release detection that complies with the requirements of this rule must complete the closure procedures in 567—135.15(455B). For previously deferred UST systems described in 567—135.1(455B) and 567—135.20(455B), this requirement applies after the effective dates described in 135.1(3) and 567—135.20(455B).

d. Any UST facility that uses pressurized piping and dispenses product in the absence of a Class A, B, or C operator shall comply with the following requirements:

(1) Employ automatic line leak detectors that do one or more of the following:

1. Shut down the submersible pump when a leak is detected.

2. Restrict the flow of product when a leak is detected.

3. Trigger an audible or visual alarm when a leak is detected.

(2) At facilities implementing 135.5(1)*"d"*(1)"2" or "3," the facility's operator shall be notified or shall conduct a visit through one of the following methods:

1. Notification of the Class B operator by immediate electronic communication.

2. Signage directing the customer to contact the Class B operator or a designated contact person. The sign must be immediately visible to the customer and state that slow flow or an audible or visual

alarm is an indication of a possible release. The sign must provide a 24-hour telephone number of the Class B operator or designee and direct the customer to stop dispensing product.

3. Daily visit to the site by a Class A, B, or C operator or designee. Visits shall include observation of every automatic line leak detector for shutdown, alarm, or restricted flow conditions. Methods of observing for restricted flow conditions may include dispensing product into a proper container or personal vehicle, observing a customer dispense product into a vehicle, or another method approved by the department. Owners and operators shall maintain an onsite log of site visits to demonstrate compliance with this provision. The log shall include the name of the observer and method used to observe the status of the automatic line leak detectors.

(3) All UST facilities subject to 135.5(1)*"d"* must comply with its provisions by July 1, 2014.

135.5(2) *Requirements for petroleum UST systems.* Owners and operators of petroleum UST systems must provide release detection for tanks and piping as follows:

a. Tanks. Tanks must be monitored at least every 30 days for releases using one of the methods listed in 135.5(4)*"d"* through *"i"* except that:

(1) Tanks installed after November 28, 2007, must use interstitial monitoring of the secondary containment as the primary leak detection method in accordance with 135.5(4)*"g."*

(2) Tanks installed on or before November 28, 2007, with capacity of 550 gallons or less and tanks with a capacity of 551 to 1,000 gallons that meet the tank diameter criteria in 135.5(4)*"b"* may use manual tank gauging (conducted in accordance with 135.5(4)*"b"*).

b. Piping. Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one of the following requirements:

(1) Pressurized piping. Underground piping that conveys regulated substances under pressure must:

1. Be equipped with an automatic line leak detector conducted in accordance with 135.5(5)*"a"*; and

2. Have an annual line tightness test conducted in accordance with 135.5(5)*"b"* or have monthly monitoring conducted in accordance with 135.5(5)*"c."* Piping installed after November 28, 2007, must use interstitial monitoring of the piping secondary containment in accordance with 135.5(5)*"d."*

(2) Suction piping. Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every three years and in accordance with 135.5(5)*"b,"* or use a monthly monitoring method conducted in accordance with 135.5(5)*"c."* Remote fill is considered suction piping. No release detection is required for suction piping that is designed and constructed to meet the following standards:

1. The below-grade piping operates at less than atmospheric pressure;

2. The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

3. Only one check valve is included in each suction line;

4. The check valve is located directly below and as close as practical to the suction pump; and

5. A method is provided that allows compliance with "2" through "4" to be readily determined.

(3) Piping installed or replaced must meet one of the following:

1. Pressurized piping must be monitored for releases at least every 30 days in accordance with 135.5(5)*"d"* and be equipped with an automatic line leak detector.

2. Suction piping must be monitored for releases at least every 30 days. No release detection is required for suction piping that meets 135.5(5)*"b"*(2)"1" through "5."

135.5(3) *Requirements for hazardous substance UST systems.* Owners and operators of hazardous substance UST systems must have containment that meets the following requirements and monitor these systems pursuant to 135.5(4)*"g"* at least every 30 days:

a. Secondary containment systems must be designed, constructed and installed to:

(1) Contain regulated substances leaked from the primary containment until they are detected and removed;

(2) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

(3) Be checked for evidence of a release at least every 30 days.

b. Double-walled tanks must be designed, constructed, and installed to:

(1) Contain a leak from any portion of the inner tank within the outer wall; and

(2) Detect the failure of the inner wall.

c. External liners (including vaults) must be designed, constructed, and installed to:

(1) Contain 100 percent of the capacity of the largest tank within its boundary;

(2) Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances; and

(3) Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).

d. Underground piping must be equipped with secondary containment that satisfies the requirements of this subrule (e.g., trench liners, jacketing of double-walled pipe). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in accordance with 135.5(5)*"a"*;

e. For hazardous substance UST systems installed on or before November 28, 2007, other methods of release detection may be used if owners and operators:

(1) Demonstrate to the department that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in 135.5(4)*"b"* through *"i"* can detect a release;

(2) Provide information to the department on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the UST site; and

(3) Obtain approval from the department to use the alternate release detection method before the installation and operation of the new UST system.

135.5(4) *Methods of release detection for tanks.* Each method of release detection for tanks used to meet the requirements of 135.5(2) must be conducted in accordance with the following:

a. Inventory control. Product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least 1.0 percent of flow-through plus 130 gallons on a monthly basis in the following manner:

(1) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded each operating day;

(2) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 of an inch;

(3) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;

(4) Deliveries are made through a drop tube that extends to within 1 foot of the tank bottom;

(5) Product dispensing is metered and recorded within the local standards for meter calibration or an accuracy of 6 cubic inches for every 5 gallons of product withdrawn; and

(6) The measurement of any water level in the bottom of the tank is made to the nearest 1/8 of an inch at least once a month.

NOTE: Practices described in 40 CFR 280.43(a)(6) may be used, where applicable, as guidance in meeting the requirements of 135.5(4)*"a"*(1) through *"a"*(6).

b. Manual tank gauging. Manual tank gauging must meet the following requirements:

(1) Tank liquid level measurements are taken at the beginning and end of the test period during which no liquid is added to or removed from the tank;

(2) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;

(3) The equipment is capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 of an inch;

(4) A release is suspected and subject to the requirements of 567—135.6(455B) if the variation between the beginning and ending measurements exceeds the weekly or monthly standards in the following table. Immediately contact the department if these standards are exceeded.

Nominal Tank Capacity	Minimum Duration of Test	Weekly Standard (one test)	Monthly Standard (four-test average)
550 gallons or less	36 hours	10 gallons	5 gallons

Nominal Tank Capacity	Minimum Duration of Test	Weekly Standard (one test)	Monthly Standard (four-test average)
551-1,000 gallons (when tank diameter is 64 inches)	44 hours	9 gallons	4 gallons
551-1,000 gallons (when tank diameter is 48 inches)	58 hours	12 gallons	6 gallons
551-1,000 gallons (also requires annual tank tightness testing)	36 hours	13 gallons	7 gallons
1,001-2,000 gallons (also requires annual tank tightness test)	36 hours	26 gallons	13 gallons

(5) Only those tanks of 550 gallons or less nominal capacity or tanks of 551 to 1,000 gallons nominal capacity with diameters of 64 inches or 48 inches may use this as the sole method of release detection. Other tanks of 551 to 2,000 gallons may use this method in place of inventory control in 135.5(4)*"a."* Tanks of greater than 2,000 gallons nominal capacity may not use this method to meet the requirements of this rule.

c. Tank tightness testing. Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon-per-hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

The tank tightness test procedure must be certified by a third party and meet US EPA testing procedures. The testing procedures are found in *Standard Test Procedures for Evaluating Leak Detection Methods*: *Volumetric Tank Tightness Testing Methods* (EPA /530/UST-90/004) March 1990 or as revised by EPA or *Non-Volumetric Tank Tightness Testing Methods* (EPA /530/UST-90/005) March 1990 or as revised by EPA.

d. Automatic tank gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

(1) The automatic product level monitor test can detect a 0.2 gallon-per-hour leak rate from any portion of the tank that routinely contains product;

(2) The automatic tank gauging equipment must meet the inventory control (or other test of equivalent performance) requirements of 135.5(4)*"a"*;

(3) The leak test must be performed according to manufacturer specifications;

(4) The automatic tank gauging equipment must be certified by a third party and meet US EPA testing procedures in *Standard Test Procedures for Evaluating Leak Detection Methods: Automatic Tank Gauging Systems* (ATGS) (EPA /530/UST-90/006) March 1990 or as revised by US EPA; and

(5) The test must be performed with the system operating in one of the following modes:

1. In-tank static testing conducted at least once every 30 days; or

2. Continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every 30 days.

e. Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

(1) The materials used as backfill are sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

(2) The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

(3) The measurement of vapors by the monitoring device is not rendered inoperative by the groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than 30 days;

(4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;

(5) The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system;

(6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in 135.5(4)*"e"*(1) through *"e"*(4) and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product;

(7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering; and

(8) The vapor product detector must be certified by a third party and meet US EPA testing procedures in *Standard Test Procedures for Evaluating Leak Detection Methods: Vapor-Phase Out-of-Tank Product Detectors* (EPA/530/UST-90/008) March 1990 or as revised by US EPA.

f. Groundwater monitoring. Testing or monitoring for liquids on the groundwater must meet the following requirements:

(1) The regulated substance stored is immiscible in water and has a specific gravity of less than 1;

(2) Groundwater is never more than 20 feet from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);

(3) The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;

(4) Monitoring wells shall be sealed from the ground surface to the top of the filter pack;

(5) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;

(6) The continuous monitoring devices or manual methods used can detect the presence of at least 1/8 of an inch of free product on top of the groundwater in the monitoring wells;

(7) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in 135.5(4)*"f"*(1) through *"f"*(5) and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and

(8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

g. Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

(1) For secondary containment systems, the sampling or testing method must be able to detect a leak through the inner wall in any portion of the tank that routinely contains product:

1. Continuously, by means of an automatic leak sensing device that signals to the operator the presence of any regulated substance in the interstitial space; or

2. Monthly, by means of a procedure capable of detecting the presence of any regulated substance in the interstitial space.

3. The interstitial space shall be maintained and kept free of liquid, debris or anything that could interfere with leak detection capabilities.

(2) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a leak between the UST system and the secondary barrier:

1. The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (at least 10^{-6} cm/sec for the regulated substance stored) to direct a leak to the monitoring point and permit its detection;

2. The barrier is compatible with the regulated substance stored so that a leak from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;

3. For cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;

4. The groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;

5. The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under such conditions; and

6. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

(3) For tanks with an internally fitted liner, an automated device can detect a leak between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.

h. Statistical inventory reconciliation. Release detection methods based on the application of statistical principles to inventory data that test for the loss of product must meet the following requirements:

(1) Use a leak threshold that does not exceed one-half the minimum detectible leak rate;

(2) The statistical test must be able to detect at least a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; and

(3) The report by the SIR company must be a quantitative result with a calculated leak rate and include the leak threshold (leak rate at which a leak is declared), the calculated leak rate (leak rate calculated from the inventory records) and minimum detectable leak rate (minimum leak rate that can be determined from the inventory records).

1. A "pass" means that the calculated leak rate for the data set is less than the leak threshold and the minimum detectable leak rate is less than or equal to the certified performance standard;

2. A "fail" means the calculated leak rate for the data set is equal to or greater than the leak threshold;

3. An "inconclusive" means the minimum detectable leak rate exceeds the certified performance standard and the calculated leak rate is less than the leak threshold. If for any other reason the test result is not a "pass" or "fail," the result is "inconclusive";

(4) Owners and operators must notify the department in accordance with 567—135.6(455B) when a monthly SIR report of "fail" occurs or two consecutive inconclusive results occur.

(5) Owners and operators must assure the SIR analytical results are complete and available to the department upon request.

(6) The statistical inventory reconciliation method must be certified by a third party and meet US EPA testing procedures in *Standard Test Procedures for Evaluating Release Detection Methods: Statistical Inventory Reconciliation* (EPA 510-B-19-004) May 2019 or as revised by EPA.

i. Other methods. Any other type of release detection method, or combination of methods, can be used if:

(1) It can detect a 0.2 gallon-per-hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05; or

(2) The department may approve another method if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in 135.5(5)*"c"* through *"h."* In comparing methods, the department shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed by the department on its use to ensure the protection of human health and the environment.

135.5(5) *Methods of release detection for piping.* Each method of release detection for piping used to meet the requirements of 135.5(2) must be conducted in accordance with the following:

a. Automatic line leak detectors. Methods that alert the operator to the presence of a leak in pressurized piping by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within one hour. An annual test of the operation of the leak detector must be conducted in accordance with 135.5(1)*"a."*

b. Line tightness testing. A periodic test of piping may be conducted only if it can detect a 0.1 gallon-per-hour leak rate at one and one-half times the operating pressure. The line leak detection method must be certified by a third party and meet US EPA testing procedures in *Standard Test Procedures for Evaluating Release Detection Methods: Pipeline Release Detection* (EPA 510-B-19-005) May 2019 or as revised by EPA.

c. Applicable tank methods. Except as described in 135.5(2)*"a,"* any of the methods in 135.5(4)*"e"* through *"i"* may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

d. Interstitial monitoring of secondary containment. Interstitial monitoring may be used for any piping with secondary containment designed for and capable of interstitial monitoring.

(1) Leak detection shall be conducted:

1. Continuously, by means of an automatic leak sensing device that signals to the operator the presence of any regulated substance in the interstitial space or containment sump; or

2. Monthly, by means of a procedure capable of detecting the presence of any regulated substance in the interstitial space or containment sump, such as visual inspection.

(2) The interstitial space or sump shall be maintained and kept free of water, debris or anything that could interfere with leak detection capabilities.

(3) At least every two years, any sump shall be visually inspected for integrity of sides and floor and tightness of piping penetration seals. Any automatic sensing device shall be tested for proper function.

135.5(6) *Release detection recordkeeping.* All UST system owners and operators must maintain records in accordance with 135.4(5) demonstrating compliance with all applicable requirements of this rule. These records must include the following:

a. All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be maintained for five years, or for another reasonable period of time determined by the department, from the date of installation. Records of site assessments required for vapor monitoring under 135.5(4)*"e"*(6) and groundwater monitoring under 135.5(4)*"f"*(7) must be maintained for as long as the methods are used. Records of site assessments must be signed by a professional engineer or professional geologist, or equivalent certified professional with experience in environmental engineering, hydrogeology, or other relevant technical discipline acceptable to the department;

b. The results of any sampling, testing, or monitoring must be maintained for at least one year, or for another reasonable period of time determined by the department, except as follows:

(1) The results of tank tightness testing conducted in accordance with 135.5(4)*"c"* must be retained until the next test is conducted; and

(2) The results of annual operation tests conducted in accordance with 135.5(1)*"a"*(3) and *"a"*(4), must be maintained for three years. At a minimum, the results must list each component tested, indicate whether each component tested meets criteria in 135.5(1)*"a"*(3) and *"a"*(4), or needs to have action taken, and describe any action taken to correct an issue; and

(3) The results of tank tightness testing, line tightness testing, and vapor monitoring using a tracer compound placed in the tank system conducted in accordance with 567—135.20(455B) must be retained until the next test is conducted; and

c. Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site must be maintained for at least one year after the servicing work is completed, or for another reasonable time period determined by the department. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for five years from the date of installation.

567—135.6(455B) Release reporting, investigation, and confirmation.

135.6(1) *Reporting of suspected releases.* Owners and operators of UST systems must report to the department within 24 hours, or within 6 hours in accordance with 567—Chapter 105 if a hazardous

condition exists as defined in 567—105.3(455B), or another reasonable time period specified by the department, and follow the procedures in 135.8(1) for any of the following conditions:

a. The discovery by owners and operators or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water);

b. Unusual operating conditions observed by owners and operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system, an unexplained presence of water in the tank, or liquid in the interstitial space of secondarily contained systems) unless:

(1) The system equipment or component is found not to be releasing regulated substances to the environment;

(2) Any defective system equipment or component is immediately repaired or replaced; and

(3) For secondarily contained systems, except as provided for in 135.5(4)*"g"*(2)"4," any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed.

c. Monitoring results, including investigation of an alarm, from a release detection method required under 135.5(2) and 135.5(3) that indicate a release may have occurred unless:

(1) The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or

(2) The leak is contained in the secondary containment and:

1. Except as provided for in 135.5(4)*"g"*(2)"4," any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed; and

2. Any defective system equipment or component is immediately repaired or replaced;

(3) In the case of inventory control, a second month of data does not confirm the initial result or the investigation determines no release has occurred; or

(4) The alarm was investigated and determined to be a non-release event (for example, from a power surge or caused by filling the tank during release detection testing).

135.6(2) *Investigation due to off-site impacts.* When required by the department, owners and operators of UST systems must follow the procedures in 135.6(3) to determine if the UST system is the source of off-site impacts. These impacts include the discovery of regulated substances (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface and drinking waters) that has been observed by the department or brought to its attention by another party.

135.6(3) *Release investigation and confirmation steps.* Owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under 135.6(1) within seven days, or another reasonable time period specified by the department, using either the following steps or another procedure approved by the department:

a. System test. Owners and operators must conduct tests (according to the requirements for tightness testing in 135.5(4)*"c"* and 135.5(5)*"b"*) or, as appropriate, secondary containment testing described in 135.4(4).

(1) The test must determine whether:

1. A leak exists in that portion of the tank that routinely contains product, or the attached delivery piping; or

2. A breach of either wall of the secondary containment has occurred.

(2) If the system test confirms a leak into the interstice or a release, owners and operators must repair, replace, upgrade, or close the UST system. In addition, owners and operators must begin corrective action in accordance with 567—135.9(455B) if the test results for the system, tank, or delivery piping indicate a release exists.

(3) Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate a release exists and if environmental contamination is not the basis for suspecting a release.

(4) Owners and operators must conduct a site check as described in 135.6(3)*"b"* if the test results for the system, tank, and delivery piping do not indicate a release exists but environmental contamination is the basis for suspecting a release.

b. Site check. A certified groundwater professional must conduct a site check in accordance with the tank closure in place procedures as provided in 135.15(3) or they may conduct a Tier 1 assessment in accordance with 135.9(3). Under either procedure, the certified groundwater professional must follow the policies and procedures applicable to sites where bedrock is encountered before groundwater as provided in 135.8(5) to avoid creating a preferential pathway for soil or groundwater contamination to reach a bedrock aquifer. The certified groundwater professional must measure for the presence of a release where contamination is most likely to be present at the UST site. The certified groundwater professional must follow the policies and procedures applicable to sites where bedrock is encountered before groundwater as provided in 135.8(5) to avoid creating a preferential pathway for soil or groundwater contamination to reach a bedrock aquifer. In selecting sample types, sample locations, and measurement methods, the certified groundwater professional must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of groundwater, and other factors appropriate for identifying the presence and source of the release.

(1) If the test results of the site check indicate action levels in 567—135.14(455B) have been exceeded, owners and operators must begin corrective action in accordance with 567—135.7(455B) through 567—135.12(455B).

(2) If the test results for the excavation zone or the UST site do not indicate a release has occurred, further investigation is not required.

135.6(4) *Reporting and cleanup of spills and overfills.*

a. Reportable releases. Owners and operators of UST systems must contain and immediately clean up a spill, overfill or any aboveground release, and report to the department within 24 hours, or within 6 hours in accordance with 567—Chapter 105 if a hazardous condition exists as defined in 567—105.3(455B) and begin corrective action in accordance with 567—135.7(455B) through 567—135.12(455B) in the cases identified in 40 CFR 280.53(a)(1) and (2).

b. Nonreportable releases. Owners and operators of UST systems must contain and immediately clean up a spill, overfill or any aboveground release of petroleum that is less than 25 gallons and a spill, overfill or any aboveground release of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours, owners and operators must immediately notify the department.

NOTE: Any spill or overfill that results in a hazardous condition as defined in 567—105.3(455B) must be reported within 6 hours. This includes the transporter of the product. A release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center under Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and to appropriate state and local authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986.

567—135.7(455B) Release response and corrective action for UST systems containing petroleum or hazardous substances.

135.7(1) *General.* Owners and operators of petroleum or hazardous substance UST systems must, in response to a confirmed release from the UST system, comply with the requirements of this rule except for USTs excluded under 135.1(3)*"b"* and UST systems subject to RCRA Subtitle C corrective action requirements under Section 3004(u) of the Resource Conservation and Recovery Act, as amended.

135.7(2) *Initial response.* Upon confirmation of a release in accordance with 135.6(3) or after a release from the UST system is identified in any other manner, owners and operators must perform the following initial response actions within 24 hours of a release or within another reasonable period of time specified by the department:

a. Report the release to the department (e.g., by telephone or electronic mail);

b. Take immediate action to prevent any further release of the regulated substance into the environment; and

c. Identify and mitigate fire, explosion, and vapor hazards.

135.7(3) *Initial abatement measures.*

a. Unless directed to do otherwise by the department, owners and operators must perform the following abatement measures:

(1) Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment;

(2) Visually inspect any aboveground releases or exposed below-ground releases and prevent further migration of the released substance into surrounding soils and groundwater;

(3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);

(4) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator must comply with applicable state and local requirements;

(5) Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with 135.7(4).

b. Within 20 days after release confirmation, or within another reasonable period of time determined by the department, owners and operators must submit a report to the department summarizing the initial abatement steps taken under 135.7(3)*"a"* and any resulting information or data.

135.7(4) *Free product assessment and removal.* The free product assessment and removal requirements in this chapter are primarily concerned with a regulated substance that is present as a light nonaqueous phase liquid (LNAPL) in a monitoring well, boring, excavation, or other location at a thickness of more than 0.01 ft. At sites where investigations under 135.7(3)*"a"*(5) indicate 0.01 ft. or more of free product, owners and operators must immediately initiate a free product recovery assessment and submit a report in accordance with 135.7(4)*"d"* and initiate interim free product removal while continuing, as necessary, any actions initiated under 135.7(2) and 135.7(3), or preparing for actions required under 567—135.8(455B) through 567—135.12(455B). Owners and operators must immediately begin interim free product removal by bailing or by installation and maintenance of passive skimming equipment until an alternative removal method is required by or approved by the department. A certified groundwater professional must initially determine the frequency of bailing and proper installation and maintenance of the skimming equipment based on a determination of the recharge rate of the free product. The department may approve implementation of this interim removal process by persons not certified as groundwater professionals. For approval a certified groundwater professional must submit (1) sufficient documentation establishing that the bailing or skimming system has been adequately designed and tested, and (2) a written plan for regular maintenance, reporting and supervision by a certified groundwater professional. Interim free product recovery reports must be submitted to the department on a monthly basis and on forms provided by the department. In meeting the requirements of this subrule, owners and operators must:

a. Conduct free product removal at a frequency determined by the recharge rate of the product and in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery by-products in compliance with applicable local, state and federal regulations. Unless approved by the department, free product assessment and recovery activities must be conducted by a certified groundwater professional. Owners and operators must report the results of free product removal activities on forms designated by the department;

b. Use abatement of free product migration as a minimum objective for the design of the free product removal system. Free product recovery systems must be designed to remove free product to the maximum extent practicable;

c. Handle any flammable products in a safe and competent manner to prevent fires or explosions; and

d. Free product recovery assessment and report. Unless directed to do otherwise by the department, prepare and submit to the department, within 45 days after confirming a release, a free product recovery assessment report and a proposal for subsequent free product removal activities. The

free product recovery assessment report and removal proposal must contain at least the following information:

(1) The name of the person(s) responsible for implementing the free product removal measures;

(2) The estimated quantity, type and thickness of free product observed or measured in monitoring wells, boreholes, and excavations, the recharge rate in all affected monitoring wells and a detailed description of the procedures used to determine the recharge rate;

(3) A detailed justification for the free product removal technology proposed for the site. Base the justification narrative on professional judgment considering the characteristics of the free product plume (i.e., estimated volume, type of product, thickness, extent), an assessment of cost effectiveness based on recovery costs compared to alternative methods, site hydrology and geology, when the release event occurred, testing conducted to verify design assumptions and the potential for petroleum vapors or explosive conditions to occur in enclosed spaces. Proposals for removal systems other than hand bailing or passive skimming systems must be completed and submitted on a format consistent with the department's corrective action design report.

(4) A schematic and narrative description of the free product recovery system used;

(5) Whether any discharge will take place on site or off site during the recovery operation and where this discharge will be located;

(6) A schematic and narrative description of the treatment system, and the effluent quality expected from any discharge;

(7) The steps that have been or are being taken to obtain necessary permits for any discharge;

(8) The disposition of the recovered free product;

(9) Free product plume definition and map. The extent of free product must be assessed. If monitoring wells are used to define the free product plume, the number and location of wells and separation distance between the wells used to define the plume must be based on the receptors present and the site hydrology and geology. A minimum of five monitoring wells are required to construct the plume map. The boundary of the plume may be determined by half the distance between wells with free product and wells with no free product. If the groundwater professional can adequately define the plume using other technology as approved by the department, fewer than five wells may be used to define the boundary of the plume;

(10) The estimated volume of free product present, how the volume was calculated, recoverable volume and estimated recovery time; and

(11) Identification of all water lines, regardless of construction material, within the area of free product. A water line shall be considered within the area of free product if it is located within the boundary of the free product plume as defined by wells unless it can be demonstrated that no LNAPL exists within 10 feet (horizontally or vertically) of the water line and the LNAPL is not migrating nor is likely to migrate. Water lines within the area of free product must be relocated unless there is no other option and the department has approved an alternate plan of construction. See 135.12(3)*"c."*

e. The department will review the free product assessment report; and, if approved, the owner or operator must implement the installation of the approved recovery system within 60 days or other time period approved by the department.

f. Termination of free product recovery activities. Owners and operators may propose to the department to terminate free product recovery activities when significant amounts of hydrocarbons are not being recovered. The department will consider proposals to terminate free product recovery when the amount of product collected from a monitoring well is equal to or less than 0.1 gallon each month for a year unless another plan is approved by the department. When free product activities have been terminated, owners and operators must inspect the monitoring wells monthly for at least a year unless another schedule is approved by the department. The department must be notified and may require that free product recovery activities be reinitiated if during the monthly well inspections it is determined the product thickness in a monitoring well exceeds 0.02 ft. The monthly well inspection records must be kept available for review by the department.

g. Unless directed to do otherwise by the department, prepare and submit to the department within 180 days after confirming a release, a Tier 2 site cleanup report.

567—135.8(455B) Risk-based corrective action.

135.8(1) *General.* The objective of risk-based corrective action is to effectively evaluate the risks posed by contamination to human health, safety and the environment using a progressively more site-specific, three-tiered approach to site assessment and data analysis. Based on the tiered assessment, a corrective action response is determined sufficient to remove or minimize risks to acceptable levels. Corrective action response includes a broad range of options including reduction of contaminant concentrations through active or passive methods, monitoring of contamination, use of technological controls or institutional controls.

a. Tier 1. The purpose of a Tier 1 assessment is to identify whether a site poses an unreasonable risk to public health and safety or the environment based on limited site data. The objective is to determine maximum concentrations of chemicals of concern at the source of a release(s) in soil and groundwater. The Tier 1 assessment assumes worst-case scenarios in which actual or potential receptors could be exposed to these chemicals at maximum concentrations through certain soil and groundwater pathways. The point of exposure is assumed to be the source showing maximum concentrations. Risk-based screening levels (Tier 1 levels) contained in the Tier 1 Look-Up Table have been derived from models that use conservative assumptions to predict exposure to actual and potential receptors. (These models and default assumptions are contained in Appendix A.) If Tier 1 levels are not exceeded for a pathway, that pathway may not require further assessment. If the maximum concentrations exceed a Tier 1 level, the options are to conduct a more extensive Tier 2 assessment, apply an institutional control, or in limited circumstances excavate contaminated soil to below Tier 1 levels. If all pathways clear the Tier 1 levels, it is possible for the site to obtain a no action required classification.

b. Tier 2. The purpose of a Tier 2 assessment is to use site-specific data to assess the risk from chemicals of concern to existing receptors and potential receptors using fate and transport models in accordance with 567—135.10(455B). See 135.10(2)*"a."*

c. Tier 3. Where site conditions may not be adequately addressed by Tier 2 procedures, a Tier 3 assessment may provide more accurate risk assessment. The purpose of Tier 3 is to identify reasonable exposure levels of chemicals of concern and to assess the risk of exposure to existing and potential receptors based on additional site assessment information, probabilistic evaluations, or sophisticated chemical fate and transport models in accordance with 567—135.11(455B).

d. Notification. Whenever the department requires a tiered site assessment and a public water supply well is within 2,500 feet of a leaking underground storage tank site, the department will notify the public water supply operator.

e. Pathway reevaluation. Prior to issuance of a no further action certificate in accordance with 135.12(10) and Iowa Code section 455B.474(1)*"h"*(3), if it is determined that the conditions for an individual pathway that has been classified as "no action required" no longer exist, or the site presents an unreasonable risk to a public water supply well and the model used to obtain the pathway clearance underpredicts the actual contaminant plume, the individual pathway shall be further assessed consistent with the risk-based corrective action provisions in 567—135.8(455B) through 567—135.12(455B).

135.8(2) *Certified groundwater professional.* All assessment, corrective action, data analysis and report development required under 567—135.6(455B) through 567—135.12(455B) must be conducted by or under the supervision of a certified groundwater professional in accordance with these rules and department guidance as specified.

135.8(3) *Chemicals of concern.* Soil and groundwater samples from releases of petroleum regulated substances must always be analyzed for the presence of benzene, ethylbenzene, toluene, and xylenes. In addition, if the release is suspected to include any petroleum regulated substance other than gasoline or gasoline blends, or if the source of the release is unknown, the samples must be tested for the presence of Total Extractable Hydrocarbons (TEH). Appendices A and B and department Tier 2 guidance define a method for converting TEH values to a default concentration for naphthalene, benzo(a)pyrene, benz(a)anthracene and chrysene and conversion back to a representative TEH value. These default values must be used in order to apply Tier 2 modeling to these constituents in the absence of accurate laboratory analysis.

135.8(4) *Boring depth for sampling.* When drilling for the placement of groundwater monitoring wells, if groundwater is encountered, drilling must continue to the maximum of 10 feet below the first encountered groundwater or to the bottom of soil contamination as estimated by field screening. If groundwater is not encountered, drilling must continue to the deeper of 10 feet below the soil contamination as estimated by field screening or 75 feet from the ground surface.

135.8(5) *Bedrock aquifer assessment.* Prior to conducting any groundwater drilling, a groundwater professional must determine if there is a potential to encounter bedrock before groundwater. These potential areas include (1) areas where karst features or outcrops exist in the vicinity and (2) areas with bedrock less than 50 feet from the surface as illustrated in Tier 1 and Tier 2 guidance. The purpose of this determination is to prevent drilling through contaminated subsurface areas thereby creating a preferential pathway to a bedrock aquifer. If the first encountered groundwater is above bedrock but near the bedrock surface or fluctuates above and below bedrock, the groundwater professional should evaluate the subsurface geology and aquifer characteristics to determine the potential for creating a preferential pathway. If it is determined that the aquifer acts like a nongranular aquifer as provided in 135.10(3)*"a"* or bedrock is encountered before groundwater, the groundwater professional must conduct a Tier 2 assessment for all pathways under 567—135.10(455B), including the specified bedrock procedures under 135.10(3).

If the first encountered groundwater is above bedrock with sufficient separation and aquifer characteristics to establish that it acts as a granular aquifer, site assessment may proceed under the site check procedure in 567—135.6(455B), the Tier 1 procedure in 567—135.9(455B) or the Tier 2 procedure in 567—135.10(455B) as would be customary regardless of the bedrock designation. However, even under this condition, drilling through bedrock should be avoided in contaminated areas.

567—135.9(455B) Tier 1 site assessment policy and procedure.

135.9(1) *General.* The main objective of a Tier 1 site assessment is to reasonably determine the highest concentrations of chemicals of concern that would be associated with any suspected or confirmed release and an accurate identification of applicable receptors. The potential source of a release, nature of the substance released, site stratigraphy, depth to groundwater, and other appropriate factors must be considered when selecting the sample types, sample locations, and measurements methods. The placement and depth of borings and the construction of monitoring wells must be sufficient to determine the sources of all releases, the vertical extent of contamination, an accurate description of site stratigraphy, and a reliable determination of groundwater flow direction.

a. Pathway assessment. The pathways to be evaluated at Tier 1 are the groundwater ingestion pathway, soil leaching to groundwater pathway, groundwater vapor to enclosed space pathway, soil vapor to enclosed space pathway, soil to water line pathway, groundwater to water line pathway and the surface water pathway. Assessment requires a determination of whether a pathway is complete, an evaluation of actual and potential receptors, and a determination of whether conditions are satisfied for obtaining no further action clearance for individual pathways or for obtaining a complete site classification of "no action required." A pathway is considered complete if a chemical of concern has a route that could be followed to reach an actual or potential receptor.

b. Pathway clearance. If contaminant concentrations for an individual pathway do not exceed the applicable Tier 1 levels or if a pathway is incomplete, no further action is required to evaluate the pathway unless otherwise specified in these rules. If the contaminant concentrations for a pathway exceed the applicable Tier 1 level(s) in the "Iowa Tier 1 Look-up Table," the response is to conduct further assessment under Tier 2 or Tier 3 unless an effective institutional control is approved. In limited circumstances excavation of contaminated soils may be used as an option to obtain pathway clearance. If further site assessment indicates site data exceeds an applicable Tier 1 level(s) for a previously cleared pathway or the conditions justifying a determination of pathway incompleteness change, that pathway must be reevaluated as part of a Tier 2 or Tier 3 assessment.

c. Chemical group clearance. If concentrations for all chemicals of concern within a designated group of chemicals are below the Tier 1 levels, no further action is required as to the group of chemicals unless otherwise specified in these rules. Group one consists of benzene, ethylbenzene, toluene, and

xylenes (BTEX). Group two consists of naphthalene, benzo(a)pyrene, benz(a)anthracene and chrysene; TEH default values are incorporated into the Iowa Tier 1 Look-Up Table and Appendix A for group two chemicals.

d. Site classification. A site can be classified as no action required only after all pathways have met the conditions for pathway clearance as provided in this rule.

e. Groundwater sampling procedure. Groundwater sampling and field screening must be conducted in accordance with department Tier 1 guidance. A minimum of three properly constructed groundwater monitoring wells must be installed, subject to the limitations on maximum drilling depths, for the purpose of identifying maximum concentrations of groundwater contamination, suspected sources of releases, and groundwater flow direction.

(1) Field screening must be used to locate suspected releases and to determine locations with the greatest concentrations of contamination. Field screening is required as per department guidance at each former and current tank basin, each former and current pump island, along the piping, and at any other areas of actual or suspected releases. In placing monitoring wells, the following must be considered: field screening data, available current and historical information regarding the releases, tank and piping layout, site conditions, and drilling data available from sites in the vicinity. At least one well must be placed at each suspected source of release that shall include at a minimum: the pump island with the greatest field screening level, each current and former underground storage tank basin, and if field screening shows greater levels than at the pump islands or tank basins, at other suspected sources of releases. As a general rule, wells should be installed outside of the tank basin through native soils but as close to the tank basin as feasible. A well must be installed in a presumed downgradient direction and within 30 feet of the sample with the greatest field screening level. Three of the wells must be placed in a triangular arrangement to determine groundwater flow direction.

(2) Where the circumstances that prompt a Tier 1 assessment identify a discrete source and cause of a release, and the groundwater professional is able to rule out other suspected sources or contributing sources such as pump islands, piping runs and tank basins, the application of field screening and groundwater well placement may be limited to the known source.

f. Soil sampling procedure. The objective of soil sampling is to identify the maximum concentrations of soil contamination in the vadose and saturated zones and to identify sources of releases. The same principles stated above apply to soil sampling. Soil samples must be taken from borings with the greatest field screening levels even if the boring will not be converted to a monitoring well. At a minimum, soil and groundwater samples must be collected for analysis from all borings that are converted to monitoring wells.

Iowa Tier 1 Look-Up Table

Media	Exposure Pathway	Receptor	Group 1				Group 2: TEH	
			Benzene	Toluene	Ethylbenzene	Xylenes	Diesel*	Waste Oil
Groundwater (µg/L)	Groundwater Ingestion	Actual	5	1,000	700	10,000	1,200	400
		Potential	290	7,300	3,700	73,000	75,000	40,000
	Groundwater Vapor to Enclosed Space	All	1,540	20,190	46,000	NA	2,200,000	NA
	Groundwater to Water Line	PVC or Gasketed Mains	7,500	6,250	40,000	48,000	75,000	40,000
		PVC or Gasketed Service Lines	3,750	3,120	20,000	24,000	75,000	40,000
		PE/PB/AC Mains or Service Lines	200	3,120	3,400	19,000	75,000	40,000
	Surface Water	All	290	1,000	3,700	73,000	75,000	40,000
Soil (mg/kg)	Soil Leaching to Groundwater	All	0.54	42	15	NA	3,800	NA
	Soil Vapor to Enclosed Space	All	1.16	48	79	NA	47,500	NA
	Soil to Water Line	All	2.0	3.2	45	52	10,500	NA

NA: Not applicable. There are no limits for the chemical for the pathway, because for groundwater pathways the concentration for the designated risk would be greater than the solubility of the pure chemical in water, and for soil pathways the concentration for the designated risk would be greater than the soil concentration if pure chemical were present in the soil.

TEH: Total Extractable Hydrocarbons. The TEH value is based on risks from naphthalene, benzo(a)pyrene, benz(a)anthracene, and chrysene. Refer to Appendix B for further details.

Diesel*: Standards in the Diesel column apply to all low volatile petroleum hydrocarbons except waste oil.

135.9(2) *Conditions requiring Tier 1 site assessment.* Unless owners and operators choose to conduct a Tier 2 assessment, the presence of bedrock requires a Tier 2 assessment as provided in 135.8(5), or these rules otherwise require preparation of a Tier 2 site assessment, a Tier 1 site assessment must be completed in response to release confirmation as provided in 567—135.6(455B), or tank closure investigation under 567—135.15(455B), or other reliable laboratory analysis that confirms the presence of contamination above the action levels in 567—135.14(455B).

135.9(3) *Tier 1 assessment report.* Unless directed to do otherwise by the department or the owners or operators choose to prepare a Tier 2 site cleanup report, owners and operators must assemble information about the site and the nature of the release in accordance with the department Tier 1 guidance, including information gained while confirming the release under 567—135.6(455B), tank closure under 567—135.15(455B) or completing the initial abatement measures in 135.7(1) and 135.7(2). This information must include but is not necessarily limited to the following:

a. Data on the nature and estimated quantity of release.

b. Results of any release investigation and confirmation actions required by 135.6(3).

c. Results of the free product investigations required under 135.7(3)*"a"*(5), to be used by owners and operators to determine whether free product must be recovered under 135.7(4).

d. Chronology of property ownership and underground storage tank ownership, identification of the person(s) having control of, or having responsibility for the daily operation of the underground storage tanks and the operational history of the underground storage tank system. The operational history shall include but is not limited to a description of or suspected known subsurface or aboveground releases, past remediation or other corrective action, type of petroleum product stored, recent tank and piping tightness test results, any underground storage tank system repairs, upgrades or replacements and the underground storage tank and piping leak detection method being utilized. The operational history shall confirm that current release detection methods and recordkeeping comply with the requirements of

567—135.5(455B), that all release detection records have been reviewed and report any evidence that a release detection standard has been exceeded as provided in 135.5(4) and 135.5(5).

e. Appropriate diagrams of the site and the underground storage tank system and surrounding land use, identifying site boundaries and existing structures and uses such as residential properties, schools, hospitals, child care facilities and a general description of relevant land use restrictions and known future land use.

f. Current proof of financial responsibility as required by 567—Chapter 136 and the status of coverage for corrective action under any applicable financial assurance mechanism or other financial assistance program.

g. A receptor survey including but not limited to the following: existing buildings, enclosed spaces (basements, crawl spaces, utility vaults, etc.), conduits (gravity drain lines, sanitary and storm sewer mains and service lines), water lines and other utilities within 500 feet of the source. For conduits and enclosed spaces, there must be a description of construction material, conduit backfill material, slope of conduit and trenches (include flow direction of sewers), burial depth of utilities or subsurface enclosed spaces, and the relationship to groundwater elevations.

h. An explosive vapor survey of enclosed spaces where there may be the potential for buildup of explosive vapors. The groundwater professional must provide a specific justification for not conducting an explosive vapor survey.

i. A survey of all surface water bodies within 200 feet of the source.

j. A survey of all active, abandoned and plugged groundwater wells within 1,000 feet of the source with a description of construction and present or future use.

k. Accurate and legible site maps showing the location of all groundwater monitoring wells, soil borings, field screening locations and screening values, and monitoring well and soil boring construction logs.

l. A tabulation of all laboratory analytical results for chemicals of concern and copies of the laboratory analytical reports.

m. Results of hydraulic conductivity testing and description of the procedures utilized.

n. A Tier 1 site assessment in accordance with the department's Tier 1 guidance. The Tier 1 report shall be submitted on forms and in a format prescribed by this guidance.

135.9(4) *Groundwater ingestion pathway assessment.* The groundwater ingestion pathway addresses the potential for human ingestion of petroleum-regulated substances from existing groundwater wells or potential drinking water wells.

a. Pathway completeness. This pathway is considered complete if: (1) there is a drinking or non-drinking water well within 1,000 feet of the source(s) exhibiting the maximum concentrations of the chemicals of concern; or (2) the first encountered groundwater is a protected groundwater source.

b. Receptor evaluation. A drinking or non-drinking water well within 1,000 feet of the source(s) is an actual receptor. The Tier 1 levels for actual receptors apply to drinking water wells and the Tier 1 levels for potential receptors apply to non-drinking water wells. Potential receptor points of exposure exist if the first encountered groundwater is a protected groundwater source but no actual receptors presently exist within 1,000 feet of the source.

c. Pathway clearance. If the pathway is incomplete, no further action is required for this pathway. If the Tier 1 level for actual or potential receptors is not exceeded, no further action is required for this pathway. Groundwater wells that are actual or potential receptors may be plugged in accordance with 567—Chapters 39 and 49 and may result in no further action clearance if the groundwater is not a protected groundwater source and the pathway is thereby incomplete.

d. Corrective action response. If maximum concentrations exceed the applicable Tier 1 levels for either actual or potential receptors, a Tier 2 assessment must be conducted unless effective institutional controls are implemented as provided below. Technological controls are not acceptable at Tier 1 for this pathway. Abandonment and plugging of drinking and non-drinking water wells in accordance with 567—Chapters 39 and 49 is an acceptable corrective action response.

e. Use of institutional controls. To apply an effective institutional control, if drinking or non-drinking water wells are present within 1,000 feet of the source, and the applicable Tier 1 level is

exceeded, the well(s) for which there is an exceedance must be properly plugged. If the groundwater is a protected groundwater source and the maximum concentrations do not exceed the Tier 1 level for potential receptors but do exceed the Tier 1 level for actual receptors, the owner or operator must provide notification of site conditions on a department form to the department water supply section, or if a county has delegated authority, then the designated county authority responsible for issuing private water supply construction permits or regulating non-public water well construction as provided in 567—Chapters 39 and 49.

If the groundwater is a protected source and the maximum concentrations exceed the Tier 1 level for potential receptors, the owner or operator must (1) implement an institutional control prohibiting the use of the groundwater for installation of drinking and non-drinking water wells within 1,000 feet of the source; and (2) provide notification as provided above. If an effective institutional control is not feasible, a Tier 2 assessment must be performed for this pathway in accordance with 567—135.10(455B).

135.9(5) *Soil leaching to groundwater pathway assessment.* This pathway addresses the potential for soil contamination to leach to groundwater creating a risk of human exposure through the groundwater ingestion pathway.

a. Pathway completeness. If the groundwater ingestion pathway is complete, the soil leaching to groundwater pathway is considered complete.

b. Receptor evaluation. There is a single receptor type for this pathway and one applicable Tier 1 level.

c. Pathway clearance. If the pathway is incomplete or the pathway is complete and the maximum concentrations of chemicals of concern do not exceed the Tier 1 levels, no further action is required for assessment of this pathway.

d. Corrective action response. If the Tier 1 levels are exceeded for this pathway, a Tier 2 assessment must be conducted or alternatively, institutional controls or soil excavation may be undertaken in accordance with 135.9(7)*"h."*

e. Use of institutional controls. Institutional controls must satisfy the conditions applicable to the groundwater ingestion pathway as provided in 135.9(4)*"e."*

135.9(6) *Groundwater vapor to enclosed space pathway assessment.* This pathway addresses the potential for vapors from contaminated groundwater to migrate to enclosed spaces where humans could inhale chemicals of concern at unacceptable levels. This pathway assessment assumes the health-based Tier 1 levels will adequately protect against any associated short- and long-term explosive risks.

a. Pathway completeness. This pathway is always considered complete for purposes of Tier 1 and must be evaluated.

b. Explosive vapor survey. An explosive vapor survey must be conducted in accordance with procedures outlined in the department Tier 1 guidance. If potentially explosive levels are detected, the groundwater professional must notify the owner or operator with instructions to report the condition in accordance with 567—Chapter 105. The owner or operator must begin immediate response and abatement procedures in accordance with 567—135.7(455B) and 567—Chapter 105.

c. Receptor evaluation. For purposes of Tier 1, there is one receptor type for this pathway and the Tier 1 level applies regardless of the existence of actual or potential receptors.

d. Pathway clearance. No further action is required for this pathway, if the maximum groundwater concentrations do not exceed the Tier 1 levels for this pathway.

e. Corrective action response. If the maximum concentrations exceed the Tier 1 levels for this pathway, a Tier 2 assessment of this pathway must be conducted unless institutional controls are implemented. Technological controls are not acceptable at Tier 1 for this pathway.

f. Use of institutional controls. An institutional control must be effective to prohibit the placement of enclosed space receptors within 500 feet of the source.

135.9(7) *Soil vapor to enclosed space pathway assessment.* This pathway addresses the potential for vapors from contaminated soils to migrate to enclosed spaces where humans could inhale chemicals of concern at unacceptable levels. This pathway assessment assumes health-based screening levels at Tier 1 will adequately protect against short- and long-term explosive risks.

a. Pathway completeness. This pathway is always considered complete for purposes of Tier 1 and must be evaluated.

b. Explosive vapor survey. An explosive vapor survey must be conducted in accordance with procedures outlined in the department Tier 1 guidance. If potentially explosive levels are detected, the groundwater professional must notify the owner or operator with instructions to report the condition in accordance with 567—Chapter 105. The owner or operator must begin immediate response and abatement procedures in accordance with 567—135.7(455B) and 567—Chapter 105.

c. Receptor evaluation. For purposes of Tier 1, there is one receptor type for this pathway, and the Tier 1 level applies regardless of existing or potential receptors.

d. Pathway clearance. No further action is required for this pathway, if the maximum soil concentrations do not exceed the Tier 1 levels for this pathway. If the Tier 1 levels are exceeded, soil gas measurements may be taken in accordance with the Tier 2 guidance at the area(s) of maximum concentration. Subject to confirmation sampling, if the soil gas measurements do not exceed the target levels in 135.10(7)*"f,"* no further action is required for this pathway. If the Tier 1 level is not exceeded but the soil gas measurement exceeds the target level, further action is required for the pathway.

e. Soil gas samples. To establish that the soil gas measurement is representative of the highest expected levels, a groundwater professional must obtain two soil gas samples taken at least two weeks apart. One of the samples should be collected beneath the frost line depth during a seasonal period of lowest groundwater elevation.

f. Corrective action response. If the maximum concentrations exceed the Tier 1 levels and the soil gas measurements exceed target levels for this pathway, or if no soil gas measurement was taken, a Tier 2 assessment of this pathway must be conducted unless institutional controls are implemented or soil excavation is conducted as provided below. Technological controls are not acceptable at Tier 1 for this pathway.

g. Use of institutional controls. An institutional control must be effective to eliminate the placement of enclosed space receptors within 500 feet of the source.

h. Soil excavation. Excavation of contaminated soils for the purpose of removing soils contaminated above the Tier 1 levels is permissible as an alternative to conducting a Tier 2 assessment. Adequate field screening methods must be used to identify maximum concentrations during excavation. At a minimum, one soil sample must be taken for field screening every 100 square feet of the base and each sidewall. Soil samples must be taken for laboratory analysis at least every 400 square feet of the base and each sidewall of the excavated area to confirm that remaining concentrations are below Tier 1 levels. If the base or a sidewall of the excavation is less than 400 square feet, a minimum of one sample must be analyzed for each sidewall and the base.

135.9(8) *Groundwater to water line pathway assessment.* This pathway addresses the potential for creating a drinking water ingestion risk due to contact with water lines and causing infusion to the drinking water.

a. Pathway completeness and receptor evaluation.

(1) Actual receptors. This pathway is considered complete for an actual receptor if there is an existing water line within 200 feet of the source and the first encountered groundwater is less than 20 feet below ground surface.

(2) Potential receptors. This pathway is considered complete for a potential receptor if the first encountered groundwater is less than 20 feet below ground surface.

b. Pathway clearance. If the pathway is not complete, no further action is required for this pathway. If the pathway is complete and the maximum concentrations of all chemicals of concern do not exceed the Tier 1 levels for this pathway, no further action is required for this pathway.

c. Utility company notification. The utility company that supplies water service to the area must be notified of all actual and potential water line impacts as soon as knowledge of a potential risk is determined.

d. Corrective action response.

(1) For actual receptors, if the Tier 1 levels are exceeded for this pathway, all water lines within 200 feet must be replaced with water line materials and gasket materials of appropriate construction in

accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department, or the water lines must be relocated beyond the 200-foot distance from the source. A Tier 2 assessment must be conducted for this pathway if lines are not replaced or relocated.

(2) For potential receptors, upon utility company notification, no further action will be required for this pathway.

135.9(9) *Soil to water line pathway assessment.* This pathway addresses the potential for creating a drinking water ingestion risk due to contact with water lines and infusion into the drinking water.

a. Pathway completeness and receptor evaluation.

(1) Actual receptors. This pathway is considered complete for an actual receptor if a water line exists within 200 feet of the source.

(2) Potential receptors. This pathway is always considered complete for potential receptors.

b. Pathway clearance. If the pathway is not complete for actual receptors, no further action is required for this pathway. If the pathway is complete for actual receptors and the maximum concentrations of all chemicals of concern do not exceed Tier 1 levels for this pathway, no further action is required. For potential receptors, upon utility company notification, no further action will be required for this pathway for potential receptors.

c. Utility company notification. The utility company that supplies water service to the area must be notified of all actual and potential water line impacts as soon as knowledge of a potential risk is determined.

d. Corrective action response. For actual receptors, if the Tier 1 levels are exceeded for this pathway, all water lines within 200 feet must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department, or the water lines must be relocated beyond the 200-foot distance from the source. Excavation of soils to below Tier 1 levels may be undertaken in accordance with 135.9(7)*"h."* If none of these options is implemented, a Tier 2 assessment must be conducted for this pathway.

135.9(10) *Surface water pathway assessment.* This pathway addresses the potential for contaminated groundwater to impact surface water bodies creating risks to human health and aquatic life.

a. Pathway completeness. This pathway is considered complete if a surface water body is present within 200 feet of the source. For purposes of Tier 1, surface water bodies include both general use segments and designated use segments as provided in 567—subrule 61.3(1).

b. Receptor evaluation. The Tier 1 levels for this pathway only apply to designated use segments of surface water bodies as provided in 567—subrules 61.3(1) and 61.3(5). The point of compliance is the source with the highest concentrations of chemicals of concern. General use segments of surface water bodies as provided in 567—paragraph 61.3(1)*"a"* are only subject to the visual inspection criteria.

c. Visual inspection requirements. A visual inspection of all surface water bodies within 200 feet of the source must be conducted to determine if there is evidence of a sheen on the water or there is evidence of petroleum residue along the bank. If a sheen or residue is evident or has been reported to be present, the groundwater professional must make a sufficient investigation to reasonably determine its source. If in the opinion of the groundwater professional, the sheen is not associated with the underground storage tank site, the professional must report and reasonably justify this opinion. If in the opinion of the groundwater professional the sheen is not a petroleum-regulated substance, a sample must be laboratory tested in accordance with 567—135.16(455B) to confirm it is not a petroleum-regulated substance.

d. Pathway clearance. If the pathway is not complete or it is complete and the maximum concentrations of all chemicals of concern at the point of compliance do not exceed the Tier 1 levels and there is no petroleum sheen or residue attributable to the site, no further action is required for assessment of this pathway.

e. Corrective action response. If a Tier 1 level is exceeded for any chemical of concern for a designated use segment within 200 feet of the source, or the groundwater professional determines the

presence of a petroleum-regulated substance sheen or residue, a Tier 2 assessment of this pathway must be conducted.

135.9(11) *Tier 1 submission and review procedures.*

a. Within 90 calendar days of release confirmation or another reasonable period of time determined by the department, owners and operators must submit to the department a Tier 1 report in a format prescribed by the department and in accordance with these rules and the department Tier 1 guidance.

b. If the owner or operator elects to prepare a Tier 2 site cleanup report instead of a Tier 1 assessment, the department must be notified in writing prior to the expiration of the Tier 1 submission deadline. The Tier 2 site cleanup report must be submitted to the department in accordance with 567—135.10(455B) within 180 calendar days of release confirmation or another reasonable period of time determined by the department.

c. A Tier 1 report is considered to be complete if it contains all the information and data required by this rule and the department Tier 1 guidance. The report is accurate if the information and data is reasonably reliable based first on application of the standards in these rules and department guidance and second, generally accepted industry standards.

d. The certified groundwater professional shall include the following certification with the Tier 1 site assessment report:

I, _____, Groundwater Professional Certification No. _____, am familiar with all applicable requirements of Iowa Code section 455B.474 and all rules and procedures adopted thereunder including, but not limited to, 567—Chapter 135 and the Department of Natural Resources Tier 1 guidance. Based on my knowledge of those documents and information I have prepared and reviewed regarding this site, UST Registration No. _____, LUST No._____ I certify that this document is complete and accurate as provided in 567 IAC 135.9(11)*"c"* and meets the applicable requirements of the Tier 1 site assessment.

Signature:

Date:

e. Upon receipt of the groundwater professional's certified Tier 1 report, the groundwater professional's proposed site classification for the site shall be determinative unless, within 90 days of receipt, the department identifies material information in the report that is inaccurate or incomplete. Material information may be data found to be inaccurate or incomplete or a report that lacks information that, if correct and complete, would result in a different site classification than proposed by the certified groundwater professional. If the department determines that the site cleanup report is inaccurate or incomplete, the department shall notify the groundwater professional of the inaccurate or incomplete information within 90 days of receipt of the report and shall work with the groundwater professional and the party responsible for cleanup to obtain correct information or additional information necessary to appropriately classify the site. If the groundwater professional recommends proceeding to Tier 2, or a Tier 2 site cleanup report is required pursuant to 135.7(4)*"g,"* 135.8(5), or 567—135.9(455B), the groundwater professional's site classification and pathway classification recommendations shall not be considered determinative until the Tier 2 report is submitted for review as provided in 135.10(11).

f. If a "no action required" site classification is proposed, the department shall review the report in accordance with 135.12(6) and the review standards in 135.9(11)*"e."*

135.9(12) *Tier 1 site classification and corrective action response.*

a. No action required site classification. At Tier 1, a site is only eligible for a "no action required" classification. To be classified as no action required, each pathway must meet the requirements for pathway clearance as specified in this rule. If the department determines a no action required site classification is appropriate, a no further action certificate will be issued as provided in 135.12(10).

b. Where an individual pathway or a chemical group meets the requirements for clearance but the site is not entitled to a no action required classification, only those pathways and chemical groups that do not meet the no further action requirements must be evaluated as part of a Tier 2 assessment as provided in 567—135.10(455B).

c. Compliance monitoring and confirmation sampling. Compliance monitoring is not an acceptable corrective action at Tier 1. Except for soil gas sampling under 135.9(7), confirmation sampling to verify a sample does not exceed a Tier 1 level is not required. However, the department retains the authority to require confirmation sampling from existing groundwater monitoring wells if a no action required classification is being proposed at Tier 1 and the department has a reasonable basis to question the representative validity of the samples based on, for example, the seasonal bias of the sampling, evidence of multiple sources of releases, marginal groundwater monitoring well locations and analytical variability.

d. Expedited corrective action is permissible in accordance with 135.12(11).

567—135.10(455B) Tier 2 site assessment policy and procedure.

135.10(1) *General conditions.* A Tier 2 site assessment must be conducted and a site cleanup report submitted for all sites that have not obtained a no action required site classification and for all pathways and chemicals of concern groups that have not obtained no further action clearance as provided in 567—135.9(455B). If in the course of conducting a Tier 2 assessment, data indicates the conditions for pathway clearance under Tier 1 no longer exist, the pathway shall be further assessed under this rule. The Tier 2 assessment and report must be completed whenever free product is discovered as provided in 567—135.7(455B). If the owner or operator elects to complete the Tier 2 site assessment without doing a Tier 1 assessment, all the Tier 1 requirements as provided in 567—135.9(455B) must be met in addition to requirements under this rule.

a. Guidance. The Tier 2 site assessment shall be conducted in accordance with the department's "Tier 2 Site Assessment Guidance" and these rules. The site cleanup report shall be submitted on forms and in a format prescribed by this guidance. The Tier 2 data analysis shall be performed by using computer software or online application developed by the department.

b. Classification. At Tier 2, individual pathways may be classified as high risk or low risk or no action required and separate classification criteria may apply to actual and potential receptors for any pathway. A single pathway may have multiple classifications based on actual or potential receptor evaluations. A pathway must meet both the criteria for actual and potential receptors for the pathway to obtain a classification of no action required. Sites may have multiple pathway classifications. For a site to obtain a no action required classification, all pathways must meet the individual pathway criteria for no action required classification.

c. Public right-of-way. As a general rule, public right-of-way will not be considered an area of potential receptor exposure except for potential sanitary sewer evaluation under the soil and groundwater vapor pathways (135.10(6) and 135.10(7)).

135.10(2) *General Tier 2 assessment procedures.*

a. Objectives. The objective of a Tier 2 assessment is to collect site-specific data and with the use of Tier 2 modeling determine what actual or potential receptors could be impacted by chemicals of concern and what concentrations at the source are predicted to achieve protection of these receptors. Both Tier 1 and Tier 2 are based on achieving similar levels of protection of human health, safety and the environment.

b. Groundwater modeling. Tier 2 uses fate and transport models to predict the maximum distance groundwater contamination is expected to move and the distribution of concentrations of chemicals of concern within this area. The model is used for two basic purposes. One, it is used to predict at what levels of concentration contamination would be expected to impact actual and potential receptors. Two, it is used to determine a concentration at the source that if achieved, and after dispersion and degradation, would protect actual and potential receptors at the point of exposure. In predicting the transport of contaminants, the models assume the contaminant plume is at "steady state" such that concentrations throughout the plume have reached a maximum level and are steady or decreasing. The Tier 2 models are only designed to predict transport in a direct line between the source and downgradient to a receptor. In order to more reasonably define a modeled plume in all directions, 135.10(2)*"i"* defines a method of decreasing modeled concentrations as a percentage of their distance in degrees from the downgradient direction.

c. Soil vapor models. The soil vapor models are vertical transport models and do not use modeling to predict soil contaminant transport horizontally to receptors.

d. Soil leaching to groundwater modeling. The soil leaching to groundwater model is a model that predicts the maximum concentrations of chemicals of concern that would be expected in groundwater due to vertical leaching from the area of maximum soil concentrations and then incorporates the groundwater transport models to predict contaminant transport through groundwater pathways.

e. Modeling default parameters. The Tier 2 model formulas and applicable parameters are designated in Appendix B and must be followed unless otherwise specified in these rules. Unless otherwise specified, target levels at a point of exposure may be the Tier 1 level(s) or may be determined using site-specific parameters. The target level at a point of exposure is calculated using the Tier 1 formulas in Appendix A and either site-specific measurements or the default values for those parameters identified as "optional" and "site-specific" in Appendix B.

f. Source width. The source width and source length are variables used in modeling and must be determined by the following criteria and as specified in the department's Tier 2 guidance. The following are not to be used as criteria for defining the extent of the contaminant plumes.

(1) Source width (equals S_W in models) for groundwater transport modeling. The sum of group one chemical (benzene, toluene, ethylbenzene, xylenes or "BTEX") concentrations for each groundwater sample is determined and the location of the sample with the maximum total BTEX is identified. Linear interpolation is used to estimate the area where groundwater concentrations would be expected to exceed 50 percent of the maximum BTEX value, and this area is considered for the source width measurement. The same procedure is used to determine source width for group two chemicals, using TEH in groundwater. The width of the groundwater contamination perpendicular to estimated groundwater flow direction (S_W) is determined, and the larger of either group one or group two chemicals is used in the groundwater transport model.

(2) Source width (S_W) and source length (equals W in models) for soil leaching to groundwater transport modeling. Both the source width perpendicular to the estimated groundwater flow direction (S_W) and the source length parallel to the estimated groundwater flow direction (W) are used in the soil leaching to groundwater model. The sum of BTEX concentrations for each soil sample is determined and the location of the sample with the maximum total BTEX is identified. Concentrations from both the vadose zone and the saturated zone must be considered when determining the maximum. Linear interpolation is used to estimate the area where soil concentrations would be expected to exceed 50 percent of the maximum BTEX value, and this area is considered for the source width and source length measurements. The same procedure is used to determine source width for group 2 chemicals, using TEH in soil. Source width and source length measurements for BTEX in groundwater are also taken following the same linear interpolation criteria in 135.10(2)*"f"*(1). The source width value used in the model is the greatest of either the soil source width measurements or the groundwater source width measurement. The source length value used in the model is the greatest of either of the soil source length measurements or the groundwater length measurement.

g. Modeled simulation line. The simulation line represents the predicted maximum extent of groundwater contamination and distribution of contaminant concentrations between the source(s) and actual or potential receptor locations. The model calculates the simulation line using maximum concentrations at the source(s) and predicting the amount of dispersion and degradation. Modeled data in the simulation line are compared with actual contaminant concentrations to verify the predictive validity of the model and to make risk classification decisions.

h. Modeled site-specific target level (SSTL) line. The modeled SSTL line represents acceptable levels of contaminant concentrations at points between and including the source(s) and an applicable point(s) of exposure or other point(s) of compliance (ex. a potential receptor point of exposure). The SSTL line is calculated by assuming an applicable target level concentration at the point(s) of exposure or point(s) of compliance and modeling back to the source to determine the maximum concentrations at the source (SSTL) that must be achieved to meet the target level at the point of exposure or compliance. Comparison of contaminant concentrations from actual samples to this SSTL line is used to determine a risk classification and determine appropriate corrective action response.

i. Crossgradient and upgradient modeling. In determining the SSTL line and the simulation line in directions other than downgradient, the modeled contaminant concentrations are applied to reduced distances as specified in the "Tier 2 Guidance." The modeled results are applied to 100 percent of the distance within an angle of 30 degrees on either side of the range of downgradient directions as specified in Tier 2 guidance. The modeled results are applied to 20 percent of the distance in the upgradient direction and directly proportional distances between these two outer limits. If the groundwater gradient is less than 0.005 or the groundwater contaminant plume shows no definitive direction or shows directional reversals, the modeled concentrations are applied to 100 percent of the distance in all directions from the source. As the downgradient velocity increases, the upgradient modeled distance is reduced to less than 20 percent of the downgradient modeled distance.

j. Plume definition. The purpose of plume definition at Tier 2 is to obtain sufficient data to determine the impact on actual and potential receptors, to determine and confirm the highest levels of contamination, to verify the validity of the models, and to determine groundwater flow direction. The number and location of borings and monitoring wells and the specificity of plume definition will depend on the pathway or pathways being assessed and the actual or potential receptors of concern. Unless otherwise specified, groundwater and soil contamination shall be defined to Tier 1 levels for the applicable pathways. Linear interpolation between two known concentrations must be used to delineate plume extent. Samples with no concentrations detected shall be considered one-half the detection limit for interpolation purposes.

k. Pathway completeness. Unless a pathway has obtained clearance under Tier 1, each pathway must be evaluated at Tier 2. Pathways are generally considered complete (unless otherwise specified) and receptors affected if actual receptors or potential receptor points of exposure exist within the modeled contaminant plume using the modeled simulation line calculated to the applicable target level at a point of exposure. If the actual contaminant plume exceeds the modeled plume, the pathway is complete and must be evaluated if actual or potential points of exposure exist within a distance extending 10 percent beyond the edge of the defined plume.

l. Points of exposure and compliance. For actual receptors, the point(s) of exposure is the receptor. For potential receptors, the potential receptor point(s) of exposure is determined by using actual plume definition or the modeled simulation line to determine all points that exceed the target level(s) for potential receptors. The potential receptor point(s) of exposure is the location(s) closest to the source where a receptor could reasonably exist and that is not subject to an institutional control; for example, the source is the potential receptor point of exposure if not subject to an institutional control or an adjoining property boundary line if that property is not subject to an institutional control. At Tier 2, the point(s) of exposure or potential receptor point(s) of exposure is a point of compliance unless otherwise specified. Other points of compliance are specified by rules and will generally include all points along the SSTL line for purposes of pathway and site classification and corrective action response.

135.10(3) *Bedrock assessment.*

a. General. As provided in 135.8(5), if bedrock is encountered before groundwater, special assessment procedures under this subrule apply. The Tier 2 assessment procedures apply to the extent they are not inconsistent with this subrule. The objectives of these special procedures are to avoid creating a preferential pathway for contamination through a confining layer to a bedrock aquifer; to avoid creating a preferential pathway to a fractured system, and to determine whether groundwater transport modeling can be used and, if not, what alternative procedures are required. The owner or operator may choose to conduct a Tier 3 assessment under 567—135.11(455B) as an alternative to proceeding under this subrule. For sites where bedrock is encountered before groundwater, there are three general categories of site conditions that determine the assessment procedures that apply:

(1) Nongranular bedrock. Nongranular bedrock is bedrock that is determined to not act as a granular aquifer as provided in 135.10(3)*"a"*(2). Nongranular bedrock generally has some type of fractured system where groundwater transport modeling cannot be applied and that makes it difficult to define the extent of contamination.

(2) Granular bedrock. Granular bedrock is bedrock that is determined to act as a granular aquifer and for which monitoring wells do not exist at the source. For purposes of this rule, a granular

aquifer is one that shows no extraordinary variations or inconsistencies in groundwater elevations across the site, groundwater flow, hydraulic conductivities, or total dissolved solid concentrations among monitoring wells. Although the extent of contamination can be defined in granular bedrock, groundwater transport modeling cannot be used because monitoring wells shall not be installed at the source if soil contamination is present. If soil contamination above a Tier 1 level is not identified or an overexcavation of contaminated soil has successfully removed all soil contamination greater than a Tier 1 level, then monitoring wells can be installed in the source area and the site can be evaluated as exempt granular bedrock.

(3) Exempt granular bedrock. Exempt granular bedrock is bedrock that is determined to act as a granular aquifer as provided in 135.10(3)*"a"*(2) and for which monitoring wells exist at the source as of August 15, 1996. Sites in exempt granular bedrock shall be evaluated using regular Tier 1 and Tier 2 procedures in this rule.

NOTE: Nongranular bedrock is subject to special bedrock assessment procedures even if groundwater monitoring wells exist at the source because the flow is not predictable by the Tier 2 model.

b. Exempt soil pathways. The soil vapor to enclosed space pathway and the soil to water lines pathway shall be assessed under the regular Tier 2 procedures in 135.10(7) and 135.10(9), respectively. In all cases, the assessment must comply with the policy of avoiding a preferential pathway to groundwater consistent with 135.8(5) and this subrule.

c. Soil and groundwater assessment. The vertical and horizontal extent of soil contamination shall first be defined to Tier 1 levels for the soil leaching to groundwater pathway without drilling into bedrock. A minimum of three groundwater monitoring wells shall be located and installed between 50 to 100 feet beyond the soil contamination Tier 1 levels to avoid creating a preferential pathway. Analytical data as normally required by these rules and guidance must be obtained.

d. Soil contamination remediation. For all sites where soil contamination exceeds the soil leaching to groundwater Tier 1 levels, soil excavation or other active soil remediation technology must be conducted in accordance with department guidance to reduce concentrations to below this Tier 1 level. Soil remediation monitoring must be conducted in accordance with 567—135.12(455B).

e. Groundwater plume definition. If it is determined the groundwater acts in a manner consistent with a granular aquifer as provided in 135.10(3)*"a"*(2) and guidance but does not meet the criteria for exemption under 135.10(3)*"a"*(3), the plume must be defined. The policy of avoiding the creation of a preferential pathway to the bedrock aquifer in accordance with 135.8(5) must be followed.

f. Soil leaching to groundwater ingestion pathway. Under this subrule, the soil leaching to groundwater pathway only need be evaluated in combination with the groundwater ingestion pathway. Because of the policies requiring soil remediation to the soil leaching to groundwater Tier 1 levels under 135.10(3)*"d"* and *"k,"* the soil leaching pathway target levels applicable to other groundwater transport pathways and other soil pathways would not be exceeded. If a soil leaching to groundwater Tier 1 level is exceeded, the pathway is high risk.

g. Special procedures for the groundwater ingestion pathway.

(1) A protected groundwater source is assumed without measurements of hydraulic conductivity for all sites designated as granular or nongranular bedrock.

(2) Groundwater well receptor evaluation for granular and nongranular bedrock designations. All drinking and non-drinking water wells within 1,000 feet of the source must be identified and tested for chemicals of concern. All public water supply systems within one mile of the source must be identified and raw water tested for chemicals of concern. All area within 1,000 feet of the source is considered a potential receptor point of exposure.

(3) Target levels. The following target levels apply regardless of granular aquifer designation. If drinking water wells are within 1,000 feet of the source, the applicable target level is the groundwater ingestion pathway Tier 1 level for actual receptors. If non-drinking water wells are within 1,000 feet of the source, the applicable target level is the groundwater ingestion pathway Tier 1 level for potential receptors. For potential wells, the applicable target level is the groundwater ingestion pathway Tier 1 level for potential receptors.

(4) Sentry well. If the Tier 1 level for actual receptors is exceeded at sites designated as granular bedrock and the receptor has not yet been impacted, a monitoring well shall be placed between the source and an actual receptor, outside the defined plume and approximately 200 feet from the actual receptor. For alternative well placement, the certified groundwater professional must provide justification and obtain department approval. This monitoring well is to be used for monitoring potential groundwater contamination of the receptor.

(5) High risk classification. A site where bedrock is encountered before groundwater shall be classified high risk for this pathway if any of the following conditions exist regardless of granular aquifer determination: The target level at any actual receptor is exceeded; drinking water well receptors are present within 1,000 feet and groundwater concentrations in any monitoring well exceed the groundwater ingestion Tier 1 level for actual receptors; non-drinking water wells are within 1,000 feet and groundwater concentrations in any monitoring well exceed the groundwater ingestion pathway Tier 1 level for potential receptors; or for sites designated nongranular bedrock, if groundwater concentrations for chemicals of concern from any public water system well within one mile of the source exceed 40 percent of the Tier 1 level for actual receptors, and groundwater concentrations in any monitoring well exceed the groundwater ingestion Tier 1 level for actual receptors. Corrective action shall be undertaken as provided in 135.10(3)*"k."*

(6) Low risk classification. Sites without an actual receptor within 1,000 feet shall be classified as low risk for this pathway if no high risk conditions exist and the Tier 1 level for potential receptors is exceeded. The site is subject to monitoring as provided in 135.10(3)*"l."* If an actual receptor exists within 1,000 feet, a site designated as granular or nongranular bedrock shall be classified low risk for this pathway when soil contamination has been removed or remediated to below the soil leaching to groundwater Tier 1 levels and all groundwater monitoring wells are non-detect or below the applicable target level for actual and potential receptors. A site may be reclassified to no action required for this pathway after all monitoring wells meet the exit monitoring criteria as specified in 135.10(3)*"l."* (NOTE: Exit monitoring is required because groundwater monitoring wells are not located at the source or if they are, the data is highly unreliable given the nature of bedrock.) If actual receptors do not exist or have been properly plugged and concentrations exceed the Tier 1 level for potential receptors, institutional controls and notification to permitting authorities may be employed in accordance with 135.10(4)*"h."* The institutional control must prohibit use of groundwater for 1,000 feet.

h. Special procedures for the groundwater vapor to enclosed space pathway.

(1) Soil gas plume. Soil gas measurements must be taken regardless of granular aquifer determination and in accordance with Tier 2 guidance to determine a soil gas plume. Soil gas where practical should be measured at the soil-bedrock interface. At a minimum, soil gas must be measured at the suspected area of maximum contamination and near the three monitoring wells with the highest concentrations that exceed the Tier 1 level for the groundwater to enclosed space pathway. Where the plume has been defined, soil gas measurements should be taken near wells exceeding the Tier 1 level. Other soil gas measurements must be taken as needed to define the extent of contamination where soil gas measurements exceed the soil gas vapor target levels.

(2) The soil gas target levels are those defined in 135.10(7)*"f."*

(3) High risk classification. A site designated as granular or nongranular bedrock shall be classified high risk for this pathway if an actual confined space receptor exists within 50 feet of the soil gas plume based on the soil gas target level as defined in 135.10(6).

(4) Low risk classification. A site designated as granular or nongranular bedrock shall be classified as low risk for this pathway if the soil gas exceeds the vapor target level at any point and no actual confined space receptors exist within 50 feet of the soil gas contaminant plume.

i. Special procedure for the groundwater to water line pathway.

(1) Target level. The applicable target level is the Tier 1 level for the specific type of water line.

(2) High risk classification. A site designated as granular or nongranular bedrock shall be classified high risk for this pathway if the highest groundwater elevation is within three feet of the bottom of a water line as provided in 135.10(8)*"a"*(1), risk classification cannot be determined as provided in

567—135.12(455B) due to limitations on placement of monitoring wells, and water lines exist within 200 feet of a monitoring well that exceeds the Tier 1 level.

j. Special procedures for the surface water pathway. Any surface water body within 200 feet of the source must be evaluated under the following for sites designated as granular or nongranular bedrock. The provisions of 135.10(10) apply to the extent they are not inconsistent with the following, including the visual inspection requirements.

(1) Point of compliance. The monitoring well closest to the surface water body must be used as the point of compliance to evaluate impacts to designated use segments as described in 135.10(10) and for general use segments that fail the visual inspection criteria of 135.10(10)*"b."* If the surface water criteria are exceeded for a designated use segment, an allowable discharge concentration must be calculated and met at the point of compliance. For general use segments failing the visual inspection criteria, the acutely toxic target level must be met at the point of compliance.

(2) High risk classification. A site designated as granular or nongranular bedrock shall be classified high risk for this pathway if the surface water body is within 200 feet of the source, risk classification cannot be determined as per 567—135.12(455B) due to limitations on placement of monitoring wells, and the monitoring well closest to the designated use segment exceeds the allowable discharge concentration. A general use segment failing the visual inspection criteria is high risk if, after the sheen is removed, the monitoring well closest to the general use segment exceeds the acutely toxic target level.

(3) Low risk classification. If the allowable discharge concentration is not exceeded at the point of compliance, the site shall be classified as low risk for this pathway and subject to monitoring under 135.10(3)*"l."* The monitoring well closest to the receptor shall serve as the sentry well for monitoring purposes.

k. High risk corrective action response. Owners and operators have the option to conduct a Tier 3 assessment in accordance with 567—135.11(455B).

(1) Groundwater ingestion pathway. For high risk sites, where soil exceeds the soil leaching to groundwater Tier 1 level for actual receptors, soil excavation or other active remediation of soils must be conducted in accordance with department guidance to reduce soil concentrations to below the soil leaching Tier 1 level. Corrective action other than monitoring of groundwater is required at sites designated as nongranular bedrock if the actual receptor has been or is likely to be impacted. Corrective action other than monitoring of groundwater is required at sites designated as granular bedrock if the actual receptor has been impacted or the sentry well required by 135.10(3)*"g"*(4) has been impacted above Tier 1 levels. Acceptable corrective action for impacted or vulnerable groundwater wells may include active remediation, technological controls, institutional controls, well plugging, relocation, and well reinstallation with construction measures sufficient to prevent contaminant infiltration to the well and to prevent formation of a preferential pathway.

(2) Groundwater ingestion pathway high risk monitoring. For high risk sites designated as nongranular or granular bedrock, if the soil concentrations do not exceed the soil leaching to groundwater Tier 1 levels or have been reduced to this level by corrective action, and corrective action of groundwater is not required as in 135.10(3)*"k"*(1), these sites shall be subject to groundwater monitoring as provided in 135.10(3)*"l."* Corrective action other than monitoring of groundwater is required at sites designated as granular bedrock if groundwater concentrations exceed the applicable target level less than 200 feet from an actual receptor. Reevaluation of the potential for impact to actual receptors is required at sites designated as nongranular bedrock if concentrations from monitoring wells increase more than 20 percent of the previous samples.

(3) For water line pathways. For high risk sites, active remediation must be conducted to reduce concentrations below the applicable target levels, or water lines and gaskets must be replaced or relocated, including the use of institutional and technological controls. If lines are polybutylene, polyethylene, or asbestos-cement, the lines must be removed or relocated. All water lines that are replaced must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department.

(4) Other pathways. For high risk sites other than groundwater ingestion and water lines, active remediation must be conducted to reduce concentrations below the applicable target levels, including the use of institutional and technological controls.

l. Monitoring. For high and low risk sites, annual monitoring at a minimum is required as specified below, and potential receptor status for low risk sites must be confirmed. Annual monitoring may be used to meet the exit requirements for no action required classification in accordance with 135.10(3)*"m."*

(1) Groundwater in nongranular bedrock designations. All groundwater monitoring wells must be monitored at least annually.

(2) Groundwater in granular bedrock designations. The following monitoring wells must be monitored at least annually: a well with detected levels of contamination closest to the leading edge of the groundwater plume between the source and the receptor, and a sentry well with concentrations below the applicable target level consistent with 135.10(3)*"g"*(4) and 135.10(3)*"j."*

(3) Soil gas. For sites where the soil gas target level is exceeded, annual monitoring of soil gas is required at the suspected area of maximum contamination and between the soil gas plume and any actual receptors within 100 feet of the soil gas plume.

m. No action required classification. A site may be given a no action required classification after conducting a Tier 2 assessment as provided in this subrule if maximum soil concentrations do not exceed the Tier 1 levels for the soil leaching pathway, and if groundwater exit monitoring criteria and soil gas confirmation sampling are met as specified below.

(1) Groundwater in nongranular bedrock designations. Exit monitoring requires that samples from all groundwater monitoring wells must not exceed the applicable target levels for annual sampling for three consecutive years. If soil contamination above a Tier 1 level is not identified or if an overexcavation has successfully removed all soil contamination greater than a Tier 1 level and monitoring wells are installed in the source area, exit monitoring criteria are met when two consecutive samples collected at least six months apart from all monitoring wells show concentrations less than the lowest target level.

(2) Groundwater in granular bedrock designations. Exit monitoring must be met in two ways: A monitoring well between the source and the receptor must not exceed applicable target levels for three sampling events, and samples must be separated by at least six months; and the three most recent consecutive groundwater samples from a monitoring well between the source and the receptor with detected levels of contamination must show a steady or declining trend and meet the following criteria: The first of the three samples must be greater than detection limits, concentrations cannot increase more than 20 percent from the first of the three samples to the third sample; concentrations cannot increase more than 20 percent from the previous sample; and samples must be collected at least six months apart.

(3) Soil gas. Confirmation sampling for soil gas must be conducted as specified in 135.12(6)*"c."*

n. Properly plugged monitoring wells. After receiving a no action required classification, all monitoring wells must be properly plugged in accordance with 567—Chapters 39 and 49.

135.10(4) *Groundwater ingestion pathway assessment.*

a. Pathway completeness. Unless cleared at Tier 1, this pathway is complete and must be evaluated under any of the following conditions: (1) the first encountered groundwater is a protected groundwater source; or (2) there is a drinking water well or a non-drinking water well within the modeled groundwater plume or the actual plume as provided in 135.10(2)*"j"* and *"k."*

b. Receptor evaluation. All drinking and non-drinking water wells located within 100 feet of the largest actual plume (defined to the appropriate target level for the receptor type) must be tested, at a minimum, for chemicals of concern as part of the receptor evaluation. Actual plumes refer to groundwater plumes for all chemicals of concern. Untreated or raw water must be collected for analysis unless it is determined to be infeasible or impracticable.

All existing drinking water wells and non-drinking water wells within the modeled plume or the actual plume as provided in 135.10(4)*"a"* must be evaluated as actual receptors. Potential receptors only exist if the groundwater is a protected groundwater source. Potential receptor points of exposure are those points within the modeled plume or actual plume that exceed the potential point of exposure target

level. The point(s) of compliance for actual receptor(s) is the receptor. The point(s) of compliance for potential receptor(s) is the potential receptor point of exposure as provided in 135.10(2)*"j"* and *"k."*

c. Target levels. For drinking water wells, the target level at the point(s) of exposure is the Tier 1 level for actual receptors. For non-drinking water wells, the target level at the point(s) of exposure is the Tier 1 levels for potential receptors. For potential receptors, the target level at the potential receptor point(s) of exposure is the Tier 1 level for potential receptors.

d. Pathway evaluation. The soil leaching to groundwater pathway must be evaluated in accordance with 135.9(5) if this pathway is complete.

e. Modeling. At Tier 2, the groundwater well located within the modeled plume is assumed to be drawing from the contaminated aquifer, and the groundwater transport model is designed to predict horizontal movement to the well. If the groundwater professional determines that assessment of the vertical movement of contamination is advisable to determine the potential or actual impact to the well source, a Tier 3 assessment of this vertical pathway may be conducted. The groundwater professional shall submit a work plan to the department specifying the assessment methods and objectives for approval in accordance with 567—135.11(455B). Factors that should be addressed include but are not limited to well depth and construction, radius of influence, hydrogeologic separation of aquifer, preferential pathways, and differing water quality characteristics.

f. Plume definition. The groundwater plume shall be defined to the applicable Tier 1 level for actual receptors except, where there are no actual receptors and the groundwater is a protected groundwater source, the plume shall be defined to the Tier 1 level for potential receptors.

g. Pathway classification. This pathway shall be classified as high risk, low risk or no action required in accordance with 567—135.12(455B).

h. Corrective action response. Corrective action must be conducted in accordance with 567—135.12(455B). Abandonment and plugging of wells in accordance with 567—Chapters 39 and 49 is an acceptable corrective action response.

i. Use of institutional controls. Institutional controls may be used to obtain no action required pathway classification. If the pathway is complete and the concentrations exceed the applicable Tier 1 level(s) for actual receptors, the drinking or non-drinking water well must be properly plugged in accordance with 567—Chapters 39 and 49 and the institutional control must prohibit the use of a protected groundwater source (if one exists) within the actual or modeled plume as provided in 135.10(2)*"j"* and *"k."* If the Tier 1 level is exceeded for potential receptors, the institutional control must prohibit the use of a protected groundwater source within the actual or modeled plume, whichever is greater. If concentrations exceed the Tier 1 level for drinking water wells and the groundwater is a protected groundwater source, the owner or operator must provide notification of the site conditions on a department form to the department water supply section, or if a county has delegated authority, then the designated county authority responsible for issuing private water supply construction permits or regulating non-public water well construction as provided in 567—Chapters 39 and 49.

j. Notification of well owners. Upon receipt of a Tier 2 site cleanup report and as soon as practicable, the department shall notify the owner of any public water supply well identified within the Tier 2 site cleanup report that a leaking underground storage tank site is within 2,500 feet and an assessment has been performed.

135.10(5) *Soil leaching to groundwater pathway assessment.*

a. General. The soil leaching to groundwater pathway is evaluated using a one-dimensional model that predicts vertical movement of contamination through soil to groundwater and transported by the groundwater to a receptor. The model is used to predict the maximum concentrations of chemicals of concern that would be present in groundwater beneath a source that is representative of residual soil contamination and maximum soil concentrations. The predicted groundwater concentrations then must be used as a groundwater source concentration to evaluate its impact on other groundwater transport pathways, including the groundwater ingestion pathway, the groundwater vapor pathway, the groundwater water line pathway and the surface water pathway.

b. Pathway completeness. This pathway is complete whenever a groundwater transport pathway is complete as provided in this rule.

c. Plume definition. The soil plume shall be defined to the Tier 1 levels for the soil leaching to groundwater pathway.

d. Receptor evaluation. Receptors for this pathway are the same as the receptors for each complete groundwater transport pathway.

e. Modeling and target levels. The soil and groundwater parameters shall be measured as provided in 135.10(2).

The soil leaching to groundwater model shall be used to calculate the predicted groundwater source concentration. Each applicable groundwater transport pathway model shall then be used in accordance with the rules for that pathway to predict potential impact to actual receptors, the location of potential receptor points of exposure and the SSTL in groundwater at the source. This SSTL then is used to calculate a SSTL for soil at the source. If the soil concentrations exceed the SSTL for soil, corrective action response shall be evaluated.

f. Corrective action response. If the maximum soil concentration at the source exceeds the SSTL for soil for actual or potential receptors, corrective action must be taken in accordance with 567—135.12(455B).

135.10(6) *Groundwater vapor to enclosed space pathway assessment.*

a. Pathway completeness. Unless cleared at Tier 1, this pathway is always considered complete for purposes of Tier 2.

b. Explosive vapor survey. If an explosive vapor survey has not been conducted as part of a Tier 1 assessment, an explosive vapor survey of enclosed spaces must be conducted during the Tier 2 assessment in accordance with 135.9(6)*"b"* and procedures outlined in the department's Tier 1 guidance.

c. Confined space receptor evaluation. Actual and potential receptors are evaluated at Tier 2 for this pathway.

(1) Actual receptors. An existing confined space within the modeled groundwater plume or the actual groundwater plume as provided in 135.10(2)*"j"* and *"k"* is an actual receptor. For the purpose of Tier 2, a confined space is a basement in a building occupied by humans. Buildings constructed with a concrete slab on grade or buildings constructed without a concrete slab, but with a crawl space are not considered confined spaces. Sanitary sewers are considered confined space receptors and preferential pathways if an occupied building exists within 200 feet of where the sewer line crosses over or through actual or modeled groundwater contamination that exceeds the target levels calculated for sewers. The sanitary sewer includes its utility envelope. The point of exposure is the receptor and points of compliance include the locations where target level measurements may be taken as provided in 135.10(6)*"f"* and *"g."*

(2) Potential receptors. Potential receptors are confined spaces that do not presently exist but could exist in the future. Areas within the actual groundwater plume perimeter or modeled groundwater plume perimeter are considered potential receptor points of exposure. Potential receptors are evaluated and target levels established based on the current zoning as provided in 135.10(6)*"f."* The potential receptor point of exposure is a point of compliance.

d. Vapor inhalation hazards. Owners and operators may be required to address vapor inhalation hazards in occupied spaces other than confined spaces as defined in these rules when evidence arises that would give the department a reasonable basis to believe vapor hazards are present or may occur.

e. Plume definition.

(1) The soil plume must be defined in accordance with 135.10(2)*"f"* for the purposes of estimating source width and source length used in soil leaching to groundwater and groundwater transport models.

(2) The groundwater plume must be defined to the target levels derived from site-specific data as provided in 135.10(6)*"f."*

f. Target levels. Target levels can be based on groundwater concentrations, soil gas measurements, and indoor vapor measurements as provided below.

(1) For actual receptors and potential receptors, groundwater modeling as provided in 135.10(2) is used to calculate the groundwater concentration target level at the point of exposure. Default residential exposure factors, default residential building parameters, and a target risk of 10^{-4} are used to determine target levels for actual receptors and potential receptor points of exposure in residential areas and areas

with no zoning. Default nonresidential exposure factors, default nonresidential building parameters, and a target risk of 10^{-4} are used to determine target levels for actual receptors and potential receptor points of exposure in nonresidential areas. Default values are provided in Appendices A and B.

(2) For actual receptors, the indoor vapor target levels are designated in 135.10(7)*"f."* For actual and potential receptors, the soil gas target levels are designated in 135.10(7)*"f."*

(3) Sanitary sewers are treated as human health receptors, and groundwater concentration target levels at the point of exposure are based on the application of a target risk of 2×10^{-4} for carcinogens and a hazard quotient of 2 for noncarcinogens.

g. Pathway evaluation and classification. Upon completion of evaluation of analytical results of appropriate samples and modeled data, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B).

(1) Actual receptors. If it can be demonstrated that the groundwater plume has reached steady state concentrations under a confined space, indoor vapor measurements at the point(s) of exposure and soil gas measurements at an alternative point(s) of compliance may be used for the pathway evaluation. When assessing sanitary sewers for pathway clearance, soil gas measurements may be evaluated against the soil gas target levels; however, indoor vapor cannot be used as criteria for pathway clearance. Soil gas measurements shall be taken and analyzed in accordance with 135.16(5) and the department's Tier 2 guidance, and at locations in the plume where measured groundwater concentrations exceed the levels that are projected by modeling to exist beneath the actual receptor. If measured groundwater concentrations beneath the actual receptor exceed the levels projected from modeling, then the soil gas measurements may be taken either adjacent to the actual receptor in areas expected to exhibit the greatest soil gas measurements or at an alternative point of compliance between the source and receptor where the actual groundwater concentrations exceed the groundwater concentrations that exist beneath the confined space. If the soil gas measurements and confirmation samples taken in accordance with 135.12(6)*"c"* do not exceed the soil gas target levels, the pathway as to actual receptors shall be classified no action required. If the soil gas target levels are exceeded, either the pathway shall be classified high risk, or indoor vapor measurements may be taken in accordance with the department's Tier 2 guidance. If indoor vapor measurements and confirmation samples do not exceed the indoor vapor target levels, the pathway as to actual confined space receptors shall be classified no action required. If the Tier 1 indoor vapor target levels are exceeded, the pathway shall be classified high risk.

(2) Potential receptors. If the potential receptor groundwater concentration target level(s) is exceeded at any potential receptor point of exposure based on actual data or modeling, the pathway shall be classified low risk. However, if soil gas measurements taken at the potential receptor point(s) of exposure and alternate point(s) of compliance and confirmation samples do not exceed the target levels in 135.10(7)*"f,"* the pathway, as to potential receptors, shall be classified no action required. If the target level(s) for potential sanitary sewer receptors is exceeded, the pathway shall be classified as low risk. Where the area of potential receptor exposure includes public right-of-way, the pathway may be classified as no action required if the owner or operator provides sufficient documentation to establish that there are no foreseeable plans for construction of sanitary sewers through the area of potential receptor exposure. The municipal authority must acknowledge consent to the no action required classification whenever target levels are exceeded. If the municipal authority reports that it has confirmed plans for construction of sanitary sewers through the area of potential receptor exposure, the pathway shall be reevaluated as an actual receptor.

h. Corrective action response. Unless the pathway is classified as no action required, corrective action for this pathway must be conducted as provided in 567—135.12(455B). Actual receptors are subject to corrective actions that (1) reduce groundwater concentrations beneath the enclosed space to below the target level; (2) reduce the measured soil gas levels to below the soil gas target levels; (3) reduce the indoor vapor concentrations to below the indoor vapor target level; or (4) reduce the vapor level to below 10 percent of the lower explosive limit (LEL), if applicable. Potential receptors are subject to the monitoring requirements in 135.12(5). Soil vapor monitoring may be conducted in lieu of groundwater monitoring for this pathway. Institutional or technological controls as provided in 567—135.12(455B) may be used.

i. Municipal authority notification for potential sewer receptors. The municipal authority responsible for sewer construction must be notified of the environmental conditions whenever target level(s) is exceeded for potential sanitary sewers. The notification must show the area where groundwater concentrations and soil gas samples exceed target levels. The owner or operator must acknowledge what plans, if any, exist for construction of sanitary sewers through the area of potential receptor exposure.

135.10(7) *Soil vapor to enclosed space pathway assessment.*

a. Pathway completeness. Unless cleared at Tier 1, this pathway is always considered complete for purposes of Tier 2.

b. Explosive vapor survey. If an explosive vapor survey has not been conducted as part of a Tier 1 assessment, an explosive vapor survey of enclosed spaces must be conducted during the Tier 2 assessment in accordance with 135.9(6)*"b"* and procedures outlined in the department's Tier 1 guidance.

c. Confined space receptor evaluation. Actual and potential receptors are evaluated at Tier 2 for this pathway.

(1) Actual receptors. An existing confined space within 50 feet of the edge of the plume is an actual receptor. For the purpose of Tier 2, a confined space is a basement in a building occupied by humans. Buildings constructed with a concrete slab on grade or buildings constructed without a concrete slab, but with a crawl space are not considered receptors. Sanitary sewers are considered confined space receptors and preferential pathways if an occupied building exists within 200 feet of where the sewer line crosses over or through soil contamination that exceeds the target levels calculated for sewers. The sanitary sewer includes its utility envelope. The point of exposure is the receptor and points of compliance include the locations where target level measurements may be taken as provided in 135.10(7)*"f"* and *"g."*

(2) Potential receptors. Potential receptors are confined spaces that do not presently exist but could exist in the future. Areas where soil concentrations are greater than the Tier 1 level applicable to residential areas or alternative target levels for nonresidential areas as specified in 135.10(7)*"f"* are considered potential receptor points of exposure. Potential receptors are evaluated and target levels established based on the current zoning. An area with no zoning is considered residential. The potential receptor point of exposure is a point of compliance.

d. Vapor inhalation hazards. Owners and operators may be required to address vapor inhalation hazards in occupied spaces other than confined spaces as defined in these rules when evidence arises that would give the department a reasonable basis to believe vapor hazards are present or may occur.

e. Plume definition. The soil plume must be defined to the Tier 1 level for this pathway unless vapor measurements taken at the area(s) with the maximum levels of soil contamination do not exceed the soil gas target level in 135.10(7)*"f."* If soil gas measurements taken from the area(s) of maximum soil concentration do not exceed target levels, confirmation sampling must be conducted in accordance with 135.12(6)*"c"* prior to proposing a no action pathway classification.

f. Target levels. Target levels can be based on soil concentrations, soil gas measurements, and indoor vapor measurements as provided below:

(1) For actual receptors, the soil concentration target level is the Tier 1 level. For potential receptors, the soil concentration target level for residential areas and areas with no zoning is the Tier 1 level. For areas zoned nonresidential, the target level is calculated using the default nonresidential exposure factors and building parameters from Appendix A and a target risk of 10^{-4} .

(2) The following indoor vapor target levels apply to actual receptors other than sanitary sewers and the soil gas target levels apply to all actual and potential receptors. These levels were derived from the ASTM indoor air inhalation and the soil vapor to enclosed space models designated in Appendix A.

	Indoor Vapor ($\mu g/m^3_{air}$)	**Soil Gas ($\mu g/m^3$)**
Benzene	39.2	600,000
Toluene	555	9,250,000

(3) Sanitary sewers are treated as human health receptors, and soil concentration target levels at the point of exposure are based on application of a target risk of 2 x 10^{-4} for carcinogens and hazard quotient of 2 for noncarcinogens.

g. Pathway evaluation and classification.

(1) Actual receptors. Confined space receptors may be evaluated using soil gas measurements and indoor vapor measurements. When assessing sanitary sewers for pathway clearance, soil gas measurements may be evaluated against the soil gas target levels, however, indoor vapor cannot be used as criteria for pathway clearance. Soil gas measurements shall be taken adjacent to the actual receptor or at an alternative point of compliance between the source and receptor such as the property boundary and in accordance with 135.16(5) and the department's Tier 2 guidance. If the soil gas measurements and confirmation samples taken in accordance with 135.12(6)*"c"* do not exceed the soil gas target levels, the pathway as to actual receptors shall be classified no action required. If the soil gas target levels are exceeded, either the pathway shall be classified high risk, or indoor vapor measurements may be taken in accordance with the department's Tier 2 guidance. If indoor vapor measurements and confirmation samples do not exceed the indoor vapor target levels, the pathway as to actual receptors shall be classified no action required. If the indoor vapor target levels are exceeded, the pathway shall be classified high risk.

(2) Potential receptors. If the potential receptor target level(s) based on soil concentrations is exceeded at any potential receptor point of exposure, the pathway shall be classified low risk. However, if soil gas measurements taken at the potential receptor point(s) of exposure and alternate point(s) of compliance and confirmation samples do not exceed the target levels in 135.10(7)*"f,"* the pathway shall be classified no action required as to potential receptors. If the target level(s) for potential sanitary sewer receptors is exceeded, the pathway shall be classified as low risk. Where the area of potential receptor exposure includes public right-of-way, the pathway may be classified as no action required if the owner or operator provides sufficient documentation to establish that there are no foreseeable plans for construction of sanitary sewers through the area of potential receptor exposure. The municipal authority must acknowledge consent to the no action required classification whenever target levels are exceeded. If the municipal authority reports that it has confirmed plans for construction of sanitary sewers through the area of potential receptor exposure, the pathway shall be reevaluated as an actual receptor.

h. Corrective action response. Unless the pathway is classified as no action required, corrective action for this pathway must be conducted as provided in 567—135.12(455B) and in accordance with department Tier 2 guidance. Actual receptors are subject to corrective actions that (1) reduce the indoor vapor concentrations to below the target level; (2) reduce measured soil gas levels to below the soil gas target levels; and (3) if applicable, reduce the vapor level to below 10 percent of the lower explosive limit (LEL). Potential receptors are subject to monitoring requirements as provided in 135.12(5). Soil vapor monitoring may be conducted in lieu of soil monitoring for this pathway. Institutional or technological controls as provided in 567—135.12(455B) may be used.

i. Municipal authority notification for potential sewer receptors. The municipal authority responsible for sewer construction must be notified of the environmental conditions whenever target level(s) is exceeded for potential sanitary sewers. The notification must show the area where soil concentrations and soil gas samples exceed target levels. The owner or operator must acknowledge what plans, if any, exist for construction of sanitary sewers through the area of potential receptor exposure.

135.10(8) *Groundwater to water line pathway assessment.*

a. Pathway completeness and receptor evaluation.

(1) Actual receptors include all water lines where the highest groundwater elevation is higher than three feet below the bottom of the water line at the measured or predicted points of exposure. The highest groundwater elevation is the estimated average of the highest measured groundwater elevations for each year. All water lines must be evaluated for this pathway regardless of distance from the source and regardless of the Tier 1 evaluation, if the lines are in areas with actual data above the applicable Tier 1 level and modeled data above the SSTL line. If actual data exceeds modeled data, then all water lines

are considered actual receptors if they are within a distance extending 10 percent beyond the edge of the contaminant plume defined by the actual data.

(2) Potential receptors include all areas where the first encountered groundwater is less than 20 feet deep and where actual data or modeled data are above Tier 1 levels.

(3) The point(s) of exposure is the water line, and the points of compliance are monitoring wells between the source and the water line that would be effective in monitoring whether the line has been or may be impacted by chemicals of concern.

b. Plume definition. If this pathway is complete for an actual receptor, the groundwater plume must be defined to the Tier 1 levels, with an emphasis between the source and any actual water lines. The water inside the water lines shall be analyzed for all chemicals of concern.

c. Target levels. Groundwater modeling as provided in 135.10(2) must be used to calculate the projected concentrations of chemicals of concern and site-specific target levels. The soil leaching to groundwater pathway must be evaluated to ensure contaminated soil will not cause future groundwater concentrations to exceed site-specific target levels. The target level at the point(s) of exposure is the Tier 1 level.

d. Pathway evaluation and classification. Upon completion of evaluation of analytical results of appropriate samples and modeled data, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B). The water quality inside the water lines is not a criterion for clearance of this pathway.

e. Utility company notification. The utility company that supplies water service to the area must be notified of all actual and potential water line impacts as soon as knowledge of a potential risk is determined. If the extent of contamination has been defined, this information must be included in utility company notification, and any previous notification made at Tier 1 must be amended to include this information.

f. Corrective action response.

(1) For actual receptors, unless the pathway is classified as no further action, corrective action for this pathway must be conducted as provided in 567—135.12(455B). If the concentrations of chemicals of concern in a water line exceed the Tier 1 levels for actual receptors for the groundwater ingestion pathway, immediate corrective action must be conducted to eliminate exposure to the water, including but not limited to replacement of the line with an approved material.

(2) For potential receptors, upon utility company notification, no further action will be required for this pathway for potential receptors.

135.10(9) *Soil to water line pathway assessment.*

a. Pathway completeness and receptor evaluation.

(1) Actual receptors include all water lines within ten feet of the soil plume defined to the Tier 1 level. All water lines must be evaluated for this pathway regardless of distance from the source if the lines are in areas where Tier 1 levels are exceeded.

(2) Potential receptors include all areas where Tier 1 levels are exceeded.

b. Plume definition. The extent of soil contamination must be defined to Tier 1 levels for the chemicals of concern.

c. Target level. The point(s) of exposure includes all areas within ten feet of the water line. The target level at the point(s) of exposure is the Tier 1 level.

d. Pathway classification. Upon completion of evaluation of analytical results of appropriate samples, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B). Measurements of water quality inside the water lines may be required, but are not allowed as criteria to clear this pathway.

e. Utility company notification. The utility company that supplies water service to the area must be notified of all actual and potential water line impacts as soon as knowledge of the potential risk is determined. If the extent of contamination has been defined, this information must be included in utility company notification, and any previous notification made at Tier 1 must be amended to include this information.

f. Corrective action response.

(1) For actual receptors, unless the pathway is classified as no further action, corrective action for this pathway must be conducted as provided in 567—135.12(455B).

(2) For potential receptors, upon utility company notification, no further action will be required for this pathway for potential receptors.

135.10(10) *Surface water pathway assessment.*

a. Pathway completeness. Unless maximum concentrations are less than the applicable Tier 1 levels, this pathway is complete and must be evaluated under any of the following conditions: (1) there is a designated use surface water within the modeled groundwater plume or the actual plume as provided in 135.10(2)*"f"* and *"g"*; or (2) any surface water body that failed the Tier 1 visual inspection as provided in 135.9(10).

b. Visual inspection. A visual inspection must be conducted according to 135.9(10)*"c."* If a sheen or residue from a petroleum-regulated substance is present, soil and groundwater sampling must be conducted to identify the source of the release and to define the extent of the contaminant plume to the levels acutely toxic to aquatic life as provided in 567—subrule 61.3(2).

c. Receptor evaluation.

(1) Surface water criteria apply only to designated use segments of surface water bodies as provided in 567—subrules 61.3(1) and 61.3(5). If the surface water body is a designated use segment and if maximum groundwater concentrations exceed applicable surface water criteria, the extent of contamination must be defined as provided in 135.10(10)*"d."* The point of compliance for measuring chemicals of concern at the point of exposure is the groundwater adjacent to the surface water body because surface water must be protected for low flow conditions. In-stream measurements of concentrations are not allowed as a basis for no further action.

(2) If the visual inspection indicates the presence of a petroleum sheen in a general use segment within 200 feet of the source, as defined in 567—paragraph 61.3(1)*"a,"* the segment must be evaluated as an actual receptor. The point of compliance for measuring chemicals of concern at the point of exposure is the groundwater adjacent to the general use segment.

d. Plume definition. The groundwater plume must be defined to the surface water criteria levels for designated use segment receptors and to the acutely toxic levels for general use segment receptors, with an emphasis between the source and the surface water body.

e. Target levels. Determining target levels for this pathway involves a two-step process.

(1) Groundwater modeling as provided in 135.10(2) must be used to calculate the projected concentrations of chemicals of concern at the point of compliance. If the modeled concentrations or field data at the point of compliance exceed surface water criteria for designated use segments, an allowable discharge concentration must be calculated. If the projected concentrations and actual concentrations at the point of compliance do not exceed surface water criteria, no further action is required to assess this pathway.

(2) The department water quality section will calculate the allowable discharge concentration using information provided by the certified groundwater professional on a department form. Required information includes, at a minimum, the site location and a discharge flow rate calculated according to the department's Tier 2 guidance. The allowable discharge concentration is the target level that must be met adjacent to the surface water body that is the point of compliance.

(3) The target level at the point of exposure/compliance for general use segments subject to evaluation is the acutely toxic levels established by the department under 567—Chapter 61 and 567—subrule 62.8(2). If the modeled concentrations of contaminant concentrations at the point of exposure/compliance exceed the acutely toxic levels, modeling must be used to determine site classifications and corrective action in accordance with 567—135.12(455B).

f. Pathway evaluation and classification. Upon completion of evaluation of analytical results of appropriate samples and modeled data, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B).

(1) For general use segments, as defined in 567—subrule 61.3(1), if the groundwater professional determines there is no sheen or residue present or if the site is not the source of the sheen or residue or if the sheen does not consist of petroleum-regulated substances, no further action is required for assessment

of this pathway. If a petroleum-regulated substance sheen is present, the pathway is high risk and subject to classification in accordance with 567—135.12(455B).

(2) For designated use segments, as provided in 567—subrules 61.3(1) and 61.3(5), if projected concentrations of chemicals of concern and actual contaminant concentrations at the point of compliance do not exceed the target level adjacent to the surface water, and the groundwater professional determines there is no sheen or residue present, no further action is required for assessment of this pathway.

g. Corrective action response. Unless the pathway is classified as no further action, corrective action for this pathway must be conducted as provided in 567—135.12(455B). For surface water bodies failing the visual inspection criteria, corrective action must eliminate the sheen and reduce concentrations to below the site specific target level in accordance with 567—135.12(455B).

135.10(11) *Tier 2 submission and review procedures.*

a. Owners and operators must submit a Tier 2 site cleanup report within 180 days of the date the department approves or is deemed to approve a Tier 1 assessment report under 135.9(12). If the owner or operator has elected to conduct a Tier 2 assessment instead of a Tier 1, or a Tier 2 assessment is required due to the presence of free product under 135.7(4), the Tier 2 site cleanup report must be submitted within 180 days of the date the release was confirmed. The department may establish an alternative schedule for submittal.

b. Site cleanup report completeness and accuracy. A Tier 2 site cleanup report is considered to be complete if it contains all the information and data required by this rule and the department's Tier 2 guidance. The report is considered accurate if the information and data are reasonably reliable based first on the standards in these rules and department guidance, and second, on generally accepted industry standards.

c. The certified groundwater professional responsible for completion of the Tier 2 site assessment and preparation of the report must accompany each Tier 2 site cleanup report with a certification as set out below:

I, _____, groundwater professional certification number _____, am familiar with all applicable requirements of Iowa Code section 455B.474 and all rules and procedures adopted thereunder including, but not limited to, the Department of Natural Resources' Tier 2 guidance. Based on my knowledge of those documents and the information I have prepared and reviewed regarding this site, UST registration number _____, LUST No._____, I certify that this document is complete and accurate as provided in 135.10(11) and meets the applicable requirements of the Tier 2 site cleanup report.

Signature

Date

d. Upon receipt of the groundwater professional's certified Tier 2 report, the groundwater professional's proposed site classification for the site shall be determinative unless, within 90 days of receipt, the department identifies material information in the report that is inaccurate or incomplete. Material information may be data found to be inaccurate or incomplete or a report that lacks information that, if accurate and complete, would result in a different site or pathway classification than proposed by the certified groundwater professional. If the department determines that the site cleanup report is inaccurate or incomplete, the department shall notify the groundwater professional of the inaccurate or incomplete information within 90 days of receipt of the report and shall work with the groundwater professional and the party responsible for cleanup to obtain correct information or additional information necessary to appropriately classify the site. If the groundwater professional recommends proceeding to Tier 3, the groundwater professional's site classification and any pathway classification recommendations subject to or influenced by a Tier 3 assessment shall not be considered determinative until the Tier 3 report is submitted for review as provided in 567—135.11(455B).

e. If a "no action required" site classification is proposed, the department shall review the report in accordance with 135.12(6) and the review standards in 135.10(11)*"d."*

f. The department may, in the interest of minimizing environmental or public health risks and promoting a more effective cleanup, require owners and operators to begin cleanup of soil and groundwater before the Tier 2 site cleanup report is approved.

567—135.11(455B) Tier 3 site assessment policy and procedure.

135.11(1) *General.* Tier 3 site assessment. Unless specifically limited by rule or an imminent hazard exists, an owner or operator may choose to prepare a Tier 3 site assessment as an alternative to completion of a Tier 2 assessment under 567—135.10(455B) or as an alternative to completion of a corrective action design report under 567—135.12(455B). Prior to conducting a Tier 3 site assessment, a groundwater professional must submit a work plan to the department for approval. The work plan must contain an evaluation of the specific site conditions that justify the use of a Tier 3 assessment, an outline of the proposed Tier 3 assessment procedures, a reporting format and a method for determining a risk classification consistent with the provisions underlying the risk classification system in 567—135.12(455B). Upon approval, the groundwater professional may implement the assessment plan and submit a report within a reasonable time designated by the department.

135.11(2) *Tier 3 site assessment.* A Tier 3 assessment may include but is not limited to the use of more site-specific or multidimensional models and assessment data, methods for calibrating Tier 2 models to make them more predictive of actual site conditions, and more extensive assessment of receptor construction and vulnerability to contaminant impacts. If use of Tier 2 models is proposed with substitution of other site-specific data (as opposed to the Tier 2 default parameters), the groundwater professional must adequately justify how site-specific data is to be measured and why it is necessary. The groundwater professional must demonstrate that the proposal has a proven applicability to underground storage tank sites or similar conditions or has a strong theoretical basis for applicability and is not biased toward underestimating assessment results. The Tier 3 assessment report shall make a recommendation for site classification as high risk, low risk or no action required, at least two corrective action response technologies and provide justification consistent with the standards and policies underlying risk classification and corrective action response under 567—135.12(455B) and Iowa Code chapter 455B, subchapter IV, part 8.

135.11(3) *Review and submittal.* The department will review the Tier 3 assessment for compliance with the terms of the approved work plan and based on principles consistent with these rules and Iowa Code chapter 455B, subchapter IV, part 8. Upon approval of the Tier 3 assessment, the department may require corrective action in accordance with 567—135.12(455B).

567—135.12(455B) Tier 2 and 3 site classification and corrective action response.

135.12(1) *General.* Iowa Code section 455B.474(1)*"a"*(4)(b) provides that sites shall be classified as high risk, low risk and no action required. Risk classification is accomplished by comparing actual contaminate concentrations to the concentrations that are predicted by the use of models. Concentrations must be compared to the simulation model that uses the maximum concentrations at a source and predicts at what levels actual or potential receptors could be impacted in the future. Concentrations must also be compared to the site-specific target level line that assumes a target level concentration at the point of exposure and is used to predict the reduction in concentration that must be achieved at the source in order to meet the applicable target level at the point of exposure. These models not only predict concentrations at points of exposure or a point of compliance at a source but also predict a distribution of concentrations between the source and the point of exposure, which may also be points of compliance. The comparison of contaminate concentrations with these distribution curves primarily is considered for purposes of judging whether the modeled data is reasonably predictive and what measures such as monitoring are prudent to determine the reliability of modeled data and actual contaminate concentrations.

For the soil vapor to enclosed space and soil to water line pathways, there are no horizontal transport models to use for predicting future impacts. Therefore, for these pathways, sites are classified as high risk, low risk or no action required based on specified criteria below and in 567—135.10(455B).

135.12(2) *High risk classification.* Except as provided below, sites shall be classified as high risk if, for any pathway, any actual contaminate concentrations exceed the site-specific target level line at any point for an actual receptor.

a. For the soil vapor to enclosed space and soil to water line pathways, sites shall be classified as high risk if the target levels for actual receptors are exceeded as provided in 135.10(7) and 135.10(9).

b. For the soil vapor or groundwater vapor to enclosed space pathways, sites shall be classified as high risk if the explosivity levels at applicable points of compliance are exceeded as provided in 135.10(6) and 135.10(7).

c. Generally, sites are classified as low risk if only potential receptor points of compliance are exceeded. The following is an exception. For the soil leaching to groundwater ingestion pathway for potential receptor conditions, the site shall be classified as high risk if the groundwater concentration(s) exceeds the groundwater Tier 1 level for potential receptor and the soil concentration exceeds the soil leaching site-specific target level at the source.

135.12(3) *High risk corrective action response.*

a. Objectives. The primary objectives of corrective action in response to a high risk classification are both short-term and long-term. The short-term goal is to eliminate or reduce the risk of exposure at actual receptors that have been or are imminently threatened with exposure above target levels. The longer term goal is to prevent exposure to actual receptors that are not currently impacted or are not imminently threatened with exposure. To achieve these objectives, it is the intent of these rules that concentrations of applicable chemicals of concern be reduced by active remediation to levels below the site-specific target level line at all points between the source(s) and the point(s) of exposure as well as to undertake such interim corrective action as necessary to eliminate or prevent exposure until concentrations below the SSTL line are achieved. If it is shown that concentrations at all applicable points have been reduced to below the SSTL line, the secondary objective is to establish that the actual chemical concentrations can be reasonably relied upon to predict future conditions at points of exposure rather than reliance on the modeled data. Reliance on actual contaminant concentrations is achieved by establishing through monitoring that concentrations within the contaminant plume are steady or declining. Institutional controls and technological controls may be used to sever pathways or control the risk of receptor impacts.

b. For the groundwater to water line and soil to water line receptors, these objectives are achieved by active remediation, replacement or relocation of high risk water line receptors in the actual and modeled plume areas. If water lines and gaskets are replaced in an area of contamination, they must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department.

c. In areas of free product, all water lines, regardless of construction material, must be relocated unless there is no other option and the department has approved an alternate plan of construction. Refer to 135.7(4)*"d"*(11). If a service line remains in the area of LNAPL, a backflow preventer shall be installed to prevent impacts to the larger water distribution system.

d. For the soil vapor pathway, these objectives are achieved by active remediation of soil contamination below the target level at the point(s) of exposure or other designated point(s) of compliance using the same measurement methods for receptor evaluation under 135.10(7) and 135.10(9).

e. For a site classified as high risk or reclassified as high risk for the soil leaching to groundwater ingestion pathway, these objectives are achieved by active remediation of soil contamination to reduce the soil concentration to below the site-specific target level at the source.

f. A corrective action design report (CADR) must be submitted by a certified groundwater professional for all high risk sites unless the terms of a corrective action plan are formalized in a memorandum of agreement within a reasonable time frame specified by the department. The CADR must be submitted on a form provided by the department and in accordance with department CADR guidance within 60 days of site classification approval as provided in 135.10(11). The CADR must identify at least two principally applicable corrective action options designed to meet the objectives in 135.12(3), an outline of the projected timetable and critical performance benchmarks, and a specific monitoring proposal designed to verify its effectiveness and must provide sufficient supporting documentation consistent with industry standards that the technology is effective to accomplish site-specific objectives. The CADR must contain an analysis of its cost-effectiveness in relation to other options. The department will review the CADR in accordance with 135.12(9).

g. Interim monitoring. From the time a Tier 2 site cleanup report is submitted and until the department determines a site is classified as no action required, interim monitoring is required at least annually for all sites classified as high risk. Groundwater samples must be taken: (1) from a monitoring well at the maximum source concentration; (2) from a transition well, meaning a monitoring well with detected levels of contamination closest to the leading edge of the groundwater plume as defined to the pathway-specific target level, and between the source(s) and the point(s) of exposure; and (3) from a guard well, meaning a monitoring well between the source(s) and the point(s) of exposure with concentrations below the SSTL line. If a receptor is located within an actual plume contoured to the applicable target level for that receptor, the point of exposure must be monitored. If concentrations at the receptor already exceed the applicable target level for that receptor, corrective actions must be implemented as soon as practicable. Monitoring conducted as part of remediation or as a condition of establishing a no action required classification may be used to the extent it meets these criteria. Soil monitoring is required at least annually for all applicable pathways in accordance with 135.12(5)*"d."* All drinking water wells and non-drinking water wells within 100 feet of the largest actual plume (defined to the appropriate target level for the receptor type) must be tested annually for chemicals of concern. Actual plumes refer to groundwater plumes for all chemicals of concern.

h. Remediation monitoring. Remediation monitoring during operation of a remediation system is required at least four times each year to evaluate effectiveness of the system. A remediation monitoring schedule and plan must be specified in the corrective action design report and approved by the department.

i. Technological controls. The purpose of a technological control is to effectively sever a pathway by use of technologies such that an applicable receptor could not be exposed to chemicals of concern above an applicable target risk level. Technological controls are an acceptable corrective action response either alone or in combination with other remediation systems. The purpose of technological controls may be to control plume migration through use of containment technologies, barriers, etc., both as an interim or permanent corrective action response or to permanently sever a pathway to a receptor. Controls may also be appropriate to treat or control contamination at the point of exposure. Any technological control proposed as a permanent corrective action option without meeting the reduction in contaminant concentrations objectives must establish that the pathway to a receptor will be permanently severed or controlled. The effectiveness of a technological control must be monitored under a department approved plan until concentrations fall below the site-specific target level line or its effectiveness as a permanent response is established and no adverse effects are created.

j. Following completion of corrective action, the site must meet exit monitoring criteria to be reclassified as no action required as specified in 135.12(6)*"c."* At any point where an institutional or technological control is implemented and approved by the department, the site may be reclassified as no action required consistent with 135.12(6).

135.12(4) *Low risk classification.* A site shall be classified as low risk if none of the pathways are high risk and if any of the pathways are low risk. A pathway shall be classified low risk if it meets one of the following conditions:

a. For actual and potential receptors, if the modeled data and the actual concentrations are less than the site-specific target level line, and any of the actual concentrations are greater than the simulation line.

b. For potential receptors, if any actual concentrations exceed the site-specific target level line at any point.

c. For the soil leaching to groundwater ingestion pathway where modeling predicts that the Tier 1 levels for potential receptors would be exceeded in groundwater at applicable potential receptor points of compliance and the soil concentration exceeds the soil leaching to groundwater site-specific target level but groundwater concentrations are currently below the Tier 1 level for potential receptors, the site shall be initially classified as low risk and subject to monitoring under 135.12(5)*"d"*(2). If at any time during the three-year monitoring period, groundwater concentrations exceed the Tier 1 level for potential receptors, the site shall be classified as high risk requiring soil remediation in accordance with 135.12(3)*"d."*

135.12(5) *Low risk corrective action response.*

a. Purpose. For sites or pathways classified as low risk, the purpose of monitoring is to determine if concentrations are decreasing such that reclassification to no action required may be appropriate or if the contaminant plume is stable such that reclassification to no action required can be achieved with implementation of an institutional control in accordance with 135.12(8), or if concentrations are increasing above the site-specific target level line such that reclassification to high risk is appropriate. Monitoring is necessary to evaluate impacts to actual receptors and assess the continued status of potential receptor conditions. Low risk monitoring shall be conducted and reported by a certified groundwater professional.

b. For sites or pathways classified as low risk, provide a best management practices plan. The plan must include maintenance procedures, schedule of activities, prohibition of practices, and other management practices, or a combination thereof, which, after problem assessment, are determined to be the most effective means of monitoring and preventing additional contamination of the groundwater and soil. The plan will also contain a contamination monitoring proposal containing sufficient sampling points to ensure the detection of any significant movement of or increase in contaminant concentration.

c. Groundwater monitoring. For groundwater pathways, samples must be taken at a minimum of once per year: (1) from a monitoring well at the maximum source concentration; (2) a transitional well meaning a well with detected levels of contamination closest to the leading edge of the groundwater plume as defined to the pathway-specific target level and between the source and the receptor; and (3) a guard well meaning a monitoring well between the source and the point of exposure with concentrations below the SSTL line. (NOTE: Monitoring under this provision may be used to satisfy exit monitoring if it otherwise meets the criteria in 135.12(6).)

d. Soil monitoring.

(1) For the soil vapor to enclosed space pathway potential receptors, soil gas samples must be taken at a minimum of once per year in the area(s) of expected maximum vapor concentrations where an institutional control is not in place.

(2) For the soil leaching to groundwater pathway potential receptors, annual groundwater monitoring is required for a minimum of three years as provided in 135.12(5)*"c."* If groundwater concentrations are below the applicable SSTL line for all three years, no further action is required. If groundwater concentrations exceed the applicable SSTL line in any of the three years, corrective action is required to reduce soil concentrations to below the Tier 1 levels for soil leaching to groundwater. Therefore, annual monitoring of soil is not applicable.

(3) For the soil to water line pathway potential receptors, notification of the utility company is required. Notification will result in reclassification to no action required. Therefore, annual monitoring of soil is not applicable.

e. Receptors must be evaluated at least annually to ensure no actual or modeled data are above the site-specific target level line for any actual receptors. Potential receptor areas of concern must be evaluated at least annually and the presence of no actual receptors confirmed. If actual receptors are present or reasonably expected to be brought into existence, the owner or operator must report this fact to the department as soon as practicable. Annual monitoring that also meets the exit criteria under 135.12(6) may be used for that purpose.

f. The site or pathway must meet exit monitoring criteria to be reclassified as no action required as specified in 135.12(6)*"b."* If concentrations for actual receptors increase above the site-specific target level line or potential receptor status changes to actual receptor status, the site must be reclassified as high risk and further corrective action required in accordance with 135.12(3).

135.12(6) *No action required classification.* A site shall be classified as no action required if all of the pathways are classified as no action required as provided below:

a. Soil pathways shall be classified as no action required if samples are less than the applicable target levels as defined for each pathway and confirmational sampling requirements have been met.

b. For initial classification, groundwater pathways shall be classified as no action required if the contaminant concentrations are below the site-specific target level line and all concentrations are

at or less than the simulation line, and confirmation monitoring has been completed successfully. Confirmation sampling for groundwater is a second sample that confirms the no action required criteria.

c. A groundwater pathway shall be reclassified from high risk to no action required if all contaminant concentrations are below the site-specific target level and if exit monitoring criteria have been met. Exit monitoring criteria means that the three most recent consecutive groundwater samples from all monitoring wells must show a steady or declining trend and the most recent samples are below the site-specific target level. Other criteria include the following: The first of the three samples for the source well and transition well must be more than detection limits; concentrations cannot increase more than 20 percent from the first of the three samples to the third sample; concentrations cannot increase more than 20 percent of the previous sample; and samples must be separated by at least six months.

d. A low risk site shall be reclassified as "no action required" if contaminant concentrations are below the site-specific target level and if exit monitoring criteria have been met pursuant to 135.12(6)*"c"* or if the site has maintained less than the applicable target level for four consecutive sampling events separated by at least six months as defined in the monitoring plan regardless of exit monitoring criteria and guidance.

e. Confirmation sampling for soil gas and indoor vapor. For the enclosed space pathways, confirmation sampling is required to reasonably establish that the soil gas and indoor vapor samples represent the highest expected levels. A groundwater professional must obtain two samples taken at least two weeks apart. One of the samples should be collected beneath the frost line depth during a seasonal period of lowest groundwater elevation.

f. As a condition of obtaining site classification as no action required, all groundwater monitoring wells must be properly plugged in accordance with 567—Chapters 39 and 49 unless the department requires selected wells to be maintained or a written request with justification and a plan for properly maintaining the wells are submitted to the department for approval. Approval to maintain wells shall be deemed granted if not disapproved with reason within 30 days of request.

g. Prior to acceptance of a request to classify the site as no action required, and in the event there is a question of validity of the data or sampling methods, laboratory analysis procedures, indication of plume movement, or the department obtains information about new conditions at the site, the department may conduct or require the owner to conduct confirmation sampling of the soil, groundwater, soil gas, or indoor vapor to confirm that the no action required criteria have been met.

h. The department may waive, at its discretion, the exit monitoring criteria based on a certified groundwater professional's written justification to support a no action required classification for the site based on a reasoned assessment of data, trends, receptor status, and corrective actions performed. One example is when steady and declining criteria have not been met due solely to variations among a laboratory's lowest achievable detection limits.

135.12(7) *Reclassification.* Any site or pathway that is classified as high risk may be reclassified to low risk if in the course of corrective action the criteria for low risk classification are established. Any site or pathway that is classified as low risk may be reclassified to high risk if in the course of monitoring the conditions for high risk classification are established. Sites subject to department-approved institutional or technological controls are classified as no action required if all other criteria for no action required classification are satisfied.

135.12(8) *Use of institutional and technological controls.*

a. Purpose. The purpose of an institutional control is to restrict access to or use of property such that an applicable receptor could not be exposed to chemicals of concern for as long as the target level is exceeded at applicable points of exposure and compliance. Institutional controls include:

(1) A law of the United States or the state;

(2) A regulation issued pursuant to federal or state laws;

(3) An ordinance or regulation of a political subdivision in which real estate subject to the institutional control is located;

(4) An environmental covenant as provided in Iowa Code chapter 455I;

(5) Any other institutional control the owner or operator can reasonably demonstrate to the department will reduce the risk from a release throughout the period necessary to ensure that no applicable target level is likely to be exceeded.

b. Modification or termination of institutional and technological controls. At a point when the department determines that an institutional or technological control has been removed or is no longer effective for the purpose intended, regardless of the issuance of a no further action certification or previous site classification, it may require owners and operators to undertake such reevaluation of the site conditions as necessary to determine an appropriate site classification and corrective action response. If the owner or operator is in control of the affected property, the department may require reimplementation of the institutional or technological control or may require a Tier 2 assessment of the affected pathway(s) be conducted to reevaluate the site conditions and determine alternative corrective action response. An owner or operator subject to an institutional or technological control may request modification or termination of the control by conducting a Tier 2 assessment of the affected pathway or conduct such other assessment as required by the department to establish that the control is no longer required given current site conditions.

c. If the owner or operator is not in control of the affected property or cannot obtain control and the party in control refuses to continue implementation of an institutional control, the department may require the owner or operator to take such legal action as available to enforce institution of the control or may require the owner or operator to undertake a Tier 2 assessment to determine site classification and an alternative corrective action response. If a person in control of the affected property appears to be contractually obligated to maintain an institutional or technological control, the department may, but is not required to, attempt enforcement of the contractual obligation as an alternative to requiring corrective action by the owner or operator.

d. If a site is classified no action required, subject to the existence of an institutional control or technological control, the holder of the fee interest in the real estate subject to the institutional control or technological control may request, at any time, that the department terminate the institutional control or technological control requirement. The department shall terminate the requirement for an institutional control if the holder demonstrates by completion of a Tier 2 assessment of the applicable pathway or other assessment as required by the department that the site conditions warranting the control no longer exist and that the site or pathway has met exit criteria for no action required classification under 135.12(6).

135.12(9) *Corrective action design report submission and review procedures.*

a. Owners and operators must submit a CADR within 60 days of the date the department approves or is deemed to approve a Tier 2 assessment report under 135.10(11) or a Tier 3 assessment is to be conducted. The department may establish an alternative schedule for submittal. As an alternative to submitting a CADR, owners or operators may participate in a corrective action meeting process to develop a corrective action plan that would be incorporated into a memorandum of agreement or other written agreement approved by the department. Owners or operators shall implement the terms of an approved CADR, memorandum of agreement or other corrective action plan agreement.

b. Corrective action design report completeness and accuracy. A CADR is considered to be complete if it contains all the information and data required by this rule and the department's guidance. The report is considered accurate if the information and data are reasonably reliable based first on the standards in these rules and department guidance, and second, on generally accepted industry standards.

c. The certified groundwater professional responsible for completion of the CADR must provide the following certification with the CADR:

I, _____, groundwater professional certification number _____, am familiar with all applicable requirements of Iowa Code section 455B.474 and all rules and procedures adopted thereunder including, but not limited to, the Department of Natural Resources' guidance and specifications for corrective action design reports. Based on my knowledge of those documents and the information I have prepared and reviewed regarding this site, UST registration number _____, LUST No._____, I certify that this document is complete and accurate as provided in 135.12(9) and meets the applicable requirements of the corrective action design

report, and that the recommended corrective action can reasonably be expected to meet its stated objectives.

Signature

Date

d. Review. A CADR submitted by a groundwater professional shall be accepted by the department and shall be primarily relied upon by the department to determine the corrective action response requirements of the site. However, if within 90 days of receipt of a CADR, the department identifies material information in the CADR that is inaccurate or incomplete, and if based upon information in the report the appropriate corrective action response cannot be reasonably determined by the department based on industry standards, the department may reject the report and require modifications. If the department does not reject the report within 90 days of receipt, the report shall be deemed approved as submitted unless changes to the report are requested by the groundwater professional. The department shall work with the groundwater professional and the owner or operator to correct any materially inaccurate information or to obtain the additional information necessary to determine the appropriate corrective action response as soon as practicable.

e. Memorandums of agreement. Owners or operators that fail to implement the actions or meet the activity schedule in a memorandum of agreement resulting from a corrective action meeting or other written corrective action plan agreement or that fail to implement the actions or meet the schedule outlined in an approved CADR are subject to legal action.

135.12(10) *Monitoring certificates and no further action certificates.*

a. Monitoring certificate. The department will issue a monitoring certificate to the owner or operator of an underground storage tank from which a release has occurred, the current property owner, or other responsible party who has undertaken the corrective action warranting issuance of the certificate. Sites classified as low risk or sites classified as high risk/monitoring shall be eligible for a monitoring certificate. The monitoring certificate will be valid until the site is reclassified to a high risk requiring active remediation or no action required site. A site that has been issued a monitoring certificate shall not be eligible to receive a certificate evidencing completion of remediation until the site is reclassified as no action required. The monitoring certificate may be invalidated and the site reclassified to high risk if it is determined by the department that the owner of the site is not in compliance with the requirements specified in the monitoring certificate.

b. No further action certificate. When the no action required site classification has been determined based on a recommendation of the certified groundwater professional as provided in 135.9(11), 135.10(11) and 135.12(6) (see also Iowa Code section 455B.474(1)*"a"*(8)(a) and (c)), the department shall issue a no further action certificate.

The department will issue a no further action certificate to an owner or operator of an underground storage tank from which a release has occurred, the current property owner, or other responsible party who has undertaken the corrective action warranting classification of the site as no action required. Prior to the issuance of a no further action certificate, an accurate legal description of the property on which the underground storage tanks are or were formerly located shall be submitted to the department. The following conditions apply:

(1) If free product is present, the department shall not issue a no further action certificate until the department has approved termination of all free product assessment and recovery in accordance with 135.7(4).

(2) The site has been determined by a certified groundwater professional not to present an unreasonable risk to the public health and safety or the environment.

(3) A person issued the certificate or a subsequent purchaser of the site cannot be required to perform further corrective action because action standards are changed at a later date. Action standards refer to applicable standards under this rule.

(4) The certified groundwater professional has certified that all groundwater monitoring wells have been permanently closed in accordance with 135.12(6)*"f"* with the exception of wells that are allowed to be maintained pursuant to 135.12(6)*"f."* Wells not properly maintained shall be referred to the water supply section of the department that enforces 567—Chapters 39 and 49.

(5) The certificate shall not prevent the department from ordering remediation of a release identified subsequent to the release for which the no further action certificate was issued. The certificate shall not prevent the department from requiring corrective action of a release of a regulated substance from an unregulated tank.

(6) The certificate will not constitute a warranty of any kind to any person as to the condition, marketability or value of the described property.

(7) The certificate shall reflect any institutional control utilized to ensure compliance with any applicable Tier 2 level; and may include a notation that the classification is based on the fact that designated potential receptors are not in existence.

(8) The certificate shall be in a form provided by the department that is recordable in accordance with Iowa Code section 558.1 et seq.

(9) The owner or operator or other persons conducting corrective action shall be responsible for recording the no further action certificate with the county recorder and return a file-stamped copy to the department within 30 days of the issue date. At its discretion, the department may record the no further action certificate with the appropriate county recorder as authorized in Iowa Code section 455B.474(1)*"a"*(8)(c).

c. The department shall modify any issued no further action certificates containing institutional controls once the owner, operator or their successor or assign has demonstrated that the institutional control is no longer necessary to meet the applicable Tier 2 level as provided in 135.12(10).

135.12(11) *Expedited corrective action.* An owner, operator or responsible party of a site at which a release of regulated substance is suspected to have occurred may carry out corrective actions at the site so long as the department receives notice of the expedited cleanup activities prior to 30 calendar days of their commencement; the owner, operator, or responsible party complies with the provisions of these rules; and the corrective action does not include active treatment of groundwater other than:

a. As previously approved by the department; or

b. Free product recovery pursuant to 135.7(4).

c. Soil overexcavation. When undertaking overexcavation of contaminated soils, adequate field screening methods must be used to identify maximum concentrations during excavation. At a minimum one soil sample must be taken for field screening every 100 square feet of the base and each sidewall. Soil samples must be taken for laboratory analysis at least every 400 square feet of the base and each sidewall of the excavated area to confirm remaining concentrations are below Tier 1 levels. If the excavation is less than 400 square feet, a minimum of one sample must be analyzed for each sidewall and the base. The owner or operator must maintain adequate records of the excavation area to document compliance with this procedure unless submitted to the department and must provide it to the department upon request.

567—135.13(455B) Public participation.

135.13(1) For each confirmed release that is classified as high or low risk, the department must provide notice to the public by means designated to reach those members of the public directly affected by the release and the recommended corrective action response. This notice may include but is not limited to public notice in local newspapers, block advertisements, public service announcements, publication in a state register, letters to individual households, or personal contacts by the staff.

135.13(2) The department must ensure site release information and decisions concerning the Tier 1 assessment report, Tier 2 and Tier 3 site cleanup reports are made available to the public for inspection upon request.

135.13(3) Before approving the Tier 2 or Tier 3 site cleanup report, the department may hold a public meeting to consider comments on the proposed corrective action response if there is sufficient public interest, or for any other reason.

135.13(4) The department must give a public notice that complies with 135.13(1) above if the implementation of the approved Tier 2 or Tier 3 site cleanup report does not achieve the established cleanup levels in the report and the termination of that report is under consideration by the department.

567—135.14(455B) Action levels. The following corrective action levels apply to petroleum-regulated substances as regulated by this chapter. These action levels shall be used to determine if further corrective action under 567—135.6(455B) through 567—135.12(455B) or 567—135.15(455B) is required as the result of tank closure sampling under 135.15(3) or other analytical results submitted to the department. The contaminant concentrations must be determined by laboratory analysis as stated in 567—135.16(455B). Final cleanup determination is not limited to these contaminants. The contamination corrective action levels are:

	Soil (mg/kg)	**Groundwater (µg/L)**
Benzene	0.54	5
Toluene	3.2	1,000
Ethylbenzene	15	700
Xylenes	52	10,000
Total Extractable Hydrocarbons—Diesel	3,800	1,200
Total Extractable Hydrocarbons—Waste Oil		400

567—135.15(455B) Out-of-service UST systems, temporary closure, and permanent closure.

135.15(1) *Out-of-service UST systems and temporary closure.*

a. UST systems not meeting either the performance standards in 135.3(1) for new UST systems or the upgrading requirements in 135.3(2) by December 22, 1998, must be permanently closed according to 135.15(2). The tanks cannot be brought back into use.

b. When a UST system in compliance with new tank standards is out of service for less than three months, owners and operators must:

(1) Continue operation and maintenance of corrosion protection in accordance with 135.4(2);

(2) Continue operation and maintenance of any release detection in accordance with 567—135.5(455B) unless the system is empty. The UST system is empty when all materials have been removed using commonly employed practices. No more than 2.5 centimeters (1 inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, may remain in the system;

(3) Comply with 567—135.6(455B) through 567—135.12(455B) if a release is suspected or confirmed;

(4) Maintain financial responsibility in accordance with 567—Chapter 136. If at any time financial responsibility coverage is or will be terminated, a site check for contamination must be completed before coverage is terminated. A site check must use the closure-in-place sampling procedures in 135.15(3)*"b"* and *"d"* or the Tier 1 site assessment in 567—135.9(455B). If the tanks are located in a contaminated area with active monitoring and remediation, the tank owner may request the department waive the site check providing justification.

(5) Continue to pay the tank management fee as required in 135.3(5).

(6) Continue to have compliance inspections conducted as required in 567—135.19(455B).

c. When a UST system is out of service for three months or more, an owner must submit a notification of temporary closure form to the department. Owners and operators must complete the requirements in 135.15(1)*"b"* for temporary closure and certify the following:

(1) The UST system is empty of all regulated substances (e.g., receipt of product removal).

(2) Vent lines are open and functioning.

(3) All other piping, pumps, accesses, and ancillary equipment are capped and locked.

(4) The corrosion protection system is being maintained in accordance with 135.4(2). Include documentation that electricity is being maintained to operate the impressed current cathodic protection system if present.

(5) For lined tanks, provide a copy of the last internal inspection.

(6) Provide proof of financial responsibility (e.g., insurance) according to 567—Chapter 136.

d. When a tank system is temporarily closed for more than 12 months, the owner must remain in compliance with the department's temporary closure requirements in 135.15(1)*"c."* The department may provide an extension to the 12-month temporary closure period. Owners and operators must complete a site check in accordance with 135.6(3)*"b"* before such an extension can be applied for.

e. If a tank system is temporarily closed for more than 12 months, but the tank system has not been temporarily closed according to the requirements of 135.15(1)*"c,"* or the owner or operator has failed to maintain out-of-service requirements in 135.15(1)*"b,"* the UST system must be permanently closed in accordance with 135.15(2).

f. Prior to returning a temporarily closed tank back into service, the owner or operator must complete and submit the department's return-to-service form signed by a certified installer and provide the following documentation unless otherwise approved by the department. The tank system cannot be operated or receive fuel until current tank tags have been issued.

(1) Documentation that the tanks were temporarily closed in accordance with 135.15(1).

(2) Where applicable, documentation that corrosion protection has been maintained continuously in accordance with 135.4(2). The owner or operator must provide an inspection log of the cathodic protection system and the inspection report of the cathodic protection system completed by an Iowa-certified cathodic protection tester.

(3) For lined tanks, provide a lining and tank integrity inspection report.

(4) Results of precision tightness tests (0.1 gph) conducted on tanks in accordance with 567—135.5(455B).

(5) Results of precision tightness tests (0.1 gph) conducted on lines in accordance with 567—135.5(455B). This includes piping used for remote fill.

(6) Function test (3.0 gph) results of mechanical or electronic leak detectors conducted in accordance with 567—135.5(455B).

NOTE: Function tests are not required on confirmed "safe suction" dispensing lines.

(7) Tank and piping leak detection is operational and in good condition.

(8) Secondary containment is installed where necessary in accordance with 135.3(9).

(9) Spill containment, overfill prevention and all containment sumps are in good condition and operating in accordance with 135.4(1). Tightness tests conducted within the last 12 months must be provided for secondary containment of tanks, piping, sumps, under dispenser containment and spill containment.

(10) Copy of the financial responsibility (e.g., UST insurance) mechanism in accordance with 567—Chapter 136.

(11) Certification from an Iowa-certified installer that the UST system and equipment meet all regulatory requirements for startup and operation.

(12) Copies of Class A and Class B operator training certificates.

(13) Change of ownership form (if the UST system was sold).

135.15(2) *Permanent closure and changes-in-service.* Permanent closure of an underground storage tank system must be conducted by an Iowa-certified tank remover. Closure sampling must be conducted by or under the supervision of an Iowa-certified groundwater professional.

a. At least 30 days before beginning either permanent closure or a change-in-service under 135.15(2)*"b"* and *"c,"* owners and operators must notify the department of their intent to permanently close or make the change-in-service. An owner or operator must seek prior approval to permanently close a tank in a time frame shorter than the 30-day notice. The required assessment of the excavation zone under 135.15(3) must be performed after notifying the department but before completion of the permanent closure or a change-in-service.

b. To permanently close a tank or piping, owners and operators must empty and clean them by removing all liquids and accumulated sludge. All tanks taken out of service permanently must also be removed from the ground, filled with an inert solid material, or closed in place by a method approved by the department. Piping must be removed from the ground or have the ends plugged with an inert solid material.

c. Continued use of a UST system to store a nonregulated substance is considered a change-in-service. Before a change-in-service, owners and operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with 135.15(3).

d. Permanent closure procedures must be followed in the replacement of tanks or piping. Notification must be made using DNR Form 542-1308, "Notification of Tank Closure or Change-in-Service." The form must include the date scheduled for the closure. Confirmation of the closure date must be given to the DNR field office 24 hours prior to the actual closure. The required assessment of the excavation zone under 135.15(3) must be performed after notifying the department but before completion of the permanent closure or change-in-service.

NOTE: The cleaning and closure procedures listed in 40 CFR 280.71(c) may be used to comply with 135.15(2).

135.15(3) *Assessing the site at closure or change-in-service.*

a. Before permanent closure or a change-in-service is completed, owners or operators must measure for the presence of a release where contamination is most likely to be present at the UST site. This soil and groundwater closure investigation must be conducted or supervised by a groundwater professional certified under 567—Chapter 134 unless the department in its discretion grants an exemption and provides direct supervision of the closure investigation. In selecting the sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release.

(1) At UST sites with a history of petroleum storage, soil and groundwater samples shall in every case be analyzed for benzene, toluene, ethylbenzene, and xylenes (BTEX) with each compound reported separately in accordance with 567—135.16(455B). If there has been a history or suspected history of petroleum storage other than gasoline or gasoline blends (i.e., all grades of diesel fuels, fuel oil, kerosene, oil and mineral spirits), or such storage history is unknown or uncertain, soil and groundwater samples shall also be analyzed for total extractable hydrocarbons in accordance with 567—135.16(455B).

(2) All such samples shall be collected separately and shipped to a laboratory certified under 567—Chapter 83 within 72 hours of collection. Samples shall be refrigerated and protected from freezing during shipment to the laboratory.

(3) When a UST is removed from an area of confirmed contamination, the department may waive closure sampling if written documentation is submitted with the closure notification. Documentation should include laboratory analytical reports and a site map showing tank and piping locations along with contamination plume and sampling locations.

b. For all permanent tank and piping closures or changes-in-service, at least one water sample must be taken from the first saturated groundwater zone via a developed monitoring well except as provided in 135.15(3)*"g."* The well must be located downgradient from and as close as possible to the UST system but no farther away than 20 feet from system components. At some tank and piping closures, a minimum of one monitoring well may not be sufficient to represent a release where it is most likely to be present. An additional groundwater monitoring well or wells may be necessary.

If, however, the first saturated groundwater zone is not encountered within 10 feet below the lowest elevation of the tank excavation, the requirement for groundwater sampling shall not apply unless:

(1) Sands or highly permeable soils are encountered within 10 feet below the lowest level of the tank excavation that together with the underlying geology would, in the judgment of the department, pose the reasonable possibility that contamination may have reached groundwaters deeper than 10 feet below the lowest level of the tank excavation. The method of determining highly permeable soil is found in the departmental guidance document entitled "Underground Storage Tank Closure Guidance."

(2) Indications of potential groundwater contamination, including petroleum products in utility lines, petroleum products in private wells, petroleum product vapors in basements or other structures, occur in the area of the tank installation undergoing closure or change-in-service.

c. For permanent closure by tank removal, the departmental guidance document entitled "Underground Storage Tank Closure Guidance" must be followed. The minimum number of soil samples

that must be taken depends on the tank size and length of product piping. Samples must be taken at a depth of 1 to 2 feet beneath the tank fill area below the base of the tank along the tank's centerline. Soil samples must also be taken at least every 10 feet along the product piping at a depth of 1 to 2 feet beneath the piping fill area below the piping, unless alternate sampling is approved by the department.

If sands or other highly permeable soils are encountered, alternative sampling methods may be required.

If contamination is suspected or found in any area within the excavation (i.e., sidewall or bottom), a soil sample must be taken at that location.

The numbers of samples required for tanks are as follows:

Nominal Tank Capacity (gallons)	Number of Samples	Location on Centerline
1,000 or less	1	center of tank
1,001 - 8,000	2	1/3 from ends
8,001 - 30,000	3	5 feet from ends and at center of tank
30,001 - 40,000	4	5 and 15 feet from ends
40,001 and more	5	5 and 15 feet from ends and at center of tank

d. For closing a tank in place by filling with an inert solid material or for a change-in-service, the departmental guidance document entitled "Underground Storage Tank Closure Guidance" must be followed. The minimum number of soil borings required for sampling depends on the size of the tank and the length of the product piping. Soil samples must be taken within 5 feet of the sides and ends of the tank at a depth of 2 to 4 feet below the base of the tank, but outside the backfill material, at equal intervals around the tank. Soil samples must also be taken at least every 10 feet along the product piping at a depth of 1 to 2 feet beneath the piping fill area below the piping, unless alternate sampling is approved by the department. If sands or other highly permeable soils are encountered, alternative sampling methods may be required.

The minimum numbers of soil borings and samples required are as follows:

Nominal Tank Capacity (gallons)	Number of Samples	Location of Samples
6,000 or less	4	1 each end and each side
6,001 - 12,000	6	1 each end and 2 each side
12,001 or more	8	1 each end and 3 each side

e. A closure report in a format prescribed by the department must be submitted to the department within 45 days of the tank removal or closure in place. Refer to the Underground Storage Tank Closure Guidance for reporting format. The tank tags must be returned with the closure report.

f. The requirements of this subrule are satisfied if one of the external release detection methods allowed in 135.5(4)*"e"* and *"f"* is operating in accordance with the requirements in 135.5(4) at the time of closure and indicates no release has occurred.

g. If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered during the site assessment or by any other manner, contact the department in accordance with 135.6(1). Normal closure procedures no longer apply. Owners and operators must begin corrective action in accordance with 567—135.7(455B) through 567—135.12(455B).

Identification of free product requires immediate response in accordance with 135.7(4). If contamination appears extensive or the groundwater is known to be contaminated, a full assessment of the contamination will be required. When a full assessment is required or anticipated, collection of the required closure samples is not required. If contamination appears limited to soils, overexcavation of the contaminated soils in accordance with 135.15(4) may be allowed at the time of closure.

135.15(4) *Overexcavation of contaminated soils at closure.*

a. If contaminated soils are discovered while assessing a site at closure in accordance with 135.15(3), owners and operators may overexcavate up to one foot of the contaminated soils surrounding

the tank pit. The contamination and overexcavation must be reported to the department in accordance with the requirements of 135.6(4)*"a"* prior to backfilling the excavation. If excavation is limited to one foot of contaminated soils, a soil sample shall be taken and laboratory analyzed in accordance with 567—135.16(455B) from the area showing the greatest contamination. Any overexcavation of contaminated soils beyond one foot of contaminated soils is considered expedited corrective action and must be conducted by or under supervision of a certified groundwater professional in accordance with the procedures in 135.12(11).

b. Excavated contaminated soils must be properly disposed in accordance with 567—Chapters 100, 101, 102, 120, and 121.

c. A report must be submitted to the department within 30 days of completion of the laboratory analysis. The report must include the requirements of 135.15(3)*"e"* and a dimensional drawing showing the depth and area of the excavation prior to and after overexcavation. The area of contamination must be shown.

135.15(5) *Applicability to previously closed UST systems.* When directed by the department, the owner and operator of a UST system permanently closed before October 24, 1988, must assess the excavation zone and close the UST system in accordance with this rule if releases from the UST may, in the judgment of the department, pose a current or potential threat to human health and the environment.

135.15(6) *Closure records.* Owners and operators must maintain records in accordance with 135.4(5) that are capable of demonstrating compliance with closure requirements under this rule. The results of the excavation zone assessment required in 135.15(3) must be maintained for at least three years after completion of permanent closure or change-in-service in one of the following ways:

a. By the owners and operators who took the UST system out of service;

b. By the current owners and operators of the UST system site; or

c. By mailing these records to the department if they cannot be maintained at the closed facility.

135.15(7) *Applicability to pre-1974 USTs.* The closure provisions of 567—135.15(455B) are not applicable to USTs that have been out of operation prior to January 1, 1974. For purposes of this subrule, out of operation means that no regulated substance has been deposited into or dispensed from the tanks and that the tanks do not currently contain an accumulation of regulated substances other than a de minimis amount as provided in 135.15(1)*"a."*

Owners and operators or other interested parties are not required to submit documentation that USTs meet the exemption conditions and may rely on this subrule as guidance. However, should a question arise as to whether USTs meet the exemption, or owners and operators or other interested parties request acknowledgment by the department that USTs are exempt, they must submit an affidavit on a form provided by the department. The affiant must certify that based on a reasonable investigation and to the best of the affiant's knowledge, the USTs were taken out of operation prior to January 1, 1974, the USTs have not contained a regulated substance since January 1, 1974, and the USTs do not currently contain an accumulation of regulated substances.

If the department has a reasonable basis to suspect a release has occurred, the release investigation and confirmation steps of 567—135.6(455B) and the corrective action requirements as provided in 567—135.7(455B) through 567—135.12(455B) shall apply.

567—135.16(455B) Laboratory analytical methods for petroleum contamination of soil and water.

135.16(1) *General.* When analyzing for petroleum or hazardous substances, owners and operators of UST systems must use a laboratory certified under 567—Chapter 83. In addition they must ensure that all samples are properly preserved and shipped within 72 hours of collection to a laboratory certified under 567—Chapter 83. This rule provides acceptable analytical procedures for petroleum substances and required information that must be provided in all laboratory reports.

135.16(2) *Laboratory report.* All laboratory reports must contain the following information:

a. Laboratory name, address, telephone number and Iowa laboratory certification number. If analytical work is subcontracted to another laboratory, the analytical report from the certified laboratory that analyzed the sample must be submitted and include the information required in this subrule.

b. Medium sampled (soil, water).

c. Client submitting sample (name, address, telephone number).

d. Sample collector (name, telephone number).

e. UST site address.

f. Clients sample location identifier.

g. Date sample was collected.

h. Date sample was received at laboratory.

i. Date sample was analyzed.

j. Results of analyses and units of measure.

k. Detection limits.

l. Methods used in sample analyses (preparation method, sample detection method, and quantitative method).

m. Laboratory sample number.

n. Analyst name.

o. Signature of analyst's supervisor.

p. Condition in which the sample was received at the laboratory and whether it was properly sealed and preserved.

q. Note that analytical results are questionable if a sample exceeded an established holding time or was improperly preserved. (The recommended holding time for properly cooled and sealed petroleum contaminated samples is 14 days, except for water samples containing volatile organic compounds that have a 7-day holding time unless acid-preserved.)

r. Laboratory reports required by this chapter for tank closure investigations under 567—135.15(455B) and site checks under 135.6(3) or Tier 1 or Tier 2 assessments under 567—135.9(455B) through 567—135.11(455B) must include a copy of the chromatograms and associated quantitation reports for the waste oil, diesel and gasoline standard used by the laboratory in analyzing submitted samples. The laboratory analytical report for each sample must state whether the sample tested matches the laboratory standard for waste oil, diesel or gasoline or that the sample cannot be reliably matched with any of these standards. A copy of the chromatograms and associated quantitation reports for only the soil and groundwater samples with the maximum concentrations of BTEX and TEH must be included.

135.16(3) *Analysis of soil and water for high volatile petroleum compounds (i.e., gasoline, benzene, ethylbenzene, toluene, xylene).* Sample preparation and analysis shall be by Method OA-1, "Method for Determination of Volatile Petroleum Hydrocarbons (gasoline)," revision 12/01/2019, state hygienic laboratory at the University of Iowa, or EPA Method 8260D, "Test Methods for Evaluating Solid Waste," 3rd Edition–Update 6, July 2018. Copies of Method OA-1 are available from the department.

135.16(4) *Analysis of soil and water for low volatile petroleum hydrocarbon contamination (i.e., all grades of diesel fuel, fuel oil, kerosene, oil, and mineral spirits).* Sample preparation and analysis shall be by Method OA-2, "Determination of Extractable Petroleum Products (and Related Low Volatility Organic Compounds)," revision 12/01/2019, state hygienic laboratory at the University of Iowa. Copies of Method OA-2 are available from the department.

135.16(5) *Analysis of soil gas for volatile petroleum hydrocarbons.* Analysis of soil gas for volatile petroleum hydrocarbons shall be conducted in accordance with the National Institute for Occupational Safety and Health (NIOSH) Method 1501, Issue 3, March 15, 2003, or a department-approved equivalent method.

135.16(6) *Analytical methods for methyl tertiary-butyl ether (MTBE).* Analysis of water for MTBE must be conducted by a laboratory certified under 567—Chapter 83 for petroleum analyses.

a. Sample preparation and analysis shall be by U.S. Environmental Protection Agency Method 8260D, "Test Methods for Evaluating Solid Waste," 3rd Edition–Update 6, July 2018.

b. Laboratories performing the analyses must run standards for MTBE on a routine basis, and standards for other possible compounds like ethyl tertiary-butyl ether (ETBE), tertiary-amyl methyl ether (TAME), di-isopropyl ether (DIPE), and tertiary-butyl alcohol (TBA) to be certain of their identification should they be detected.

c. Laboratories must run a method detection limit study and an initial demonstration of capability for MTBE. These records must be kept on file.

d. The minimum detection level for MTBE in water is 15 µg/L.

567—135.17(455B) Evaluation of ability to pay.

135.17(1) General. The ability to pay guidance procedures referenced in this rule will be used by the department when an owner or operator of an underground storage tank (UST) claims to be financially unable to comply with corrective action requirements under 567—135.7(455B) through 567—135.12(455B) or closure investigation requirements under 567—135.15(455B). If an owner or operator of a regulated UST claims to be financially unable to meet these departmental requirements, that responsible party must provide documentation of the party's finances on forms provided by the department in order for the department to act on the claim of financial inability. The department may request additional financial documentation to verify or supplement reported information.

135.17(2) Individual claims. The financial ability of individual owners and operators of USTs, with or without an active business (including but not limited to sole proprietorships and general partnerships), may be evaluated using the most current version of "INDIPAY" developed by the U.S. Environmental Protection Agency and generally accepted principles of financial analysis. This guidance is only one tool the department may use in evaluating claims of financial inability.

135.17(3) Corporate claims. The financial ability of corporate owners and operators of USTs may be evaluated using the most current version of "ABEL" developed by the U.S. Environmental Protection Agency and generally accepted principles of financial analysis. This guidance is only one tool the department may use in evaluating claims of financial inability.

135.17(4) Federal LUST Trust Fund. The financial ability of owners and operators of USTs shall be evaluated for the purpose of determining if the department is authorized to use Federal LUST Trust Fund moneys as provided in the current cooperative agreement with the U.S. Environmental Protection Agency, Region VII. A determination of financial inability does not create an entitlement or any expectation interest on behalf of an owner or operator that Federal LUST Trust Fund moneys will be used for corrective action at any individual site.

135.17(5) The evaluation of financial ability will also be used by the department in making other administrative planning decisions including but not limited to decisions as to whether to pursue and when to pursue administrative or judicial enforcement of regulatory and statutory duties and the assessment of penalties. A determination of financial inability does not create an entitlement or expectation interest that enforcement actions will be deferred or suspended. The evaluation of this factor is only one of many affecting the department's fully discretionary decisions regarding enforcement options and program planning.

135.17(6) An evaluation of financial inability as provided in this rule does not relieve any owner or operator of legal liability to comply with department rules or Iowa Code chapter 455B or provide a defense to any legal actions to establish liability or enforce compliance.

567—135.18(455B) Analyzing for methyl tertiary-butyl ether (MTBE).

135.18(1) *General.* The objective of analyzing for MTBE is to determine its presence in water samples collected as part of investigation and remediation of contamination for underground storage tank facilities.

135.18(2) *Required MTBE testing.* Water samples must be analyzed for MTBE when collected for risk-based corrective action as required in 567—135.8(455B) through 567—135.12(455B). These sampling requirements include but are not limited to Tier 2 and Tier 3 assessments where groundwater ingestion pathway evaluation and subsequent monitoring is required.

135.18(3) *MTBE testing not required.* Analysis for MTBE is not required for the following:

a. Closure sampling under 567—135.15(455B).

b. Site checks under 135.6(3).

c. If prior analysis under 135.18(2) has not shown MTBE present.

d. If the department determines MTBE analysis is no longer needed at a site.

135.18(4) *Reporting.* The analytical data must be submitted in a format prescribed by the department.

567—135.19(455B) Compliance inspection of UST system.

135.19(1) The owner or operator must have the UST system inspected and an inspection report submitted to the department by a UST compliance inspector certified by the department under 567—Chapter 134. An initial compliance site inspection shall be conducted within two years after new tank installation. All subsequent compliance site inspections conducted after the initial compliance site inspection shall be conducted within 24 months of the prior compliance site inspection. Compliance site inspections must be separated by at least six months.

135.19(2) Compliance inspection requirements. The owner or operator is responsible to ensure the department receives ten days' prior notice by the compliance inspector of the date of a site inspection and the name of the inspector as provided in 567—134.10(455B). The owner and operator must comply with the following as part of the inspection process.

a. Review and respond to the inspection report provided by the certified compliance inspector and complete the corrective actions specified in the compliance inspection report within the specified time frames.

b. Provide all records and documentation required by the certified compliance inspector and this chapter.

c. Upon notification of a suspected release by the certified compliance inspector pursuant to 567—paragraph 134.10(3)*"b,"* report the condition to the department and undertake steps to investigate and confirm the suspected release as provided in 567—135.6(455B).

d. Ensure that the compliance inspector completes and submits an electronic inspection form in accordance with 567—subrule 134.10(3).

135.19(3) The owner and operator shall do the following upon receipt of a compliance inspection report as provided in 567—paragraph 134.10(3)*"b,"* which finds violations of the department's rules:

a. Take all actions necessary to correct any compliance violations or deficiencies in accordance with this chapter. Corrective action must be taken within 60 days of receipt of the inspector's report or another reasonable time period approved by the department. The granting of time to remedy a violation does not preclude the department from exercising its discretion to assess penalties for the violation.

b. Within 60 days of receipt of the inspector's report, provide documentation to the compliance inspector that the violation or deficiencies have been corrected.

c. Conduct a follow-up inspection in instances where there are serious problems or a history of repeated violations when required by the department.

135.19(4) Conflict of interest. A compliance site inspection must be conducted by a certified compliance inspector who is not the owner or operator of the UST system being inspected, an employee of the owner or operator of the UST system being inspected, or a person having daily on-site responsibility for the operation and maintenance of the UST system.

567—135.20(455B) UST systems with field-constructed tanks and airport hydrant fuel distribution systems. The commission adopts by reference the definitions and requirements of 40 CFR 280 Subpart K.

These rules are intended to implement Iowa Code sections 455B.304, 455B.424 and 455B.474.

Appendix A - Tier 1 Table, Assumptions, Equations and Parameter Values

Iowa Tier 1 Look-Up Table

Media	Exposure Pathway	Receptor	Group 1				Group 2: TEH	
			Benzene	Toluene	Ethylbenzene	Xylenes	Diesel*	Waste Oil
Groundwater (µg/L)	Groundwater Ingestion	Actual	5	1,000	700	10,000	1,200	400
		Potential	290	7,300	3,700	73,000	75,000	40,000
	Groundwater Vapor to Enclosed Space	All	1,540	20,190	46,000	NA	2,200,000	NA
	Groundwater to Water Line	PVC or Gasketed Mains	7,500	6,250	40,000	48,000	75,000	40,000
		PVC or Gasketed Service Lines	3,750	3,120	20,000	24,000	75,000	40,000
		PE/PB/AC Mains or Service Lines	200	3,120	3,400	19,000	75,000	40,000
	Surface Water	All	290	1,000	3,700	73,000	75,000	40,000
Soil (mg/kg)	Soil Leaching to Groundwater	All	0.54	42	15	NA	3,800	NA
	Soil Vapor to Enclosed Space	All	1.16	48	79	NA	47,500	NA
	Soil to Water Line	All	2.0	3.2	45	52	10,500	NA

NA: Not applicable. There are no limits for the chemical for the pathway, because for groundwater pathways the concentration for the designated risk would be greater than the solubility of the pure chemical in water, and for soil pathways the concentration for the designated risk would be greater than the soil concentration if pure chemical were present in the soil.

TEH: Total Extractable Hydrocarbons. The TEH value is based on risks from naphthalene, benzo(a)pyrene, benz(a)anthracene, and chrysene. Refer to Appendix B for further details.

Diesel*: Standards in the Diesel column apply to all low volatile petroleum hydrocarbons except waste oil.

Assumptions Used for Iowa Tier 1 Look-Up Table Generation

1. Groundwater ingestion pathway. The maximum contaminant levels (MCLs) were used for Group 1 chemicals. The target risk for carcinogens for actual receptors is 10^{-6} and for potential receptors is 10^{-4}. A hazard quotient of one, and residential exposure and building parameters are assumed.

2. Groundwater vapor to enclosed space pathway. Residential exposure and residential building parameters are assumed; no inhalation reference dose is used for benzene; the capillary fringe is assumed to be the source of groundwater vapor; and the hazard quotient is 1 and target risk for carcinogens is $1x10^{-4}$.

3. Groundwater to water line. This pathway uses the same assumptions as the groundwater ingestion pathway for potential receptors, including a target risk for carcinogens of 10^{-4}.

4. Surface water. This pathway uses the same assumptions as the groundwater ingestion pathway for potential receptors, including a target risk for carcinogens of 10^{-4}, except for toluene which has a chronic level for aquatic life of 1,000 as in the definition for surface water criteria in 567—135.2(455B).

5. Soil leaching to groundwater. This pathway assumes the groundwater will be protected to the same levels as the groundwater ingestion pathway for potential receptors, using residential exposure and a target risk for carcinogens of 10^{-4}.

6. Soil vapor to enclosed space pathway. The target risk for carcinogens is $1x10^{-4}$; the hazard quotient is 1; no inhalation reference dose is used for benzene; residential exposure factors are assumed; and the average of the residential and nonresidential building parameters is assumed.

7. Soil to water line pathway. This pathway uses the soil leaching to groundwater model with nonresidential exposure and a target risk for carcinogens of 10^{-4}.

In addition to these assumptions, the equations and parameter values used to generate the Iowa Tier 1 Look-Up Table are described below.

Groundwater Ingestion Equations

Carcinogens:

$$RBSL_W\left[\frac{mg}{L-H_2O}\right]=\frac{TR\ \times BW\times AT_c\times\frac{365\ days}{year}}{SF_O\times IR_W\times EF\times ED}$$

Noncarcinogens:

$$RBSL_W\left[\frac{mg}{L-H_2O}\right]=\frac{THQ\ \times RfD_O\times BW\times AT_n\times\frac{365\ days}{year}}{IR_W\times EF\times ED}$$

Soil Leaching to Groundwater Equations

$$RBSL_{sl}\left[\frac{mg}{kg-soil}\right]=\frac{RBSL_w\left[\frac{mg}{L-H_2O}\right]}{LF}$$

$$LF\left[\frac{mg/L-H_2O}{mg/kg-soil}\right]=\frac{\rho_s}{\theta_{ws}+k_s\rho_s+H\theta_{as}\left(1+\frac{U\delta}{IW}\right)}$$

Soil Vapor to Enclosed Space Equations

$$RBSL_{sv}\left[\frac{mg}{kg-soil}\right]=\frac{RBSL_{air}\left[\frac{\mu g}{m^3-air}\right]}{VF_{sv}}\left(\frac{mg}{1000\mu g}\right)$$

$$VF_{sv}\left[\frac{mg/m^3-air}{mg/kg-soil}\right]=\frac{\frac{H\rho_S}{\theta_{WS}+k_s\rho_s+H\theta_{as}}\left[\frac{D_S^{eff}/L_s}{ER\,L_B}\right]}{1+\left[\frac{D_s^{eff}/L_s}{ER\,L_B}\right]+\left[\frac{D_s^{eff}/L_s}{\left(D_{crack}^{eff}/L_{crack}\right)^{\eta}}\right]}\left(10^3\,\frac{cm^3-kg}{m^3-g}\right)$$

$$D_{crack}^{eff}\left[\frac{cm^2}{s}\right]=D^{air}\frac{\theta_{acrack}^{3.33}}{\theta_T^2}+D^{wat}\frac{1}{H}\frac{\theta_{wcrack}^{3.33}}{\theta_T^2}$$

$$D_s^{eff}\left[\frac{cm^2}{s}\right]=D^{air}\frac{\theta_{as}^{3.33}}{\theta_T^2}+D^{wat}\frac{1}{H}\frac{\theta_{ws}^{3.33}}{\theta_T^2}$$

Indoor Air Inhalation Equations

Carcinogens:

$$RBSL_{air}\left[\frac{\mu g}{m^3-air}\right]=\frac{TR\times BW\times AT_c\times\frac{365days}{year}\times\frac{1000\mu g}{mg}}{SF_i\times IR_{air}\times EF\times ED}$$

Noncarcinogens:

$$RBSL_{air}\left[\frac{\mu g}{m^3-air}\right]=\frac{THQ\times RfD_i\times BW\times AT_n\times\frac{365}{\frac{days}{year}}\times\frac{1000\mu g}{mg}}{IR_{air}\times EF\times ED}$$

Groundwater Vapor to Enclosed Space Equations

$$RBSL_{gw}\left[\frac{mg}{L-H_2O}\right]=\frac{RBSL_{air}\left[\frac{\mu g}{m^3-air}\right]}{VF_{gw}}\left(\frac{mg}{1000\mu g}\right)$$

$$RBSL_{air}\left[\frac{\mu g}{m^3-air}\right]=\frac{THQ\times RfD_i\times BW\times AT_n\times\frac{365}{\frac{days}{year}}\times\frac{1000\mu g}{mg}}{IR_{air}\times EF\times ED}$$

Variable Definitions

Symbol	Definition
δ	groundwater mixing zone thickness (cm)
η	areal fraction of cracks in foundation/wall (cm^2-cracks/cm^2-area)
ρ_s	soil bulk density (g/cm^3)
θ_{acrack}	volumetric air content in foundation/wall cracks (cm^3-air/cm^3-soil)
θ_{as}	volumetric air content in vadose zone (cm^3-air/cm^3-soil)
θ_T	total soil porosity (cm^3-voids/cm^3-soil)
θ_{wcrack}	volumetric water content in foundation/wall cracks (cm^3-H_2O/cm^3-soil)
θ_{ws}	volumetric water content in vadose zone (cm^3-H_2O/cm^3-soil)
AT_c	averaging time for carcinogens (years)
AT_n	averaging time for noncarcinogens (years)
BW	body weight (kg)
D^{air}	chemical diffusion coefficient in air (cm^2/s)
D^{wat}	chemical diffusion coefficient in water (cm^2/s)
D^{eff}_{crack}	effective diffusion coefficient through foundation cracks (cm^2/s)
D^{eff}_{s}	effective diffusion coefficient in soil based on vapor-phase concentration (cm^2/s)
ED	exposure duration (years)
EF	exposure frequency (days/year)
ER	enclosed space air exchange rate (s^{-1})
f_{oc}	fraction organic carbon in the soil (kg-C/kg-soil)
H	henry's law constant (L-H_2O)/L-air)
i	groundwater head gradient (cm/cm)
I	infiltration rate of water through soil (cm/year)
IR_{air}	daily indoor inhalation rate (m^3/day)
IR_w	daily water ingestion rate (L/day)
K	hydraulic conductivity (cm/year)
K_{oc}	carbon-water sorption coefficient (L-H_2O/kg-C)
k_s	soil-water sorption coefficient (L-H_2O/kg-soil), f_{oc} x K_{oc}
L_B	enclosed space volume/infiltration area ratio (cm)
L_{crack}	enclosed space foundation or wall thickness (cm)
LF	leaching factor from soil to groundwater ((mg/L-H_2O)/(mg/kg-soil))
L_{gw}	depth to groundwater from the enclosed space foundation (cm)
L_s	depth to subsurface soil sources from the enclosed space foundation (cm)
$RBSL_{air}$	Risk-Based Screening Level for indoor air ($\mu g/m^3$-air)
$RBSL_{gw}$	Risk-Based Screening Level for vapor from groundwater to enclosed space air inhalation (mg/L-H_2O)
$RBSL_{sl}$	Risk-Based Screening Level for soil leaching to groundwater (mg/kg-soil)
$RBSLs_v$	Risk-Based Screening Level for vapors from soil to enclosed space air inhalation (mg/kg-soil)
$RBSL_w$	Risk-Based Screening Level for groundwater ingestion (mg/L-H_2O)
RfD_i	inhalation chronic reference dose (mg/(kg-day))
RfD_o	oral chronic reference dose (mg/(kg-day))
SF_i	inhalation cancer slope factor ((kg-day)/mg)
SF_o	oral cancer slope factor ((kg-day)/mg)
THQ	target hazard quotient for individual constituents (unitless)
TR	target excess individual lifetime cancer risk (unitless)

Symbol	Definition
U	groundwater Darcy velocity (cm/year), U=Ki
VF_{gw}	volatilization factor for vapors from groundwater to enclosed space ((mg/m^3-air)/(mg/kg-soil))
VF_{sv}	volatilization factor for vapors from soil to enclosed space ((mg/m^3-air)/(mg/kg-soil))
W	width of soil source area parallel to groundwater flow direction (cm)

Soil and Groundwater Parameter Values Used for Iowa Tier 1 Table Generation

Parameter		Iowa Tier 1 Table Value
K	hydraulic conductivity	16060 cm/year
i	groundwater head gradient	0.01 cm/cm
W	width of soil source area parallel to groundwater flow direction	1500 cm
I	infiltration rate of water through soil	7 cm/year
δ	groundwater mixing zone thickness	200 cm
ρ_s	soil bulk density	1.86 g/cm^3
θ_{as}	volumetric air content in vadose zone	0.2 cm^3-air/cm^3-soil
θ_{ws}	volumetric water content in vadose zone	0.1 cm^3-H_2O/cm^3-soil
θ_{acrack}	volumetric air content in foundation/wall cracks	0.2 cm^3-air/cm^3-soil
θ_{wcrack}	volumetric water content in foundation/wall cracks	0.1 cm^3-H_2O/cm^3-soil
θ_T	total soil porosity	0.3 cm^3-voids/cm^3-soil
f_{oc}	fraction organic carbon in the soil	0.01 kg-C/kg-soil
L_s	depth to subsurface soil sources from the enclosed space foundation	1 cm
L_{gw}	depth to groundwater from the enclosed space foundation	1 cm

Exposure Factors Used in Iowa Tier 1 Table Generation

Parameter		Residential	Nonresidential
AT_c (years)	averaging time for carcinogens	70	70
AT_n (years)	averaging time for noncarcinogens	30	25
BW (kg)	body weight	70	70
ED (years)	exposure duration	30	25
EF (days/year)	exposure frequency	350	250
IR_{air} (m^3/day)	daily indoor inhalation rate	15	20
IR_w (L/day)	daily water ingestion rate	2	1
THQ (unitless)	target hazard quotient for individual constituents	1.0	1.0

Building Parameters Used in Iowa Tier 1 Table Generation

Parameter		Residential	Nonresidential
ER (s^{-1})	enclosed space air exchange rate	0.00014	0.00023
L_B (cm)	enclosed space volume/infiltration area ratio	200	300
L_{crack} (cm)	enclosed space foundation or wall thickness	15	15
η	areal fraction of cracks in foundation/wall	0.01	0.01

Chemical-Specific Parameter Values Used for Iowa Tier 1 Table Generation

Chemical	D^{air} (cm^2/s)	D^{wat} (cm^2/s)	H (L-air/L-water)	log(K_{oc}), L/kg
Benzene	0.093	1.1e-5	0.22	1.58
Toluene	0.085	9.4e-6	0.26	2.13
Ethylbenzene	0.076	8.5e-6	0.32	1.98
Xylenes	0.072	8.5e-6	0.29	2.38
Naphthalene	0.072	9.4e-6	0.049	3.11
Benzo(a)pyrene	0.050	5.8e-6	5.8e-8	5.59
Benz(a)anthracene	0.05	9.0e-6	5.74e-7	6.14

Chemical	D^{air} (cm^2/s)	D^{wat} (cm^2/s)	H (L-air/L-water)	$\log(K_{oc})$, L/kg
Chrysene	0.025	6.2e-6	4.9e-7	5.30

Saturation Values Used to Determine "NA" for the Iowa Tier 1 Table

Chemical	Solubility in Water (mg/L) S	Saturation in Soil (mg/kg) C_s^{sat}
Benzene	1,750	801
Toluene	535	765
Ethylbenzene	152	159
Xylenes	198	492
Naphthalene	31	401
Benzo(a)pyrene	0.0012	4.69
Benz(a)anthracene	0.014	193.3
Chrysene	0.0028	5.59

The maximum solubility of the pure chemical in water is listed in the table above. The equation below is used to calculate the soil concentration (C_s^{sat}) at which dissolved pore-water and vapor phases become saturated. Tier 1 default values are used in the equation. "NA" (for not applicable) is used in the Tier 1 table when the risk-based value exceeds maximum solubility for water (S) or maximum saturation for soil (C_s^{sat}).

$$C_s^{sat}\left[\frac{mg}{kg-soil}\right] = \frac{S}{\rho_s} \times (H\theta_{as} + \theta_{ws} + k_s\rho_s)$$

Slope Factors and Reference Doses Used for Iowa Tier 1 Table Generation

Chemical	SF_i ((kg-day)/mg)	SF_o ((kg-day)/mg)	RfD_i (mg/(kg-day))	RfD_o (mg/(kg-day))
Benzene	0.029	0.029	----	----
Toluene	----	----	0.114	0.2
Ethylbenzene	----	----	0.286	0.1
Xylenes	----	----	2.0	2.0
Naphthalene	----	----	0.004	0.004
Benzo(a)pyrene	6.1	7.3	----	----
Benz(a)anthracene	0.61	0.73	----	----
Chrysene	0.061	0.073	----	----

Appendix B – Tier 2 Equations and Parameter Values (Revised Model)

All Tier 1 equations and parameters apply at Tier 2 except as specified below.

Equation for Tier 2 Groundwater Contaminant Transport Model

Equation (1)

$$C(x) = C_s \exp\left(\frac{X_m}{2a_x}\left[1 - \sqrt{1 + \frac{4\lambda a_x}{u}}\right]\right) \operatorname{erf}\left(\frac{S_w}{4\sqrt{a_y x_m}}\right) erf\left(\frac{S_d}{4\sqrt{a_z x_m}}\right)$$

Equation (2)

Where xm = ax + bxc

The value of Xm is computed from Equation (2), where the values for a, b and c in Equation (2) are given in Table 1.

Table 1. Parameter Values for Equation (2)

Chemical	a	b	c
Benzene	1	0.000000227987	3.929438689
Toluene	1	0.000030701	3.133842393
Ethylbenzene	1	0.0001	2.8
Xylenes	1	0.0	0.0
TEH-Diesel	1	0.000000565	3.625804634
TEH-Waste Oil	1	0.000000565	3.625804634
Naphthalene	1	0	0

Variable definitions

x: distance in the x direction downgradient from the source

erf( ): the error function

C(x): chemical concentration in groundwater at x

C_s: Source concentration in groundwater (groundwater concentration at x=0)

S_w: width of the source (perpendicular to x)

S_d: vertical thickness of the source

u: groundwater velocity (pore water velocity); u=Ki/θe

K: hydraulic conductivity

i: groundwater head gradient

θe: effective porosity

λ: first order decay coefficient, chemical specific

αx, αy, αz: dispersivities in the x, y and z directions, respectively

For the following lists of parameters, one of three is required: site-specific measurements, defaults or the option of either (which means the default may be used or replaced with a site-specific measurement).

Soil parameters

Parameter		Default Value	Required
ρ_s	soil bulk density	1.86 g/cm^3	option
f_{oc}	fraction organic carbon in the soil	0.01 kg-C/kg-soil	option
θ_T	total soil porosity	0.3cm^3-voids/cm^3-soil	option
θ_{as}	volumetric air content in vadose zone	0.2cm^3-air/cm^3-soil	default

Parameter		Default Value	Required
θ_{ws}	volumetric water content in vadose zone	0.1cm^3-H_2O/cm^3-soil	default
θ_{acrack}	volumetric air content in foundation/wall cracks	0.2cm^3-air/cm^3-soil	default
θ_{wcrack}	volumetric water content in foundation/wall cracks	0.1cm^3-H_2O/cm^3-soil	default
I	infiltration rate of water through soil	7 cm/year	default

If the total porosity is measured, assume 1/3 is air filled and 2/3 is water filled for determining the water and air fraction in the vadose zone soil and floor cracks.

Groundwater Transport Modeling Parameters

Parameter		Default Value	Required
K	hydraulic conductivity	16060 cm/year	site-specific
i	groundwater head gradient	0.01 cm/cm	site-specific
S_w	width of the source	use procedure specified in 135.10(2)	site-specific
S_d	vertical thickness of the source	3 m	default
αx	dispersivity in the x direction	0.1x	default
αy	dispersivity in the y direction	0.33αx	default
αz	dispersivity in the z direction	0.05αx	default
θe	effective porosity	0.1	default

where u=Ki/θe

First-order Decay Coefficients

Chemical	Default Valueλ (d-1)	Required
Benzene	0.000127441	default
Toluene	0.0000208066	default
Ethylbenzene	0.0	default
Xylenes	0.0005	default
Naphthalene	0.00013	default
TEH-Diesel	0.0000554955	default
TEH-Waste Oil	0.0000554955	default

Other Parameters for Groundwater Vapor to Enclosed Space

Parameter		Default Value	Required
Lgw	depth to groundwater from the enclosed space foundation	1 cm	option
L_B	enclosed space volume/infiltration area ratio	200 cm	option
ER (s-1)	enclosed space air exchange rate	0.00014	default
Lcrack	enclosed space foundation or wall thickness	15 cm	default
η	areal fraction of cracks in foundation/wall	0.01	default

Other Parameters for Soil Vapor to Enclosed Space

Parameter		Default Value	Required
L_s	depth to subsurface soil sources from the enclosed space foundation	1 cm	option
L_B	enclosed space volume/infiltration area ratio	250 cm *	option
ER (s-1)	enclosed space air exchange rate	0.000185 *	default
Lcrack	enclosed space foundation or wall thickness	15 cm	default
η	areal fraction of cracks in foundation/wall	0.01	default

*These values are an average of residential and nonresidential factors.

Soil Leaching to Groundwater

Parameter		Default Value	Required
δ	groundwater mixing zone	2 m	default

Building Parameters for Iowa Tier 2

Parameter		Residential	Nonresidential
ER (s-1)	enclosed space air exchange rate	0.00014	0.00023
L_B	enclosed space volume/infiltration area ratio	200 cm	300 cm

Other Parameters

For Tier 2, the following are the same as Tier 1 values (refer to Appendix A): chemical-specific parameters, slope factors and reference doses, and exposure factors (except for those listed below).

Exposure Factors for Tier 2 Groundwater Vapor to Enclosed Space Modeling:

Potential Residential: use residential exposure and residential building parameters.

Potential Nonresidential: use nonresidential exposure and nonresidential building parameters.

Diesel and Waste Oil

Diesel and Waste Oil			Chemical-Specific Values for Tier 1			
Media	Exposure Pathway	Receptor	Naphthalene	Benzo(a) pyrene	Benz(a) anthracene	Chrysene
Groundwater (µg/L)	Groundwater Ingestion	actual	150	0.012	0.12	1.2
		potential	150	1.2	12.0	NA
	Groundwater Vapor to Enclosed Space	all	4,440	NA	NA	NA
	Groundwater to Water Line	all	150	1.2	12.0	NA
	Surface Water	all	150	1.2	12.0	NA
Soil (mg/kg)	Soil Leaching to Groundwater	all	7.6	NA	NA	NA
	Soil Vapor to Enclosed Space	all	95	NA	NA	NA
	Soil to Water Line	all	21	NA	NA	NA

Due to difficulties with analytical methods for the four individual chemicals listed in the above table, Total Extractable Hydrocarbon (TEH) default values were calculated for each chemical, using the assumption that diesel contains 0.2% naphthalene, 0.001% benzo(a)pyrene, 0.001% benz(a)anthracene, and 0.001% chrysene. Resulting TEH Default Values are shown in the following table.

Diesel			TEH Default Values			
Media	Exposure Pathway	Receptor	Naphthalene	Benzo(a) pyrene	Benz(a) anthracene	Chrysene
Groundwater (µg/L)	Groundwater Ingestion	actual	75,000	1,200	12,000	120,000
		potential	75,000	120,000	1,200,000	NA
	Groundwater Vapor to Enclosed Space	all	2,200,000	NA	NA	NA
	Groundwater to Water Line	all	75,000	120,000	1,200,000	NA
	Surface Water	all	75,000	120,000	1,200,000	NA
Soil (mg/kg)	Soil Leaching to Groundwater	all	3,800	NA	NA	NA
	Soil Vapor to Enclosed Space	all	47,500	NA	NA	NA
	Soil to Water Line	all	10,500	NA	NA	NA

The lowest TEH default value for each pathway (shown as a shaded box) was used in the Tier 1 Table.

Due to difficulties with analytical methods for the four individual chemicals, Total Extractable Hydrocarbon (TEH) default values were calculated for each chemical, using the assumption that waste oil contains no naphthalene, 0.003% benzo(a)pyrene, 0.003% benz(a)anthracene, and 0.003% chrysene. Resulting TEH Default Values are shown in the following table.

Waste Oil			TEH Default Values			
Media	Exposure Pathway	Receptor	Naphthalene	Benzo(a) pyrene	Benz(a) anthracene	Chrysene
Groundwater (ug/L)	Groundwater Ingestion	actual	NA	400	4,000	40,000
		potential	NA	40,000	400,000	NA
Groundwater (µg/L)	Groundwater Vapor to Enclosed Space	all	NA	NA	NA	NA
	Groundwater to Water Line	all	NA	40,000	400,000	NA
	Surface Water	all	NA	40,000	400,000	NA
Soil (mg/kg)	Soil Leaching to Groundwater	all	NA	NA	NA	NA
	Soil Vapor to Enclosed Space	all	NA	NA	NA	NA
	Soil to Water Line	all	NA	NA	NA	NA

The lowest TEH default value for each pathway (shown as a shaded box) was used in the Tier 1 Table.

Water Line Calculations

Explanation of Target Levels for
Petroleum Fuel-Derived BTEX Compounds in Groundwater and Soil

GROUNDWATER

PVC or Gasketed Mains

Benzene: 7,500 µg/L
Gasoline-saturated groundwater was considered to be an extreme condition of environmental contamination, and it was considered unacceptable to leave water lines, regardless of material, in contact with this level of benzene contamination. While Ong et al. (2008) showed that gasoline-saturated groundwater would not pose a significant risk of permeation exceeding the 5 µg/L MCL for benzene of gasketed DI or PVC water mains, a safety factor of 1/8th was applied to the level of benzene in premium gasoline-saturated water determined by Ong et al. (2008). A 1/2 safety factor was compounded for each of four potential safety risks: material defects in the pipe (= 1/2), presence of service line taps (= 1/4), stagnation of water (= 1/6), and water line breaks (= 1/8). This was an average of 67.5 mg/L ± 4.9 mg/L for multiple preparations of gasoline-saturated water and was rounded to 60.0 mg/L to conservatively account for the statistical uncertainty. Hence,

$$Target \quad Level = {}^{1}/_{8} \times 60{,}000\,\mu g/L = 7{,}500\,\mu g/L\ benzene$$

Toluene: 6,250 µg/L
The target level for toluene was determined similarly to that for benzene. The level of toluene in premium gasoline-saturated water was determined by Ong et al. (2008) to be 56.2 mg/L ± 4.9 mg/L and conservatively rounded to 50.0 mg/L. Hence,

$$Target \quad Level = {}^{1}/_{8} \times 50{,}000\,\mu g/L = 6{,}250\,\mu g/L\ toluene$$

Ethylbenzene: 40,000 µg/L
The target level was set to be double that for PVC or Gasketed Service Lines (20,000 µg/L – see below).

Total Xylenes: 48,000 µg/L
The target level was set to be double that for PVC or Gasketed Service Lines (24,000 µg/L – see below).

PVC or Gasketed Service Lines

Benzene: 3,750 µg/L
The target level was set to be one-half of that for PVC or Gasketed Mains (7,500 µg/L as above) since service lines tend to be of higher risk than mains owing to their smaller diameter and greater potential for stagnation.

Toluene: 3,120 µg/L
Similar to benzene, the target level was set to be one-half of that for PVC or Gasketed Mains (6,250 µg/L as above) since service lines tend to be of higher risk than mains owing to their smaller diameter and greater potential for stagnation. Odd-even rounding to 3 significant figures was applied.

Ethylbenzene: 20,000 µg/L
The target level was based on two observations by Ong et al. (2008): (1) premium gasoline-saturated water has an average concentration of 3.4 mg/L ethylbenzene and (2) ethylene permeates high density polyethylene 46 times slower than does benzene (presumably, this is reasonably representative of other materials such as rubber gaskets). The 1/8 safety factor was also applied, as above. Odd-even rounding to 2 significant figures was applied. Hence:

$$Target\ \ Level = 3{,}400\,\mu g/L \times 46x \times {}^{1}/_{8} = 19{,}550\,\mu g/L = 20{,}000\,\mu g/L$$

Total Xylenes: 24,000 µg/L
Similar to ethylbenzene, the target level was based on (1) premium gasoline-saturated water has an average concentration of 19 mg/L total xylenes and (2) total xylenes permeate high density polyethylene 10 times slower than does benzene. The 1/8 safety factor was also applied, as above. Odd-even rounding to 2 significant figures was applied. Hence:

$$Target\ \ Level = 19{,}000\,\mu g/L \times 10x \times {}^{1}/_{8} = 23{,}750\,\mu g/L = 24{,}000\,\mu g/L$$

PE/PB/AC

Benzene: 200 µg/L
The target level was set at the concentration of benzene in groundwater surrounding a 1″ HDPE service line (SIDR 9 IPS) that would result in a concentration of 2 µg/L benzene in the service line after a 24 hr stagnation period. This level was chosen because 2 µg/L is generally the minimum reportable concentration of benzene in laboratory reports received by the department.

The permeation rate is a function of the concentration of benzene in the groundwater as described by Ong et al. (2008), equation 3.4a:

$$P_m = 0.0079 C_{bulk}^{1.1323}$$

where P_m is the benzene permeation rate in µg/cm^2/day through the pipe described above (cm^2 refers to the inner surface of the pipe) and C_{bulk} is the concentration of benzene in the groundwater (mg/L).

For any length of exposed 1″ SIDR 9 IPS pipe, l (cm), the concentration in the pipe after 24 hr stagnation, C_{24hr} (µg/L), can be computed from P_m and the ratio of the inner surface of the pipe to the internal volume:

$$C_{24hr} = P_m \times \left(\frac{2\pi r l}{\pi r^2 l/1000}\right) = 0.0079 C_{bulk}^{1.1323} \times \frac{2000}{r}$$

where r is the inside radius of the pipe (cm), l is the length of exposed pipe (cm), and dividing by 1000 converts from cm^3 to liters (and, therefore, 2000/r converts µg/cm^2/day to µg/L/day).

Solving for C_{bulk} (mg/L) with C_{24hr}= 2 µg/L and r = 1.28 cm (per manufacturer's specifications):

$$C_{bulk}^{1.1323} \times \frac{2 \times 1.28}{0.0079 \times 2000}$$

and

$$C_{bulk} = \sqrt[1.1323]{0.162} = 0.200\,mg/L = 200\,\mu g/L$$

While the target level is expressed as 200 µg/L for clarity, the underlying data support only two significant figures. In a stricter treatment of the data, this would be expressed as 20×10^1 µg/L.

Toluene: 3,120 µg/L

The target level was set to be equal to that for PVC or Gasketed Service Lines. Calculations similar to those used above for benzene (Ong et al. (2008), equation 3.4b) indicate that 3,120 µg/L toluene in groundwater would result in 50 µg/L inside a 1" SIDR 9 IPS HDPE pipe after 24 hours of stagnation, which is 1/20th of the 1,000 µg/L MCL for toluene.

Ethylbenzene: 3,400 µg/L
The target level was set to be equal to the concentration of ethylbenzene in premium gasoline-saturated water (see discussion above for PVC or Gasketed Mains/Benzene). Unlike other target levels based on contaminant concentrations in gasoline-saturated water, the 1/8th safety factor was not applied because of the very low permeation rate of ethylbenzene through HDPE, the relatively low solubility of ethylbenzene in water, and the relatively high MCL (700 µg/L). Ong et al. (2008) found that permeation of HDPE by aqueous ethylbenzene was minimal and of no consequence for public health.

Total Xylenes: 19,000 µg/L
The target level was set to be equal to the concentration of ethylbenzene in premium gasoline-saturated water following the same reasoning for ethylbenzene (above). The permeation rate and water solubility are also very low, and the MCL is 10,000 µg/L. Ong et al. (2008) found that permeation of HDPE by aqueous xylenes was minimal and of no consequence for public health.

SOIL

Target levels for soil were set to be the same for mains and service lines of any material discussed above under "Groundwater." The underlying data support two significant figures for target levels in soil. Odd-even rounding was applied where appropriate.

Benzene: 2.0 mg/Kg
The target level was derived from the concentration of benzene (mg/Kg) that would result if soil that was 10% moisture and 1% organic matter was equilibrated with premium gasoline-saturated water (60 mg/L benzene – as per discussion of PVC or Gasketed Mains/Benzene above). The equilibrium concentration in soil was calculated using the approach of Chiou et al. (1983). The 1/8th safety factor discussed previously for groundwater was applied. Accordingly:

$$C_T = C_w K_d + C_w{}^{\theta}$$

where C_T is the total concentration of benzene in soil (mg/Kg), θ is the fraction of moisture in the soil (Kg/Kg), and Kd is the partition coefficient from water to soil (L/Kg). Further:

$$K_d = K_{om} f_{om}$$

where K_{om} is the partition coefficient from water to organic matter in the soil, which is 16.8 L/Kg for benzene in soils with naturally occurring organic matter (Chiou et al. (1983)), and f_{om} is the fraction of organic matter in the dry soil (Kg/Kg).

For soil containing 1% naturally occurring organic matter and 10% moisture, the total concentration of benzene upon exposure to premium gasoline-saturated groundwater (60 mg/L benzene, as per above discussion of PVC or Gasketed Mains) would be:

$$C_T = \left(\frac{60mg}{L} \times \left(\frac{16.8L}{Kg} \times \frac{0.01Kg}{Kg}\right)\right) + \left(\frac{60mg}{L} \times \frac{0.1Kg}{Kg}\right) = \frac{16mg}{Kg}$$

Applying the 1/8th safety factor:

$$Target\ Level = \frac{1}{8} \times \frac{16mg}{Kg} = \frac{2.0mg}{Kg}$$

Toluene: 3.2 mg/Kg

The target level was derived in the same manner as for benzene except that the concentration of toluene in premium gasoline-saturated water is 50 mg/L and K_{om} is 42 L/Kg. Accordingly:

$$C_T = \left(\frac{50mg}{L} \times \left(\frac{42L}{Kg} \times \frac{0.01Kg}{Kg}\right)\right) + \left(\frac{50mg}{L} \times \frac{0.1Kg}{Kg}\right) = \frac{26mg}{Kg}$$

and

$$Target\ Level = \frac{1}{8} \times \frac{26mg}{Kg} = \frac{3.2mg}{Kg}$$

Ethylbenzene: 45 mg/Kg

The target level was based on the target level set for Groundwater/PVC or Gasketed Mains (40,000 µg/L, rounded from 39,100 µg/L, or 39.1 mg/L) and the principles of Chiou et al. (1983) discussed above. In a manner similar to that for benzene in soil, C_W was 3.4 mg/L, K_d was 0.106 L/Kg, and C_T was calculated to be 3.9 mg/Kg. The target level for soil that is equivalent to the target level set for groundwater was calculated as follows:

$$Target\ Level\, mg/Kg = 39.1\, mg/L \times \frac{3.9\, mg/Kg}{3.4\, mg/L} = 45\, mg/Kg$$

Total Xylenes: 52 mg/Kg

The target level was set in the same manner as for ethylbenzene (above), based on the groundwater target level of 48,000 µg/L (rounded from 47.5 mg/L). C_W was 19 mg/L, K_d was 1.001 L/Kg (assuming a mixture of m-, o-, and p-xylenes which is 60%, 20%, and 20%, respectively, which is typical of xylenes derived from petroleum), and C_T was calculated to be 21 mg/Kg. Hence:

$$Target\ Level\, mg/Kg = 47.5\, mg/L \times \frac{21\, mg/Kg}{19\, mg/L} = 52\, mg/Kg$$

NOTE: The 1/8th safety factor was applied above to the target levels for ethylbenzene and total xylenes for Groundwater, PVC or Gasketed Service Lines, thence the target levels for Groundwater, PVC or Gasketed Mains, were derived. Consequently, the 1/8th safety factor has also been applied to the target levels for both ethylbenzene and total xylenes in soil.

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Appendix B-1 – Tier 2 Equations and Parameter Values (Old Model)

All Tier 1 equations and parameters apply at Tier 2 except as specified below.

Equation for Tier 2 Groundwater Contaminant Transport Model

$$C(x) = C_s \exp\left(\frac{X}{2a_x}\left[1 - \sqrt{1 + \frac{4\lambda a_x}{u}}\right]\right) \operatorname{erf}\left(\frac{S_w}{4\sqrt{a_y x}}\right) erf\left(\frac{S_d}{4\sqrt{a_z x}}\right)$$

Variable definitions

x: distance in the x direction downgradient from the source

erf( ): the error function

C(x): chemical concentration in groundwater at x

C_s: Source concentration in groundwater (groundwater concentration at x=0)

S_w: width of the source (perpendicular to x)

S_d: vertical thickness of the source

u: groundwater velocity (pore water velocity); u=Ki/θe

K: hydraulic conductivity

i: groundwater head gradient

θe: effective porosity

λ: first-order decay coefficient, chemical specific

αx, αy, αz: dispersivities in the x, y and z directions, respectively

For the following lists of parameters, one of three is required: site-specific measurements, defaults or the option of either (which means the default may be used or replaced with a site-specific measurement).

Soil parameters

Parameter		Default Value	Required
ρ_s	soil bulk density	1.86 g/cm^3	option
f_{oc}	fraction organic carbon in the soil	0.01 kg-C/kg-soil	option
θ_T	total soil porosity	0.3cm^3-voids/cm^3-soil	option
θ_{as}	volumetric air content in vadose zone	0.2cm^3-air/cm^3-soil	default
θ_{ws}	volumetric water content in vadose zone	0.1cm^3-H_2O/cm^3-soil	default
θ_{acrack}	volumetric air content in foundation/wall cracks	0.2cm^3-air/cm^3-soil	default
θ_{wcrack}	volumetric water content in foundation/wall cracks	0.1cm^3-H_2O/cm^3-soil	default
I	infiltration rate of water through soil	7 cm/year	default

If the total porosity is measured, assume 1/3 is air filled and 2/3 is water filled for determining the water and air fraction in the vadose zone soil and floor cracks.

Groundwater Transport Modeling Parameters

Parameter		Default Value	Required
K	hydraulic conductivity	16060 cm/year	site-specific
i	groundwater head gradient	0.01 cm/cm	site-specific
S_w	width of the source	use procedure specified in 135.10(2)	site-specific

Parameter		Default Value	Required
S_d	vertical thickness of the source	3 m	default
αx	dispersivity in the x direction	0.1x	default
αy	dispersivity in the y direction	0.33αx	default
αz	dispersivity in the z direction	0.05αx	default
θe	effective porosity	0.1	default

where u=Ki/θe

First-order Decay Coefficients

Chemical	Default Valueλ (d-1)	Required
Benzene	0.0005	default
Toluene	0.0007	default
Ethylbenzene	0.00013	default
Xylenes	0.0005	default
Naphthalene	0.00013	default
Benzo(a)pyrene	0	default
Benz(a)anthracene	0	default
Chrysene	0	default

Other Parameters for Groundwater Vapor to Enclosed Space

Parameter		Default Value	Required
Lgw	depth to groundwater from the enclosed space foundation	1 cm	option
L_B	enclosed space volume/infiltration area ratio	200 cm	option
ER (s-1)	enclosed space air exchange rate	0.00014	default
Lcrack	enclosed space foundation or wall thickness	15 cm	default
η	areal fraction of cracks in foundation/wall	0.01	default

Other Parameters for Soil Vapor to Enclosed Space

Parameter		Default Value	Required
L_s	depth to subsurface soil sources from the enclosed space foundation	1 cm	option
L_B	enclosed space volume/infiltration area ratio	250 cm *	option
ER (s-1)	enclosed space air exchange rate	0.000185 *	default
Lcrack	enclosed space foundation or wall thickness	15 cm	default
η	areal fraction of cracks in foundation/wall	0.01	default

*These values are an average of residential and nonresidential factors.

Soil Leaching to Groundwater

Parameter		Default Value	Required
δ	groundwater mixing zone	2 m	default

Building Parameters for Iowa Tier 2

Parameter		Residential	Nonresidential
ER (s-1)	enclosed space air exchange rate	0.00014	0.00023
L_B	enclosed space volume/infiltration area ratio	200 cm	300 cm

Other Parameters

For Tier 2, the following are the same as Tier 1 values (refer to Appendix A): chemical-specific parameters, slope factors and reference doses, and exposure factors (except for those listed below).

Exposure Factors for Tier 2 Groundwater Vapor to Enclosed Space Modeling:
Potential Residential: use residential exposure and residential building parameters.
Potential Nonresidential: use nonresidential exposure and nonresidential building parameters.

Diesel and Waste Oil

Diesel and Waste Oil			Chemical-Specific Values for Tier 1			
Media	Exposure Pathway	Receptor	Naphthalene	Benzo(a) pyrene	Benz(a) anthracene	Chrysene
Groundwater (ug/L)	Groundwater Ingestion	actual	150	0.012	0.12	1.2
		potential	150	1.2	12.0	NA
	Groundwater Vapor to Enclosed Space	all	4,440	NA	NA	NA
	Groundwater to Plastic Water Line	all	150	1.2	12.0	NA
	Surface Water	all	150	1.2	12.0	NA
Soil (mg/kg)	Soil Leaching to Groundwater	all	7.6	NA	NA	NA
	Soil Vapor to Enclosed Space	all	95	NA	NA	NA
	Soil to Plastic Water Line	all	21	NA	NA	NA

Due to difficulties with analytical methods for the four individual chemicals listed in the above table, Total Extractable Hydrocarbon (TEH) default values were calculated for each chemical, using the assumption that diesel contains 0.2% naphthalene, 0.001% benzo(a)pyrene, 0.001% benz(a)anthracene, and 0.001% chrysene. Resulting TEH Default Values are shown in the following table.

Diesel			TEH Default Values			
Media	Exposure Pathway	Receptor	Naphthalene	Benzo(a) pyrene	Benz(a) anthracene	Chrysene
Groundwater (ug/L)	Groundwater Ingestion	actual	75,000	1,200	12,000	120,000
		potential	75,000	120,000	1,200,000	NA
	Groundwater Vapor to Enclosed Space	all	2,200,000	NA	NA	NA
	Groundwater to Plastic Water Line	all	75,000	120,000	1,200,000	NA
	Surface Water	all	75,000	120,000	1,200,000	NA
Soil (mg/kg)	Soil Leaching to Groundwater	all	3,800	NA	NA	NA
	Soil Vapor to Enclosed Space	all	47,500	NA	NA	NA
	Soil to Plastic Water Line	all	10,500	NA	NA	NA

The lowest TEH default value for each pathway (shown as a shaded box) was used in the Tier 1 Table.

Due to difficulties with analytical methods for the four individual chemicals, Total Extractable Hydrocarbon (TEH) default values were calculated for each chemical, using the assumption that waste

oil contains no naphthalene, 0.003% benzo(a)pyrene, 0.003% benz(a)anthracene, and 0.003% chrysene. Resulting TEH Default Values are shown in the following table.

Waste Oil			TEH Default Values			
Media	Exposure Pathway	Receptor	Naphthalene	Benzo(a) pyrene	Benz(a) anthracene	Chrysene
Groundwater (ug/L)	Groundwater Ingestion	actual	NA	400	4,000	40,000
		potential	NA	40,000	400,000	NA
Groundwater (ug/L)	Groundwater Vapor to Enclosed Space	all	NA	NA	NA	NA
	Groundwater to Plastic Water Line	all	NA	40,000	400,000	NA
	Surface Water	all	NA	40,000	400,000	NA
Soil (mg/kg)	Soil Leaching to Groundwater	all	NA	NA	NA	NA
	Soil Vapor to Enclosed Space	all	NA	NA	NA	NA
	Soil to Plastic Water Line	all	NA	NA	NA	NA

The lowest TEH default value for each pathway (shown as a shaded box) was used in the Tier 1 Table.

ARC 9937C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to financial responsibility for underground storage tanks and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 136, "Financial Responsibility for Underground Storage Tanks," Iowa Administrative Code, and to adopt a new Chapter 136 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 455B.474.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 455B and 40 CFR parts 280 and 281.

Purpose and Summary

Proposed Chapter 136 establishes financial responsibility requirements for owners and operators of petroleum underground storage tanks (USTs).

The purpose of these rules is to ensure that owners and operators of petroleum USTs can demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from operation of petroleum USTs. Proposed Chapter 136 has been reviewed consistent with Executive Order 10. Unnecessary and obsolete rules have been removed, and updates and clarification have been made.

Iowa's UST rules have been approved by the U.S. Environmental Protection Agency into Iowa's required State Program Approval.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 29, 2026. Comments should be directed to:

Keith Wilken
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: USTEO10@dnr.iowa.gov

Free Language Access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at USTEO10@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al USTEO10@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 1 to 3 p.m.	Lake Darling Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa
January 28, 2026 1 to 3 p.m.	Woods Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa
January 29, 2026 1 to 3 p.m.	Walnut Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

Persons who wish to attend a public hearing should contact Keith Wilken at USTEO10@dnr.iowa.gov. A link will be provided prior to the hearing. Persons who wish to make oral comments at the public hearing must submit a request to Keith Wilken prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: If you need assistance in a language other than English, contact the Department at USTEO10@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.681.0794 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al USTEO10@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.681.0794 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 567—Chapter 136 and adopt the following **new** chapter in lieu thereof:

CHAPTER 136
FINANCIAL RESPONSIBILITY FOR UNDERGROUND STORAGE TANKS

567—136.1(455B) Applicability.

136.1(1) This chapter applies to owners and operators of all petroleum underground storage tank (UST) systems, except as otherwise provided in this rule.

136.1(2) State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States are exempt from the requirements of this chapter.

136.1(3) The requirements of this chapter do not apply to owners and operators of farm or residential tanks of 1,100 gallons or less capacity installed prior to July 1, 1987, or any UST system described in 567—paragraph 135.1(3)*"b"* or 567—subparagraph 135.1(3)*"c"*(1), *"c"*(3) or *"c"*(4).

567—136.2(455B) Policy; adoption by reference.

136.2(1) It is the policy of the commission to ensure consistency, equity, and efficiency in providing financial responsibility for Iowans and the businesses providing services to Iowans that owners and operators of UST systems in this state must comply with the provisions of the federal rules requiring and regulating the financial assurance of UST systems. This rule shall be interpreted in a manner consistent with this policy.

136.2(2) The commission hereby adopts by reference 40 CFR Chapter I, Subchapter I, Part 280, Subpart H (2015), subject to the following conditions:

a. All uses of "Agency," "Environmental Protection Agency," "EPA," and "implementing agency," and any reference to the regional offices of the Environmental Protection Agency, shall be replaced with "Department of Natural Resources," except where the context of the rule requires notice or submission to both federal and state entities, in which case the replacement language shall be in addition to the original language.

b. All uses of "Administrator" and "regional administrator," and any reference to the designee of either, are replaced with "the director of the Department of Natural Resources or their designee," except where the context of the rule requires notice or submission to both federal and state entities, in which case the replacement language shall be in addition to the original language.

c. 40 CFR 280.100 is not adopted by reference.

d. 40 CFR 280.101 is not adopted by reference.

567—136.3(455B) Additional requirements.

136.3(1) *Notice of extended reporting.* In any written final cancellation or nonrenewal notice, an entity that provides insurance pursuant to this chapter shall notify the primary insured party and any additional named insured parties of the six-month extended reporting expiration date provided in 40 CFR 280.97 (2015).

136.3(2) *Notice and claim by the department.* Notwithstanding any other requirement or limit in 40 CFR Chapter I, Subchapter I, Part 280, Subpart H (2015), timely notice of a release and claim for coverage to the insurer by the department of natural resources shall be deemed sufficient notice on behalf of the insured under the terms, conditions, and exclusions of a policy issued to demonstrate compliance with this chapter. Notice by the department shall not modify or enlarge the terms, conditions, and exclusions of coverage, but is only intended to preserve coverage to which the insured may otherwise be entitled under the policy.

These rules are intended to implement Iowa Code sections 455B.424 and 455B.474.

ARC 9936C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to fees for hazardous waste and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 149, "Fees for Transportation, Treatment and Disposal of Hazardous Waste," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455B.103 and 455B.105.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 17A.7 and Executive Order 10.

Purpose and Summary

This rulemaking proposes to rescind Chapter 149 without replacement. This chapter is intended to implement registration and fees for transporting, producing, and/or treating hazardous wastes in Iowa. However, the required aspects of this chapter can be implemented using Iowa Code section 455B.424, which is self-implementing.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 17, 2025. A public hearing was held on the following date(s):

- October 7, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 29, 2026. Comments should be directed to:

Matthew Greasch
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: EO10_solidwaste@dnr.iowa.gov

Free language access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at EO10_solidwaste@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 9 a.m.	Via videoconference call Contact: EO10_solidwaste@dnr.iowa.gov
January 29, 2026 9 a.m.	Via videoconference call Contact: EO10_solidwaste@dnr.iowa.gov

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at EO10_solidwaste@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.360.1671 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.360.1671 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **567—Chapter 149**.

ARC 9934C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rulemaking related to criteria for siting low-level radioactive waste disposal facilities and providing an opportunity for public comment

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 152, "Criteria for Siting Low-Level Radioactive Waste Disposal Facilities," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 455B.486.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 455B.484 through 455B.486.

Purpose and Summary

Chapter 152 establishes criteria for the Department of Natural Resources (Department) to identify and recommend sites that are suitable for operation of low-level radioactive waste disposal facilities as required by the Low-Level Radioactive Waste Policy Amendments Act of 1980. However, the current rule structure is outdated.

At present, there are four low-level radioactive waste disposal sites in the United States; none are located in Iowa. Since 1985, Iowa has been part of a compact to dispose of such waste generated in Iowa at these out-of-state sites. As such, this rule was never utilized. If it were to be utilized, it is unclear in 2025 whether the standards in Chapter 152 are still applicable and warranted. Therefore, the Commission is proposing to rescind these rules until such a time as it is necessary to dispose of low-level radioactive waste in the State.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 17, 2025. A public hearing was held on the following date(s):

- October 7, 2025

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 29, 2026. Comments should be directed to:

Mike Sullivan
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: EO10_solidwaste@dnr.iowa.gov

Free language access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at EO10_solidwaste@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 4 p.m.	Via videoconference call Contact: EO10_solidwaste@dnr.iowa.gov
January 29, 2026 4 p.m.	Via videoconference call Contact: EO10_solidwaste@dnr.iowa.gov

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: If you need assistance in a language other than English, contact the Department at EO10_solidwaste@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.360.1671 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al EO10_solidwaste@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.360.1671 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **567—Chapter 152**.

ARC 9941C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to child care resource and referral services and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 159, "Child Care Resource and Referral Services," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 237A.26.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 237A.26.

Purpose and Summary

Existing Chapter 159 sets forth guidelines for processing and awarding child care resource and referral services grants. Upon review, it was determined that the Department did not have explicit rulemaking authority and that the grant funds could be disbursed through the contracting process without being in the Iowa Administrative Code. Therefore, the Department proposes to rescind Chapter 159.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 26, 2025. A public hearing was held on the following date(s):

- December 16, 2025

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 263 121 894 358 72 Passcode: fR9Nt3sZ
January 27, 2026 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 297 871 013 608 68 Passcode: JD6PN9wF

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **441—Chapter 159**.

ARC 9887C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to public records and fair information practices and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 5, "Public Records and Fair Information Practices," Iowa Administrative Code, and to adopt a new Chapter 5 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 10A.104, 17A.24, 22.3, and 22.11.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 10A, 22, and 272C.

Purpose and Summary

This rulemaking repromulgates Chapter 5 and implements Iowa Code chapters 10A, 22, and 272C in accordance with the goals and directives of Executive Order 10.

This chapter provides procedures for requesting access to public records, including location of records and potential fees to access the records. This chapter also provides direction on what records can be released without providing consent to the subject of the record, instances where a subject can provide consent to release a confidential record, and the availability of public records.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 29, 2025. A public hearing was held on the following date(s):

- November 18, 2025

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 for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 28, 2026. Comments should be directed to:

Jeremiah Junker
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.672.4745
Email: jeremiah.junker@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 3 to 3:30 p.m.	6200 Park Avenue Des Moines, Iowa
January 28, 2026 3 to 3:30 p.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 481—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department of inspections, appeals, and licensing hereby adopts, with the following exceptions, amendments, and additions, the Uniform Rules on Agency Procedure relating to public records and fair information practices, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf. These rules are applicable to any division, board, or commission under the administrative authority of the department pursuant to Iowa Code

chapter 10A unless a division, board, or commission has separate rulemaking authority and has adopted rules governing public records and fair information practices.

481—5.1(10A,17A,22) Definitions. As used in this chapter:

"Agency." In lieu of the words "(official or body issuing these rules)", insert "department of inspections, appeals, and licensing (the 'department') or any division, board, or commission under the administrative authority of the department pursuant to Iowa Code chapter 10A, as applicable".

"Custodian" means an agency that owns and exercises control over public records. The originating agency, if any, is the custodian of records that are used to perform work or a service for the originating agency.

"Law enforcement official" means an officer or employee of any agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe that is empowered by law to:

1. Investigate or conduct an official inquiry into a potential violation of law; or
2. Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

"Originating agency" means any government agency that has requested the department to perform work or a service on its behalf. An originating agency retains custody of all records provided by the originating agency to the department pursuant to Iowa Code section 10A.105.

481—5.3(17A,22) Requests for access to records.

5.3(1) *Location of record.* A request for access to a record should be directed to the department through its website at dial.iowa.gov or through iowaopenrecords.nextrequest.com.

5.3(2) *Office hours.* Open records will be made available during all customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

5.3(3) *Request for access.* Requests for access to open records may be made in writing, in person, by facsimile, email, or other electronic means, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

5.3(7) *Fees.*

c. Supervisory fee. An hourly fee may be charged for agency expenses in supervising the examination and copying of requested records or preparing the production of requested records when the supervision or other time necessary is in excess of three hours or otherwise as permitted by Iowa Code chapter 22. The agency will prominently post or otherwise advise the requester of the hourly fees to be charged for supervision of records during examination and copying or preparation of records for production. That hourly fee shall not be in excess of the hourly wage of an agency employee who ordinarily would be appropriate and suitable to perform that function.

481—5.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Strike the words "or to (designate office)".

481—5.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional requirements may be necessary for special classes of records.) Appearance of counsel before the agency on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person

to the person's attorney. This rule does not allow the subject of a record that is confidential under Iowa Code section 272C.6(4) to consent to its release.

481—5.9(17A,22) Disclosures without the consent of the subject.

5.9(1) Open records are routinely disclosed without the consent of the subject.

5.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. The following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 481—5.10(17A,22) or in the notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil, administrative, or criminal law enforcement activity if the activity is authorized by law and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

h. To other licensing authorities as described in Iowa Code section 272C.6(4).

i. To the office of ombudsman, pursuant to Iowa Code section 2C.9.

j. To the child support recovery unit or centralized collection unit of the department of revenue for the purpose of identifying licensees or applicants subject to enforcement, pursuant to Iowa Code chapters 252J and 272D, respectively.

481—5.10(17A,22) Routine use. "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose that is compatible with the purpose for which the record was collected. It includes disclosures mandated by statute other than the public records law, Iowa Code chapter 22. To the extent allowed by law, the following uses are considered routine uses of all agency records:

5.10(1) Disclosure to those officers, employees, and agents of the department or the originating agency as necessary to administer the program for which the information is collected and as necessary to administer a program within the other entity. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

5.10(2) Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

5.10(3) Transfers of information within the agency, to other state agencies, to local and federal units of government, or to national associations as appropriate to administer the program for which the information is collected.

5.10(4) Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

5.10(5) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

5.10(6) Information transferred to any originating agency when the department has completed the authorized work.

481—5.11(17A,22) Consensual disclosure of confidential records.

5.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 481—5.7(17A,22).

5.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

5.11(3) *Obtaining information from a third party.* The department occasionally requests personally identifiable information from third parties during the course of its authorized audits, investigations, hearings or inspections. Requests to third parties for this information that involve the release of confidential identifying information will be made in accordance with the department's pertinent statutory authority. Where necessary, the department will obtain from the subject individual an authorization for the release of specially protected information on a form that meets any legal mandates, including alcohol and drug abuse patient information.

481—5.12(17A,22) Release to subject.

5.12(1) A written request to review confidential records may be filed by the subject of the record as provided in rule 481—5.6(17A,22). The department need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. The work product of an attorney, a hearing officer's personal notations to be used by the hearing officer and not intended for public dissemination, or otherwise privileged records.

c. Investigative reports, except as required by Iowa Code section 22.7(5) or other provision of law.

d. Information in licensee complaint and investigation files maintained for licensee discipline required to be withheld from the subject prior to filing formal charges and the notice of hearing in a licensee disciplinary proceeding, except any files that can be provided in accordance with Iowa Code section 10A.506(9).

e. Others authorized by state or federal law.

5.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the department may take reasonable steps to protect confidential information relating to another subject.

481—5.13(17A,22) Availability of records.

5.13(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

5.13(2) *Confidential records.* Iowa Code chapters governing the operations of the agency establish the confidential nature of many agency records. The following is a nonexhaustive list of records that may be withheld from public inspection:

a. Sealed bids received prior to the time set for public opening of bids protected by Iowa Code section 72.3.

b. Tax records made available to the agency protected by Iowa Code section 422.20 or 422.72 or 26 U.S.C. Section 7213(a)(2).

c. Exempt records under Iowa Code section 22.7.

d. Minutes of closed meetings of a government body under Iowa Code section 21.5(5).

e. Identifying details in final orders, decisions and opinions to the extent necessary to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)*"b."*

f. Pursuant to Iowa Code sections 17A.2 and 17A.3, portions of department staff manuals, instructions or other statements issued that set forth criteria or guidelines to be used by department staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial

arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency pursuant to Iowa Code sections 17A.2 and 17A.3.

g. Records that constitute attorney work product or attorney-client communications or that are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11; Iowa Rule of Civil Procedure 1.503(3); Fed. R. Civ. P. 26(b)(3); and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

h. Records or portions of records protected pursuant to Iowa Code section 515A.13.

i. Records or portions of records containing social security numbers protected by 42 U.S.C. Section 405(c)(2)(C)(viii).

j. Records of hearings that are closed to the public pursuant to Iowa Code section 272C.6(1) are confidential under Iowa Code section 21.5(4). However, upon transmittal to the district court in accordance with Iowa Code section 17A.19(6) for judicial review, the record is not confidential unless so ordered by the district court. Unlicensed hearing files are open to the public.

k. Minutes and tapes of closed meetings pursuant to Iowa Code section 21.5(4).

l. Information or records made confidential by law.

481—5.14(17A,22) Authority to release confidential records. The department may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute that authorizes limited or discretionary disclosure as provided in rule 481—5.4(17A,22). If the department initially determines that it will release these records, the department may notify interested parties and withhold the records from inspection as provided in subrule 5.4(3).

481—5.15(17A,22) Personally identifiable information, storage, and data processing systems. The department maintains systems of records that contain personally identifiable information. Records are collected in accordance with the agency's duties set forth in Iowa Code chapters 10A and 272C and other state and federal law governing programs administered by the agency. Specific personally identifiable information collected and the agency's authority to collect said information is contained in pertinent Iowa Code sections and Iowa Administrative Code rules governing such programs. The department stores information in paper and on a cloud-based system and other electronic data management and storage systems. All data processing systems that have common data elements can potentially match, collate, and compare personally identifiable information as appropriate and legally authorized.

481—5.16(17A,22) Applicability. This chapter does not:

5.16(1) Obligate the agency to index or retrieve records that contain information about persons by that person's name or other personal identifier.

5.16(2) Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

5.16(3) Govern the maintenance of, disclosure of, notification of or access to records in the possession of the agency that are governed by the rules of another agency.

5.16(4) Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs unless otherwise provided by law or agreement.

5.16(5) Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject, person or party to such litigation or proceedings is governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

5.16(6) Obligate the agency to create, compare or procure a record solely for the purpose of making it available.

These rules are intended to implement Iowa Code chapters 10A, 22, and 272C.

ARC 9886C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to contested cases and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 9, "Contested Cases," Iowa Administrative Code, and to adopt a new Chapter 9 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 10A.104.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 10A and 17A.

Purpose and Summary

This proposed rulemaking repromulgates Chapter 9 and implements Iowa Code chapters 10A and 17A in accordance with the goals and directives of Executive Order 10. The purpose of this proposed chapter is to provide standard procedures for contested cases conducted under the authority of the Department in which the director of the Department is the final decision-making authority. These proposed rules include deadlines and procedures for the initiation of a contested case proceeding, seeking director review of a proposed decision, requesting a rehearing, and seeking judicial review.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 29, 2025. A public hearing was held on the following date(s):

- November 18, 2025

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 for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 28, 2026. Comments should be directed to:

Jeremiah Junker
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100

Des Moines, Iowa 50321
Phone: 515.672.4745
Email: jeremiah.junker@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 3 to 3:30 p.m.	6200 Park Avenue Des Moines, Iowa
January 28, 2026 3 to 3:30 p.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 481—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9
CONTESTED CASES

481—9.1(10A,17A) Applicability. This chapter applies to contested case proceedings conducted under the authority of the department in which the director of the department is the final decision-making authority.

481—9.2(10A,17A) Initiation of a contested case proceeding. The department may initiate a contested case proceeding upon request or its own initiative. The department will transmit the proceeding to the administrative hearings division, which will assign the proceeding to an administrative law judge to serve as the presiding officer and issue a notice of hearing. Contested case proceedings are conducted pursuant to 481—Chapter 10 and any other administrative rule applicable to the specific type of proceeding.

481—9.3(10A,17A) Director review.

9.3(1) A request for review of a proposed decision shall be made within 15 days of issuance of the proposed decision unless otherwise provided by statute. Requests shall be mailed or delivered by either party to the Director, Department of Inspections, Appeals, and Licensing, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321. Failure to request review precludes judicial review unless the department reviews on its own motion, as follows. The department may review a proposed decision upon its own motion within 15 days of issuance of the proposed decision.

9.3(2) A review is based on the record and limited to issues raised in the hearing. The issues shall be specified in the party's request for review.

9.3(3) Each party shall have the opportunity to file exceptions and present briefs. The director or a designee of the director may set deadlines for submission of briefs. When the director or the director's

designee consents, oral arguments may be presented. A party interested in making an oral argument shall specifically request it. All parties will be notified of the scheduled time and place in advance.

9.3(4) The director or the director's designee shall not take any further evidence with respect to issues of fact heard in the hearing, except as follows. Application may be filed for leave to present evidence in addition to that found in the record of the case. If it is shown to the satisfaction of the director or the director's designee that the additional evidence is material and that there were good reasons for failure to present it in the hearing, the director or the director's designee may order the additional evidence taken upon conditions determined by the director or the director's designee.

9.3(5) Final decisions shall be issued by the director or the director's designee.

481—9.4(10A,17A) Rehearing. Requests for rehearing shall be made to the director of the department within 20 days of issuance of a final decision. A rehearing may be granted when new legal issues are raised, when new evidence is available, when the decision failed to include adequate findings or conclusions, or to correct an obvious mistake. A request for rehearing is not necessary to exhaust administrative remedies.

481—9.5(10A,17A) Judicial review. Judicial review of the department's final decisions may be sought in accordance with Iowa Code section 17A.19.

These rules are intended to implement Iowa Code chapters 10A and 17A.

ARC 9893C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to procedure for contested cases involving permits to carry weapons and acquire firearms; rules of procedure and practice before the administrative hearings division and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 10, "Rules of Procedure and Practice Before the Administrative Hearings Division," and to adopt a new Chapter 10 with the same title; and to rescind Chapter 11, "Procedure for Contested Cases Involving Permits to Carry Weapons and Acquire Firearms," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 10A.104, 10A.801, and 724.21A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 10A, 17A, and 724.

Purpose and Summary

This proposed rulemaking repromulgates Chapter 10, rescinds Chapter 11, and implements Iowa Code chapters 10A, 17A, and 724 in accordance with the goals and directives of Executive Order 10.

This proposed rulemaking establishes rules of procedure for the Department's Administrative Hearings Division (AHD), which hears contested cases for various State of Iowa agencies and disciplinary hearings for licensing boards. In FY 2025, AHD's Central Panel Bureau (CPB), consisting of 17 administrative law judges, received a total of 11,021 cases and closed 11,334 cases pursuant to the rules of procedure established by the original chapter. Specifically, CPB received 6,769 cases and closed 6,807 cases from the Department of Health and Human Services; received 3,015 cases and closed 3,286 cases from the Department of Transportation; and received 1,237 cases and closed 1,241 cases from other State or local agencies.

Additionally, this rulemaking consolidates the existing Chapter 11, "Procedure for Contested Cases Involving Permits to Carry Weapons and Acquire Firearms," with the general rules of procedure and practice in Chapter 10 into a unified chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 29, 2025. A public hearing was held on the following date(s):

- November 18, 2025

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 for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 28, 2026. Comments should be directed to:

Jeremiah Junker
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.672.4745
Email: jeremiah.junker@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 2 to 2:30 p.m.	6200 Park Avenue Des Moines, Iowa
January 28, 2026 2 to 2:30 p.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 481—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
RULES OF PROCEDURE AND PRACTICE BEFORE
THE ADMINISTRATIVE HEARINGS DIVISION

481—10.1(10A) Scope and application. To the extent not otherwise provided by law of the transmitting agency or licensing board, this chapter applies to all contested case proceedings before the division or for which an ALJ is assisting another agency or board.

481—10.2(10A) Definitions.

"AEDMS" means the administrative electronic document management system, which is the division's electronic filing and case management system.

"Agency" means the same as defined in Iowa Code section 17A.2(1) or a governmental entity pursuant to Iowa Code section 10A.801(5), which has original subject matter jurisdiction in the contested case.

"ALJ" means the administrative law judge, who is the person who presides over or assists with contested cases and other proceedings.

"Board" means a licensing board as defined in Iowa Code section 272C.1(6).

"Division" means the division of administrative hearings in the department of inspections, appeals, and licensing (DIAL).

"Issuance" means the date of a decision or order, mailing of a decision or order, or date of delivery if service is by other means.

"Presiding officer" means any person or body who acts as a presiding officer of a contested case proceeding under the authority of Iowa Code section 17A.11(1).

"Proposed decision" means the ALJ's recommended findings of fact, conclusions of law, and decision and order in contested cases where the agency did not preside.

481—10.3(10A,17A) Time requirements. Time shall be computed as provided in Iowa Code section 4.1(34). For good cause, the presiding officer may extend or shorten the time to take any action, except as provided otherwise by rule or law.

481—10.4(10A) Requests for a contested case hearing. Requests for a contested case hearing are made to the agency with subject matter jurisdiction. That agency shall determine whether to initiate a contested case proceeding.

481—10.5(10A) Transmission of contested cases.

10.5(1) The agency shall transmit the matter either by creating a new case in AEDMS or by submitting a transmittal form. The following information is required:

a. The name of the transmitting agency;

b. The name, address, email address, and telephone number of the contact person in the transmitting agency;

c. The name or title of the proceeding;

d. Any agency docket or reference number;

e. A citation to the jurisdictional authority of the agency regarding the matter in controversy;

f. Any anticipated special features or requirements that may affect the hearing;

g. Whether the hearing should be held in person, by telephone, or by video conference call;

h. Any special legal or technical expertise needed to resolve the issues in the case;

i. The names, phone numbers, email addresses, and addresses of all parties and their attorneys or other representatives;

j. The date the request for a contested case hearing was received by the agency;

k. A statement of the issues involved and a reference to statutes and rules involved;

l. Any mandatory time limits that apply to the processing of the case;

m. Earliest appropriate hearing date; and

n. Whether a petition or answer is required.

10.5(2) The following documents shall be attached to the completed transmittal form or uploaded into AEDMS upon filing of a new case:

a. A copy of the document showing the agency action in controversy; and

b. A copy of any document requesting a contested case hearing.

481—10.6(17A) Notices of hearing and prehearing conference.

10.6(1) A contested case is commenced when the division or board issues a notice of hearing or notice of prehearing conference. Responsibility for issuance of the notice and the manner of service shall be resolved by agreement between the division and the transmitting agency or board.

10.6(2) Notices shall contain the information required by Iowa Code section 17A.12(2) and any additional information required by statute or rule. Notices shall be served by first-class mail or by AEDMS to all parties who are registered users unless otherwise required or permitted by statute or rule or agreed to pursuant to subrule 10.6(1).

10.6(3) Any party may request a prehearing conference, or it may be set upon the presiding officer's own motion. Prehearing conferences may provide an opportunity to be heard on the selection of date, time, manner of hearing, and any other matter set forth in the notice or raised by the parties or presiding officer.

481—10.7(10A,17A) Manner of proceedings. Unless otherwise provided by statute or rule, the presiding officer holds the discretion to conduct hearings by telephone conference, video conference, or in person. Upon request, the presiding officer may allow witnesses to testify remotely, either via phone or video, in an in-person hearing.

481—10.8(10A,17A) Scheduling. Contested case hearings are scheduled according to the following criteria.

10.8(1) *Agency hearings.* The division will promptly schedule hearings, with consideration of the availability of an ALJ, the requests of the parties or transmitting agency, and any special circumstances.

10.8(2) *Board hearings.* When a board requests an ALJ to assist with a contested case proceeding, the board shall consult with the division prior to scheduling hearings to determine the availability of an ALJ.

481—10.9(17A) Disqualification. An ALJ shall withdraw from a contested case under the circumstances listed in 481—subrule 15.2(11) or as otherwise required by law.

481—10.10(10A,17A) Consolidation—severance.

10.10(1) *Consolidation.* The presiding officer may, upon motion by any party or upon the presiding officer's own motion, consolidate any or all matters at issue in two or more proceedings docketed under these rules when:

a. There exist common parties or common questions of fact or law;

b. Consolidation would expedite and simplify consideration of the issues; and

c. Consolidation would not adversely affect the rights of parties engaged in otherwise separate proceedings.

10.10(2) *Severance.* The presiding officer may, upon motion by any party or upon the presiding officer's own motion, for good cause shown, order any proceeding or portion of the proceeding severed.

481—10.11(10A,17A) Pleadings. Pleadings may be required by the notice of hearing or by order of the presiding officer.

481—10.12(17A) Service and filing of documents.

10.12(1) *When service is required.* Except where otherwise specifically authorized by law, every pleading, motion, or other document filed in the contested case proceeding and every document relating to discovery in the proceeding shall be served upon each of the parties to the proceeding, including the originating agency. The party filing a document is responsible for service on all parties.

10.12(2) *Methods of performing service.* Service upon a party represented in the contested case proceeding by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by electronically filing in AEDMS or delivering, mailing, or transmitting by fax or by email a copy to the party or attorney at the party's or attorney's last-known mailing address, fax number, or email address. Service by first-class mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

10.12(3) *Filing with the division.* After a matter has been assigned to the division, and until a decision is issued, every pleading, motion, or other document shall be filed with the division, rather than the originating agency. All documents that are required to be served upon a party shall be filed simultaneously with the division.

Except where otherwise provided by law, a document is deemed filed with the division at the time it is:

a. Delivered to the division at 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321, and date-stamped received;

b. Mailed to the division by first-class mail or by state interoffice mail so long as there is adequate proof of mailing;

c. Transmitted by fax to 515.281.4477 or by email to adminhearings@dia.iowa.gov; or

d. File stamped in AEDMS.

10.12(4) *Proof of mailing.* Adequate proof of mailing includes the following:

a. A legible United States postal service postmark on the envelope;

b. A certificate of service;

c. A notarized affidavit; or

d. A certification in substantially the following form:

> I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Department of Inspections, Appeals, and Licensing, Administrative Hearings Division, 6200 Park Avenue, Des Moines, Iowa 50321, and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed) or (state interoffice mail).
>
> (date) (signature)

481—10.13(17A) Discovery.

10.13(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by rules of the agency or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

10.13(2) Any motion relating to discovery shall allege that the moving party has made a good-faith attempt to resolve the issues raised by the motion with the opposing party.

481—10.14(10A,17A) Subpoenas.

10.14(1) *Form and contents.*

a. *Requirements.* Every subpoena must:

(1) State that the subpoena is issued by the division;

(2) State the title of the proceeding and its case number;

(3) Command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; or permit the inspection of premises; and

(4) Set out the text of subrules 10.14(4) and 10.14(5).

b. Command to attend a deposition; notice of the recording method. A subpoena commanding attendance at a deposition must state the method for recording the testimony.

c. Combining or separating a command to produce or to permit inspection; specifying the form for electronically stored information. A command to produce documents, electronically stored information, or tangible things or to permit the inspection of premises may be included in a subpoena commanding attendance at a deposition, hearing, or trial, or may be set out in a separate subpoena. A subpoena may specify the form or forms in which electronically stored information is to be produced.

d. Command to produce; included obligations. A command in a subpoena to produce documents, electronically stored information, or tangible things requires the responding party to permit inspection, copying, testing, or sampling of the materials.

10.14(2) *Issuance.* The division will issue a subpoena, signed but otherwise in blank, to a party who requests it in writing. That party must complete it before service. An attorney licensed or otherwise authorized to practice law in Iowa also may issue and sign a subpoena as an officer of the court.

10.14(3) *Service.*

a. By whom; tendering fees; serving a copy of certain subpoenas. Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering a copy to the named person and, if the subpoena requires that person's attendance and, if demanded, tendering the fees for one day's attendance and traveling fees to and from the court. If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then before it is served, a notice must be served on each party.

b. Permissible place of service. A subpoena may be served at any place within the state of Iowa.

c. Proof of service. Proving service, when necessary, requires filing with the division a statement showing the date and manner of service and the names of persons served. The server must certify the statement in accordance with Iowa Code section 622.1.

10.14(4) *Protecting a person subject to a subpoena.*

a. Avoiding undue burden or expense. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena.

b. Command to produce materials or permit inspection.

(1) *Appearance not required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(2) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

1. At any time, on notice to the commanded person, the serving party may move the division for an order compelling production or inspection.

2. These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

c. Attendance. Any party shall be permitted to attend at the same time and place and for the same purposes specified in the subpoena. No prior notice of intent to attend is required.

d. Quashing or modifying a subpoena.

(1) *When required.* On timely motion, the division must quash or modify a subpoena that:

1. Fails to allow a reasonable time to comply;

2. Requires a person who is neither a party nor a party's officer to travel more than 50 miles from where that person resides, is employed, or regularly transacts business in person, except that a person may be ordered to attend trial anywhere within the state in which the person is served with a subpoena;

3. Requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

4. Subjects a person to undue burden.

(2) *When permitted.* To protect a person subject to or affected by a subpoena, the division may, on motion, quash or modify the subpoena if it requires:

1. Disclosing a trade secret or other confidential research, development, or commercial information; or

2. Disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

3. A person who is neither a party nor a party's officer to incur substantial expense to travel more than 50 miles to attend a hearing.

(3) *Specifying conditions as an alternative.* In the circumstances described in subparagraph 10.14(4)*"d"*(2), the division may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

1. Shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

2. Ensures that the subpoenaed person will be reasonably compensated.

10.14(5) *Duties in responding to a subpoena.*

a. Producing documents or electronically stored information. These procedures apply to producing documents or electronically stored information:

(1) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(2) *Form for producing electronically stored information not specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(3) *Electronically stored information produced in only one form.* The person responding need not produce the same electronically stored information in more than one form.

(4) *Inaccessible electronically stored information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the division may nonetheless order discovery from such sources if the requesting party shows good cause. The division may specify conditions for the discovery.

b. Claiming privilege or protection.

(1) *Information withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

1. Expressly make the claim; and

2. Describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(2) *Information produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for the claim. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

10.14(6) *Duties of issuer of subpoena; producing copies of materials obtained by subpoena.* When a party on whose behalf a subpoena has been issued thereby creates or obtains copies of designated electronically stored information, books, papers, documents or tangible things, that party shall make available a duplicate of such copies at the request of any other party, who shall be responsible for payment of the reasonable cost of making the copies.

481—10.15(10A,17A) Motions.

10.15(1) No technical form is required for motions. Any motion for summary judgment shall be filed in compliance with the requirements of Iowa Rules of Civil Procedure.

10.15(2) Any party may file a written resistance or response to a motion within 14 days after the motion is served unless the time period is extended or shortened by rules of the agency or by order of the division or the presiding officer.

10.15(3) The presiding officer may schedule oral argument on any motion upon the request of any party or upon the presiding officer's own motion.

10.15(4) Except for good cause, all motions pertaining to the hearing must be filed and served at least ten days prior to the hearing date, unless the time period is shortened or lengthened by order of the presiding officer, or the rules of the agency provide otherwise.

481—10.16(10A) Continuances.

10.16(1) A request for continuance shall be made at the earliest opportunity and state the specific reasons for the request.

10.16(2) No application for continuance will be made or granted ex parte except in an emergency where notice is not feasible. The agency may waive notice of requests for a case or a class of cases.

10.16(3) Except where otherwise provided, a continuance may be granted at the discretion of the presiding officer. Factors to consider include:

a. Any prior continuances;
b. The interests of all parties;
c. The likelihood of informal settlement;
d. Existence of emergency;
e. Objection to the continuance;
f. Any applicable state or federal statutes or regulations;
g. The existence of a conflict in the schedules of counsel or parties or witnesses;
h. The timeliness of the request; and
i. Other grounds stated in the motion or resistance.

481—10.17(10A,17A) Withdrawals. The party that requested the contested case may move to withdraw the party's request for a hearing at any time prior to the hearing. The ALJ may require the party to submit a written request after an oral request. Unless otherwise provided, a withdrawal shall be with prejudice.

481—10.18(10A,17A) Intervention.

10.18(1) *Motion.* A motion for leave to intervene must be filed as early in the proceeding as possible and must state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding.

10.18(2) *When filed.* Motion for leave to intervene shall be filed at least 20 days before the hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner.

10.18(3) *Grounds for intervention.* The movant must demonstrate that:

a. Intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties;

b. The movant will be aggrieved or adversely affected by a final order; and

c. The interests of the movant are not being adequately represented by existing parties; or that it is otherwise entitled to intervene.

10.18(4) *Effect of intervention.* A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues to be raised or otherwise condition the intervenor's participation in the proceeding.

481—10.19(17A) Hearing procedures.

10.19(1) When an ALJ has been appointed as the presiding officer in a contested case, the ALJ may:

a. Rule on motions;
b. Preside at the hearing;
c. Require the parties to submit briefs;
d. Ensure that the record is fully and fairly developed by inquiring into matters at issue; and
e. Issue orders and rulings to ensure the orderly conduct of the proceedings.

10.19(2) All objections to procedures, admission of evidence, or any other matter shall be timely made and stated on the record.

10.19(3) Parties in a contested case have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Agencies or partnerships, corporations or associations may be represented by any member, officer, director, or duly authorized agent. Any party may be represented by an attorney or as otherwise authorized by law.

10.19(4) Parties in a contested case have the right to introduce evidence on points at issue, to cross-examine witnesses, and to present evidence in rebuttal.

10.19(5) The ALJ shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly or disruptive.

10.19(6) Witnesses may be sequestered during the hearing.

10.19(7) The ALJ may allow the parties to make opening statements and closing arguments and may determine the order of presentation of evidence. Each witness shall be sworn or affirmed by the ALJ and be subject to examination.

481—10.20(17A) Evidence.

10.20(1) The presiding officer shall rule on admissibility of evidence and may take official notice of facts.

10.20(2) Stipulation of facts is encouraged.

10.20(3) Evidence shall be confined to the issues on which there has been fair notice prior to the hearing. The presiding officer may take testimony on a new issue if the parties waive the right to notice and no other objection is made. If there is objection, the presiding officer may refuse to hear the new issue and may make a decision on the original issue in the notice or may grant a continuance to allow the parties adequate time to amend pleadings and prepare their cases on the additional issue.

10.20(4) Exhibits and a list of witnesses must be submitted to all parties and the presiding officer prior to the hearing as set forth in the notice of hearing or other order.

10.20(5) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony on the record but need not actually examine that witness. If the evidence excluded consists of a document or exhibits, it shall be marked as part of an offer of proof and inserted in the record.

481—10.21(17A) Default.

10.21(1) If a party fails to appear in a contested case proceeding or prehearing conference after proper service of notice, the presiding officer may either find the party to be in default or, if no adjournment is granted, proceed with the hearing and render a decision in the absence of the party.

10.21(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested an evidentiary hearing to contest adverse agency action that has already occurred but has failed to file a required pleading after proper service.

10.21(3) A party against whom a default has been entered may move to vacate the default decision within 14 days following the issuance of the order. Good cause to vacate a default decision means mistake, inadvertence, surprise, excusable neglect, or unavoidable casualty as provided in Iowa Rule of Civil Procedure 1.977.

481—10.22(17A) Ex parte communication.

10.22(1) Ex parte communications are those communications, oral or written, to an ALJ or other decision-maker in a contested case without notice and an opportunity for all parties to be heard. Ex parte

communication is prohibited except as provided in Iowa Code section 17A.17 or as otherwise provided by law.

10.22(2) Any presiding officer who receives prohibited communication shall submit the written communication or a summary of the oral communication for inclusion in the record.

481—10.23(10A,17A) ALJ decisions.

10.23(1) *Proposed decisions.* Except as otherwise provided by law, when the agency did not preside at the reception of evidence, the ALJ shall issue a proposed decision based on the record of the contested case that includes findings of fact and conclusions of law stated separately. A ruling dismissing all of a party's claims or a voluntary agency dismissal is a proposed decision.

10.23(2) *Record.* The record in a contested case shall include all materials specified in Iowa Code section 17A.12(6), any request for a contested case hearing, and other relevant procedural documents.

10.23(3) *Review of proposed decisions.* Request for review of a proposed decision shall be made to the agency in which the contested case originated in the manner and within the time specified by that agency's rules. In contested cases in which the director of DIAL has final decision-making authority, request for review shall be made as provided in rule 481—9.3(10A,17A).

10.23(4) *Final decisions.* If there is no appeal from or review of the proposed decision, the ALJ's proposed decision becomes the final decision of the agency.

481—10.24(10A,17A,272C) Board hearings. Boards may request an ALJ from the division to assist in conducting contested case hearings and other related prehearing matters.

10.24(1) In scheduling hearings, boards will consult with the division to determine the availability of an ALJ. The board will determine the time and place of hearing.

10.24(2) The ALJ only possesses such authority as delegated by the board.

10.24(3) The ALJ may assist in conducting the hearing for the board and may, when delegated by the board:

a. Open the record and receive appearances;
b. Administer oaths;
c. Issue subpoenas;
d. Receive testimony and exhibits presented by the parties;
e. Rule on objections and motions;
f. Close the hearing; and
g. Prepare decisions and orders as directed by the board.

481—10.25(10A) Recordings. The division shall record each hearing or other formal proceeding by any mechanized means. The division may provide a copy of the audio recording to any party to a pending proceeding upon request. Parties may arrange for a hearing to be recorded by certified shorthand reporters but shall bear the cost unless otherwise provided by law. Parties are to alert the division prior to the hearing if a reporter has been engaged.

481—10.26(10A) Agency reporting requirements. Agencies and boards shall notify and provide copies to the division of any final agency decision, petition for judicial review, and ruling on judicial review.

481—10.27(724) Appeals in cases involving permits to carry weapons and acquire firearms. An applicant or permittee may appeal a decision to deny an application for a permit to carry weapons or acquire firearms or to suspend or revoke a permit to carry weapons or acquire firearms pursuant to Iowa Code section 724.21A and this chapter. To the extent this rule is inconsistent with the other provisions of this chapter, this rule will govern such appeals.

10.27(1) *Definitions.* For purposes of this rule:

"Agency" means the commissioner of public safety or the sheriff of the county in which the aggrieved party resides.

"Applicant" means a person who has applied for a permit to carry weapons or acquire firearms.

"Permittee" means a person who has received a permit to carry weapons or acquire firearms.

10.27(2) *Filing of appeal.* Within 30 days of the applicant's or permittee's receipt of the agency's decision, the applicant or permittee shall file the written appeal, a copy of the agency's written decision, and a fee of $10 with the Iowa Department of Inspections, Appeals, and Licensing, Division of Administrative Hearings, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321, or electronically pursuant to 481—Chapter 16.

10.27(3) *Service on the agency.* At the time the appeal is filed with the division, the applicant or permittee shall serve a copy of the appeal on the agency that made the decision on the permit to carry weapons or acquire firearms.

10.27(4) *Denial of appeal.* The division may deny any appeal that does not meet the requirements in subrules 10.27(2) and 10.27(3).

10.27(5) *Agency record.* Upon receipt of a copy of the notice of hearing, the agency shall file with the division and send to the applicant or permittee:

a. A copy of all documents used by the agency in reaching the decision; and

b. A form identifying the name, address, email address, and telephone number of the agency's contact person or attorney representative.

10.27(6) *Notice of hearing.* In addition to the information set forth in Iowa Code section 17A.12(2) and rule 481—10.6(17A), the notice of hearing shall contain the following information:

a. Notification that failure to appear and participate in the contested case proceeding may result in the entry of a default judgment; and

b. Notification that court costs and reasonable attorney fees will be awarded pursuant to Iowa Code section 724.21A(8).

10.27(7) *Attorney fees, court costs, and contested case costs.* An applicant or permittee or an agency may be eligible for an award of reasonable attorney fees pursuant to Iowa Code section 724.21A(8).

a. Within 14 days of the date of the ALJ's decision, a party may seek an award of attorney fees by filing with the division a request and documentation supporting the request. A resistance to the request for attorney fees must be filed within seven days of the filing of the request. Upon request of either party or on the ALJ's own motion, a hearing may be scheduled on the request.

b. An award of attorney fees shall be paid within 30 days of the issuance of the order unless an interested party seeks rehearing or judicial review or the parties agree to an alternative payment schedule.

c. The ALJ's decision is not final for purposes of judicial review under Iowa Code chapter 17A until the ALJ has issued a written decision determining the amount of any attorney fees to be awarded under this subrule or determining that no attorney fees are to be awarded.

d. Costs of the division in conducting a contested case proceeding arising out of a decision of the commissioner of public safety shall be charged to the department of public safety pursuant to Iowa Code section 10A.801(9).

These rules are intended to implement Iowa Code chapters 10A, 17A, and 724.

ITEM 2. Rescind and reserve **481—Chapter 11**.

ARC 9897C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to Iowa code of administrative judicial conduct and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 15, "Iowa Code of Administrative Judicial Conduct," Iowa Administrative Code, and to adopt a new Chapter 15 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 10A.801.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 10A.

Purpose and Summary

This rulemaking repromulgates Chapter 15 and implements Iowa Code section 10A.801(7)"d."

Iowa Code section 10A.801(7)"d" provides that the Department's Administrative Hearings Division (AHD) shall adopt rules to "establish, consistent with the provisions of this section and chapter 17A, a code of administrative judicial conduct that is similar in function and substantially equivalent to the Iowa code of judicial conduct, to govern the conduct, in relation to their quasi-judicial functions in contested cases, of all persons who act as presiding officers under the authority of section 17A.11, subsection 1." This chapter establishes a code of administrative judicial conduct that is similar in function and substantially equivalent to the Iowa Code of Judicial Conduct, to govern the conduct, in relation to their quasi-judicial functions in contested cases, of all persons who act as presiding officers under the authority of Iowa Code section 17A.11(1).

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 29, 2025. A public hearing was held on the following date(s):

- November 18, 2025

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 for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 28, 2026. Comments should be directed to:

Jeremiah Junker
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.672.4745
Email: jeremiah.junker@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 2 to 2:30 p.m.	6200 Park Avenue Des Moines, Iowa

January 28, 2026	6200 Park Avenue
2 to 2:30 p.m.	Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 481—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15
IOWA CODE OF ADMINISTRATIVE JUDICIAL CONDUCT

481—15.1(10A) Canon 1. A presiding officer shall uphold and promote the independence, integrity, and impartiality of the administrative judiciary and shall avoid impropriety and the appearance of impropriety.

15.1(1) *Compliance with the law.* A presiding officer shall comply with the law, including the Iowa Code of Administrative Judicial Conduct, hereafter referred to as "this Code."

15.1(2) *Promoting confidence in the administrative judiciary.* A presiding officer shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the administrative judiciary and shall avoid impropriety and the appearance of impropriety.

15.1(3) *Avoiding abuse of the prestige of an administrative judicial position.* A presiding officer shall not abuse the prestige of the administrative judicial position to advance the personal or economic interests of the presiding officer or others or allow others to do so.

481—15.2(10A) Canon 2. A presiding officer shall perform administrative judicial duties impartially, competently, and diligently.

15.2(1) *Giving precedence to administrative judicial duties.* The administrative judicial duties, as prescribed by law, shall take precedence over all of a presiding officer's personal and extrajudicial activities.

15.2(2) *Impartiality and fairness.* A presiding officer shall uphold and apply the law and shall perform all administrative judicial duties fairly and impartially.

15.2(3) *Bias, prejudice, and harassment.*

a. A presiding officer shall perform all administrative judicial and other duties without bias or prejudice.

b. A presiding officer shall not, in the performance of administrative judicial duties, by words or conduct manifest bias or prejudice or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit others subject to the presiding officer's direction and control to do so.

c. A presiding officer shall require lawyers and party representatives in proceedings before the presiding officer to refrain from manifesting bias or prejudice or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age,

sexual orientation, marital status, socioeconomic status, or political affiliation against parties, witnesses, lawyers, party representatives, or others.

d. The restrictions of paragraphs 15.2(3)*"b"* and *"c"* do not preclude presiding officers, lawyers, or party representatives from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

15.2(4) *External influences on administrative judicial conduct.*

a. A presiding officer shall not be swayed by public clamor or fear of criticism.

b. A presiding officer shall not permit family, social, political, financial, or other interests or relationships to influence the presiding officer's administrative judicial conduct or judgment.

c. A presiding officer shall not convey or permit others to convey the impression that any person or organization is in a position to influence the presiding officer.

15.2(5) *Competence, diligence, and cooperation.*

a. A presiding officer shall perform administrative judicial and other duties competently and diligently.

b. A presiding officer shall cooperate with other presiding officers and other executive branch employees in the administration of agency business.

15.2(6) *Ensuring the right to be heard.*

a. A presiding officer shall accord to every person who has a legal interest in a proceeding, or that person's lawyer or authorized representative, the right to be heard according to law.

b. A presiding officer may encourage parties to a proceeding and their lawyers or authorized representatives to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

15.2(7) *Responsibility to decide.* A presiding officer shall hear and decide matters assigned to the presiding officer, except when disqualification is required by subrule 15.2(11) or other law.

15.2(8) *Decorum and demeanor.*

a. A presiding officer shall require order and decorum in proceedings before the presiding officer.

b. A presiding officer shall be patient, dignified, and courteous to parties, board members, witnesses, lawyers, party representatives, agency staff, agency officials, and others with whom the presiding officer deals in an official capacity and shall require similar conduct of lawyers, party representatives, and others subject to the presiding officer's direction and control.

15.2(9) *Ex parte communications.*

a. A presiding officer shall not initiate, permit, or consider ex parte communications or consider other communications made to the presiding officer outside the presence of the parties or their lawyers, concerning a pending matter or impending matter, except as permitted by Iowa Code section 17A.17.

b. A presiding officer shall not investigate facts in a matter independently and shall consider only the evidence presented and any facts that may be officially noticed pursuant to Iowa Code section 17A.14.

15.2(10) *Statements on pending and impending cases.*

a. A presiding officer shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a pending matter or impending matter before the presiding officer or another presiding officer in the same agency or make any nonpublic statement that might substantially interfere with a fair hearing.

b. A presiding officer shall not, in connection with cases, controversies, or issues that are likely to come before the presiding officer, make pledges, promises, or commitments that are inconsistent with the impartial performance of the presiding officer's adjudicative duties.

c. A presiding officer shall require others subject to the presiding officer's direction and control to refrain from making statements that the presiding officer would be prohibited from making by paragraphs 15.2(10)*"a"* and *"b."*

d. Notwithstanding the restrictions in paragraph 15.2(10)*"a,"* a presiding officer may explain agency procedures and may comment on any proceeding in which the presiding officer is a party in a personal capacity.

e. Subject to the requirements of paragraph 15.2(10)*"a,"* a presiding officer may respond directly or through a third party to allegations in the media or elsewhere concerning the presiding officer's conduct in a matter.

15.2(11) *Disqualification.*

a. A presiding officer shall disqualify the presiding officer in any proceeding in which the presiding officer's impartiality might reasonably be questioned, including but not limited to the following circumstances:

(1) The presiding officer has a personal bias or prejudice concerning a party or a party's lawyer or other representative or has personal knowledge of facts that are in dispute in the proceeding.

(2) The presiding officer knows that the presiding officer, the presiding officer's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is:

1. A party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

2. Acting as a lawyer or party representative in the proceeding;

3. A person who has more than a de minimis interest that could be substantially affected by the proceeding; or

4. Likely to be a material witness in the proceeding.

(3) The presiding officer knows that the presiding officer, individually or as a fiduciary, or the presiding officer's spouse, domestic partner, parent, or child, or any other member of the presiding officer's family residing in the presiding officer's household has an economic interest in the subject matter in controversy or in a party to the proceeding.

(4) The presiding officer, while a presiding officer, has made a public statement, other than in an agency proceeding, decision, opinion, or order, that commits or appears to commit the presiding officer to reach a particular result or rule in a particular way in the proceeding or controversy.

(5) The presiding officer:

1. Served as a lawyer in the matter in controversy or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

2. Served in governmental employment and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy; or

3. Was a material witness concerning the matter.

(6) The presiding officer personally investigated, prosecuted, or advocated in connection with the matter, the specific controversy underlying the matter, or another pending factually related matter, or pending factually related controversy that may culminate in a contested case, involving the same parties, or is subject to the authority, direction, or discretion of any person who has personally investigated, prosecuted, or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy, involving the same parties. But the presiding officer is not required to disqualify the presiding officer solely because the presiding officer determined there was probable cause to initiate the proceeding.

b. A presiding officer shall keep informed about the presiding officer's personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal economic interests of the presiding officer's spouse or domestic partner and minor children residing in the presiding officer's household.

c. A presiding officer subject to disqualification under this rule, other than for bias or prejudice under subparagraph 15.2(11)*"a"*(1), may disclose on the record the basis of the presiding officer's disqualification and may ask the parties and their lawyers or representatives to consider, outside the presence of the presiding officer, whether to waive disqualification. If, following the disclosure, the parties and lawyers or party representatives agree, without participation by the presiding officer, that the presiding officer should not be disqualified, the presiding officer may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

15.2(12) *Supervisory duties.*

a. A presiding officer shall require others subject to the presiding officer's direction and control to act in a manner consistent with the presiding officer's obligations under this Code.

b. A presiding officer with supervisory authority for the performance of other presiding officers shall take reasonable measures to ensure that those presiding officers properly discharge their administrative judicial responsibilities, including the prompt disposition of matters before them.

15.2(13) *Disability and impairment.* A presiding officer having a reasonable belief that the performance of a lawyer, party representative, or another presiding officer is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall take appropriate action, which may include a confidential referral to a lawyer or employee assistance program.

15.2(14) *Responding to administrative judicial and lawyer misconduct.*

a. A presiding officer having knowledge that another presiding officer has committed a violation of this Code that raises a substantial question regarding the presiding officer's honesty, trustworthiness, or fitness as a presiding officer in other respects shall inform the appropriate authority.

b. A presiding officer having knowledge that a lawyer has committed a violation of the Iowa Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.

c. A presiding officer who receives information indicating a substantial likelihood that another presiding officer has committed a violation of this Code shall take appropriate action.

d. A presiding officer who receives information indicating a substantial likelihood a lawyer has committed a violation of the Iowa Rules of Professional Conduct shall take appropriate action.

e. This rule does not require disclosure of information gained by a presiding officer while participating in an approved lawyers assistance program.

15.2(15) *Cooperation with disciplinary authorities.*

a. A presiding officer shall cooperate and be candid and honest with a lawyer disciplinary agency or other appropriate authority investigating a violation of this Code or the Iowa Rules of Professional Conduct.

b. A presiding officer shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a presiding officer or a lawyer.

481—15.3(10A) Canon 3. An administrative law judge shall conduct the administrative law judge's personal and extrajudicial activities to minimize the risk of conflict with administrative judicial obligations.

15.3(1) *Extrajudicial activities in general.* An administrative law judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, an administrative law judge shall not:

a. Participate in activities that will interfere with the proper performance of the administrative law judge's administrative judicial duties;

b. Participate in activities that will lead to frequent disqualification of the administrative law judge;

c. Participate in activities that would appear to a reasonable person to undermine the administrative law judge's independence, integrity, or impartiality;

d. Engage in conduct that would appear to a reasonable person to be coercive; or

e. Make use of agency premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, the provision of legal services, or the administration of justice, or unless such additional use is permitted by law.

15.3(2) *Testifying as a character witness.* An administrative law judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly subpoenaed.

15.3(3) *Appointments to governmental positions.* An administrative law judge shall not accept appointment to a governmental committee, board, commission, or other governmental position that would appear to a reasonable person to undermine the administrative law judge's independence, integrity, or impartiality or would lead to frequent disqualification of the administrative law judge.

15.3(4) *Use of nonpublic information.* An administrative law judge shall not intentionally disclose or use nonpublic information acquired in an administrative judicial capacity for any purpose unrelated to the administrative law judge's administrative judicial or other duties.

15.3(5) *Affiliation with discriminatory organizations.*

a. An administrative law judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. An administrative law judge's membership in a religious organization as a lawful exercise of the freedom of religion is not prohibited.

b. An administrative law judge shall not use the benefits or facilities of an organization if the administrative law judge knows or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph 15.3(5)*"a."* An administrative law judge's attendance at an event in a facility of an organization that the administrative law judge is not permitted to join is not a violation of this rule when the administrative law judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

15.3(6) *Participation in educational, religious, charitable, fraternal, or civic organizations and activities.*

a. Subject to the requirements of subrule 15.3(1), an administrative law judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, the provision of legal services, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

(1) Assisting such an organization or entity in planning related to fundraising, volunteering goods or services at fundraising events, and participating in the management and investment of the organization's or entity's funds;

(2) Soliciting contributions for such an organization or entity but only from members of the administrative law judge's family or from other administrative law judges or coworkers in the administrative law judge's immediate office over whom the administrative law judge does not exercise supervisory authority;

(3) Appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting an administrative law judge's title to be used in connection with an event of such an organization or entity, but if the event serves a fundraising purpose, the administrative law judge may participate only if the event concerns the law, the legal system, the provision of legal services, or the administration of justice;

(4) Making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities but only if the organization or entity is concerned with the law, the legal system, the provision of legal services, or the administration of justice; and

(5) Serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity unless it is likely that the organization or entity:

1. Will be engaged in proceedings that would ordinarily come before the administrative law judge; or

2. Will frequently be engaged in adversary proceedings before the agency in which the administrative law judge serves.

b. An administrative law judge may encourage lawyers to provide pro bono publico legal services.

c. Subject to the requirements of subrule 15.3(1), an administrative law judge may:

(1) Provide leadership in identifying and addressing issues involving equal access to the justice system; developing public education programs; engaging in activities to promote the fair administration of justice and convening, participating or assisting in advisory committees and community collaborations devoted to the improvement of the law, the legal system, the provision of legal services, or the administration of justice.

(2) Endorse projects and programs directly related to the law, the legal system, the provision of legal services, and the administration of justice to those coming before the courts or the administrative judiciary.

(3) Participate in programs that concern the law or that promote the administration of justice.

15.3(7) *Appointments to fiduciary positions.*

a. An administrative law judge shall not accept an appointment to serve in a fiduciary position, such as executor, administrator, trustee, guardian, attorney-in-fact, or other personal representative, except for the estate, trust, or person of a member of the administrative law judge's family, and then only if such service will not interfere with the proper performance of administrative judicial duties.

b. An administrative law judge shall not serve in a fiduciary position if the administrative law judge as fiduciary will likely be engaged in proceedings that would ordinarily come before the administrative law judge or if the estate, trust, or ward becomes involved in adversary proceedings before the agency in which the administrative law judge serves.

c. An administrative law judge acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to an administrative law judge personally.

d. If a person who is serving in a fiduciary position becomes an administrative law judge, the administrative law judge must comply with this subrule as soon as reasonably practicable but in no event later than six months after becoming an administrative law judge.

15.3(8) *Services as arbitrator or mediator.* An administrative law judge shall not act as an arbitrator or a mediator or perform other judicial functions apart from the administrative law judge's official duties unless expressly authorized by law.

15.3(9) *Practice of law.* An administrative law judge shall not engage in the private practice of law. An administrative law judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the administrative law judge's family but is prohibited from serving as the family member's lawyer before the agency in which the administrative law judge serves. An administrative law judge serving in the administrative hearings division of the department is prohibited from serving as the family member's lawyer in any proceeding in which another administrative law judge serving in the division is the presiding officer, regardless of whether the proceeding is being conducted on behalf of the department or another state agency.

15.3(10) *Financial, business, or remunerative activities.*

a. An administrative law judge may hold and manage investments of the administrative law judge and members of the administrative law judge's family.

b. An administrative law judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity, except that an administrative law judge may manage or participate in:

(1) A business closely held by the administrative law judge or members of the administrative law judge's family; or

(2) A business entity primarily engaged in investment of the financial resources of the administrative law judge or members of the administrative law judge's family.

c. An administrative law judge shall not engage in financial activities permitted under paragraphs 15.3(10)*"a"* and *"b"* if the financial activities will:

(1) Interfere with the proper performance of administrative judicial duties;

(2) Lead to frequent disqualification of the administrative law judge;

(3) Involve the administrative law judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the agency in which the administrative law judge serves; or

(4) Result in violation of other provisions of this Code.

15.3(11) *Compensation for extrajudicial activities.* An administrative law judge may accept reasonable compensation for extrajudicial activities permitted by this Code and other law unless such acceptance would appear to a reasonable person to undermine the administrative law judge's independence, integrity, or impartiality.

15.3(12) *Acceptance of gifts, loans, bequests, benefits, or other things of value.* An administrative law judge, an administrative law judge's spouse, and an administrative law judge's dependent child shall not accept or receive any gift, loan, bequest, benefit, or other thing of value if acceptance or receipt is

prohibited by Iowa Code chapter 68B or any other law or if acceptance or receipt would appear to a reasonable person to undermine the administrative law judge's independence, integrity, or impartiality.

15.3(13) *Reimbursement of expenses and waivers of fees or charges.*

a. Unless otherwise prohibited by subrules 15.3(1) and 15.3(12), Iowa Code chapter 68B, or other law, an administrative law judge may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the administrative law judge's employing entity, if the expenses or charges are associated with the administrative law judge's participation in extrajudicial activities permitted by this Code.

b. Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the administrative law judge and, when appropriate to the occasion, by the administrative law judge's spouse, domestic partner, or guest.

481—15.4(10A) Canon 4. An administrative law judge shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the administrative judiciary.

15.4(1) *Political and campaign activities of administrative law judges.*

a. Except as permitted by law, an administrative law judge shall not:

(1) Act as a leader in, or hold an office in, a political organization;

(2) Make speeches on behalf of a political organization;

(3) Publicly endorse or oppose a candidate for any public office;

(4) Solicit funds for, pay an assessment to, or make a contribution to a political organization, a candidate for judicial retention, or a candidate for public office;

(5) Attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for public office; or

(6) Participate in a precinct caucus, except as provided for in paragraph 15.4(1)*"b."*

b. Paragraph 15.4(1)*"a"* does not prohibit an administrative law judge from participating in a precinct caucus merely to vote for, or support in the delegate selection process, a candidate for the office of President of the United States, provided that the administrative law judge does not speak publicly on behalf of or against a candidate, encourage other caucus participants to support or oppose a candidate, or otherwise engage in conduct that is inconsistent with the independence, integrity, or impartiality of the administrative judiciary.

c. An administrative law judge shall take reasonable measures to ensure that other persons do not undertake, on behalf of the administrative law judge, any activities prohibited under paragraph 15.4(1)*"a."*

15.4(2) *Activities of administrative law judges who become candidates for nonjudicial office.*

a. Upon becoming a candidate for nonjudicial elective office, an administrative law judge shall resign from the administrative law judge position unless permitted by law to continue to hold the administrative law judge position.

b. Upon becoming a candidate for nonjudicial appointive office, an administrative law judge is not required to resign from the administrative law judge position provided that the administrative law judge complies with the other provisions of this Code.

481—15.5(10A) Scope, definitions, and application.

15.5(1) *Scope.*

a. This Code consists of four canons, each of which is codified as the introductory paragraph of an administrative rule, and numbered rules under each canon, which are codified as subrules. Subrule 15.5(3) establishes when the various rules apply to a presiding officer or an administrative law judge.

b. The canons state overarching principles of judicial ethics that all administrative law judges and presiding officers, as applicable, must observe. Although an administrative law judge or presiding officer may be disciplined only for violating an applicable rule, the canons provide important guidance in interpreting the rules. Where a rule contains a permissive term, such as "may" or "should," the conduct being addressed is committed to the personal and professional discretion of the administrative law judge

or presiding officer in question, and no disciplinary action should be taken for action or inaction within the bounds of such discretion.

c. Consistent with the requirement of Iowa Code section 10A.801(7)*"d,"* this Code is similar in function and substantially equivalent to the Iowa Code of Judicial Conduct adopted by the Iowa Supreme Court and contained in Chapter 51 of the Iowa Court Rules. The Iowa Code of Judicial Conduct includes accompanying comments to the rules that may provide useful guidance regarding the purpose, meaning, and proper application of the corresponding rule in this Code. The comments contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. The comments may also identify aspirational goals for administrative law judges and presiding officers. To implement fully the principles of this Code as articulated in the canons, administrative law judges and presiding officers should strive to exceed the standards of conduct established by the rules, holding themselves to the highest ethical standards and seeking to achieve those aspirational goals, thereby enhancing the dignity of the administrative judicial position.

d. The rules of this Code are rules of reason that should be applied consistent with constitutional requirements, statutes, administrative rules, and decisional law, and with due regard for all relevant circumstances. The rules should not be interpreted to impinge upon the essential independence of administrative law judges and presiding officers in making administrative judicial decisions.

e. Although the black letter of the rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. Whether discipline should be imposed should be determined by the presiding officer's appointing authority through a reasonable and reasoned application of the rules and should depend upon factors such as the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the administrative judicial system or others.

f. This Code is not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for parties to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a presiding officer.

15.5(2) *Definitions.* For purposes of this chapter, the following definitions apply:

"Administrative law judge" means a person who acts as a presiding officer under the authority of Iowa Code section 17A.11(1) who is not an agency head or a member of a multimembered agency head. This includes but is not limited to administrative law judges employed by the administrative hearings division of the department, the board of parole, and deputy workers' compensation commissioners.

"Affiliate" or *"affiliated"* mean any person, domestic or foreign, that controls, is controlled by, or is under common control with any other person.

"Appropriate authority" means the authority having responsibility for the initiation of a disciplinary process in connection with the violation to be reported.

"Associate" or *"associated"* means any person who employs, is employed by, or is under common employment with another person; any person who acts in cooperation, consultation, or concert with, or at the request of, another person; and any spouse, domestic partner, or person within the third degree of relationship of any of the foregoing.

"Contribution" means both financial and in-kind contributions, such as goods, professional or volunteer services, advertising, and other types of assistance, which, if obtained by the recipient otherwise, would require a financial expenditure.

"Control" or *"controlled"* each refers to the power of one person to exercise, directly or indirectly or through one or more persons, a dominating, governing, or controlling influence over another person, whether by contractual relationship (including without limitation a debtor-creditor relationship), by family relationship, by ownership, by dominion over, or by power to vote any category or voting interest (including without limitation shares of common stock, shares of voting preferred stock, and partnership interests), or by exercising (or wielding the power to exercise) in any manner dominion over a majority of directors, partners, trustees, or other persons performing similar functions. For more information, see definition of "affiliate" and "affiliated."

"De minimis," in the context of interests pertaining to disqualification of an administrative law judge, means an insignificant interest that could not raise a reasonable question regarding the administrative law judge's impartiality.

"Domestic partner" means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married.

"Economic interest" means ownership of more than a de minimis legal or equitable interest. Except for situations in which the presiding officer participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a presiding officer, economic interest does not include:

1. An interest in the individual holdings within a mutual or common investment fund;
2. An interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the presiding officer or the presiding officer's spouse, domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant;
3. A deposit in a financial institution or deposits or proprietary interests the presiding officer may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or
4. An interest in the issuer of government securities held by the presiding officer.

"Fiduciary" includes relationships such as executor, administrator, trustee, or guardian.

"Impartial," "impartiality," and *"impartially"* mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a presiding officer or administrative law judge.

"Impending matter" is a matter that is imminent or expected to occur in the near future.

"Impropriety" includes conduct that violates the law, court rules, or provisions of this Code and conduct that undermines a presiding officer's or administrative law judge's independence, integrity, or impartiality.

"Independence" means a presiding officer's or administrative law judge's freedom from influence or controls other than those established by law.

"Integrity" means probity, fairness, honesty, uprightness, and soundness of character.

"Knowingly," "knowledge,""known," and *"knows"* mean actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

"Law" encompasses administrative rules and regulations, court rules, ordinances, statutes, constitutional provisions, and decisional law.

"Member of a presiding officer's family residing in the presiding officer's household" means any relative of a presiding officer by blood or marriage, or a person treated by a presiding officer as a member of the presiding officer's family, who resides in the presiding officer's household.

"Member of the administrative law judge's family" means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the administrative law judge maintains a close familial relationship.

"Member of the presiding officer's family" means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the presiding officer maintains a close familial relationship.

"Nonpublic information" means information that is not available to the public. "Nonpublic information" may include but is not limited to information that is confidential or sealed by statute or court or administrative order or impounded or communicated in camera.

"Pending matter" is a matter that has commenced. A matter continues to be pending through any appellate process, including director review and judicial review, until final disposition.

"Person" means any natural or juridical person, including without limitation any corporation, limited liability company, partnership, trust, union, or other labor organization; any branch, division, department, or local unit of any of the foregoing; any political committee, party, or organization; or any other organization or group of persons.

"Political organization" means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office.

"Presiding officer" means a person who acts as a presiding officer of a contested case proceeding under the authority of Iowa Code section 17A.11(1).

"Third degree of relationship" includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece.

15.5(3) *Application.*

a. The provisions of this Code apply to all persons who act as presiding officers under the authority of Iowa Code section 17A.11(1), except as specified in paragraph 15.5(3)*"b"* for agency heads or members of multimembered agency heads. Canons and rules that apply to all presiding officers use the terminology "presiding officer" in their text. This Code only applies to an agency head or a member of a multimembered agency head who actually acts as a presiding officer and does not apply merely because the agency head or member of a multimembered agency head is authorized to serve as the presiding officer when another person serves as the presiding officer.

b. The provisions of rules 481—15.3(10A) and 481—15.4(10A) of this Code do not apply to agency heads or members of multimembered agency heads. These provisions apply only to administrative law judges and thus the terminology "administrative law judge" is used in their text.

c. This Code does not apply to persons who participate only in the making of a final decision in a contested case without serving as a presiding officer pursuant to Iowa Code section 17A.11(1) in that contested case unless a statute or administrative rule requires such a person to abide by this Code or a particular provision of this Code. This Code may nevertheless provide useful ethical guidance for a person participating in the making of a final decision in a contested case.

These rules are intended to implement Iowa Code section 10A.801.

ARC 9896C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to the administrative electronic document management system and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to rescind Chapter 16, "Administrative Electronic Document Management System," Iowa Administrative Code, and to adopt a new Chapter 16 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 10A.802.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 10A.

Purpose and Summary

This proposed rulemaking repromulgates Chapter 16 and implements Iowa Code chapter 10A in accordance with the goals and directives of Executive Order 10.

Iowa Code section 10A.802(1) provides that the Department's Administrative Hearings Division (AHD) may adopt rules establishing an electronic filing system for contested cases and other administrative proceedings conducted by AHD and to what extent AHD will accept, process, distribute, and retain electronic records and electronic signatures from appellants, governmental agencies, and other persons with respect to such proceedings. This chapter establishes such a system pursuant to Iowa Code section 10A.802(1) and consistent with the remainder of Iowa Code section 10A.802.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 29, 2025. A public hearing was held on the following date(s):

- November 18, 2025

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 for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 28, 2026. Comments should be directed to:

Jeremiah Junker
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.672.4745
Email: jeremiah.junker@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 2 to 2:30 p.m.	6200 Park Avenue Des Moines, Iowa
January 28, 2026 2 to 2:30 p.m.	6200 Park Avenue Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 481—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16
ADMINISTRATIVE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM

481—16.1(10A) Scope. This chapter governs the filing of documents through the division's AEDMS. To the extent the rules in this chapter are inconsistent with any other administrative rule of the division, the rules in this chapter will govern. Pursuant to Iowa Code section 10A.802, these rules prevail over any other law, including Iowa Code chapter 17A, or agency rule that specifies the method, manner, or format for sending, receiving, serving, retaining, or creating paper records or other documents related to a contested case proceeding, including but not limited to a request or demand for a contested case proceeding, a notice of hearing, and a proposed or final decision.

481—16.2(10A) Definitions.

"AEDMS" means the administrative electronic document management system, the division's electronic filing and case management system.

"Agency record" means, for all cases, the electronic files maintained in AEDMS, filings the division maintains in paper form, and exhibits and other materials filed with or delivered in relation to a contested case hearing.

"Confidential" means agency files, documents, or information excluded from public access by federal or state law or administrative rule, court rule, court order, or case law.

"Division" means the division of administrative hearings in the department.

"Electronic filing" means the receipt of a document submitted to AEDMS for filing as confirmed by the transmission of the notice of electronic filing.

"Electronic record" means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means.

"Electronic service" means the AEDMS electronic transmission of a link where registered users of AEDMS who are entitled to receive notice of the filing may view and download filed documents.

"File stamp" means the date and time that is affixed at the top of the first page of a document when it is filed in AEDMS.

"Nonelectronic filing" means a process by which a paper document or other nonelectronic item is filed with the division.

"Notice of electronic filing" means a document generated by AEDMS when a document is electronically filed.

"PDF" means an electronic document filed in a portable document format that is readable by the free Adobe® Acrobat® Reader.

"Protected information" means personal information, the nature of which warrants protection from unlimited public access, including but not limited to:

1. Social security numbers.
2. Financial account numbers.
3. Dates of birth.
4. Names of minor children.
5. Individual taxpayer identification numbers.
6. Personal identification numbers.
7. Other unique identifying numbers.
8. Confidential information.

"Public" refers to agency files, documents, or information that is not confidential or protected.

"Registered user" means an individual who has registered for an electronic filing account through AEDMS. A registered user can electronically file documents and electronically view and download files through the use of a username and password.

"Signature" means the following:

1. For a registered user electronically filing a document in AEDMS, "signature" means the registered user's username and password accompanied by one of the following approved signature representations:

- "Digitized signature" means an electronically embeddable image of a person's handwritten signature;
- "Electronic signature" means an electronic symbol ("/s/" or "/registered user's name/") executed or adopted by a person with the intent to sign the document; or
- "Nonelectronic signature" means a handwritten signature applied to an original document that is then scanned and electronically filed.

2. For a party signing a document that another registered user will electronically file, "signature" means the signatory's name affixed to the document as a digitized or nonelectronic signature.

481—16.3(10A) Registration, username, and passwords.

16.3(1) *Registration.*

a. Registration. Every individual filing documents or viewing or downloading filed documents in the AEDMS must register as a registered user of AEDMS.

b. Changes in registered user's contact information. If a registered user's email address, mailing address, or telephone number changes, the user must promptly make the necessary changes to the registered user's information contained in AEDMS. The registered user shall promptly give notice of changes in contact information to any nonregistered party in every active proceeding in which the registered user is a party.

c. Duties of registered user. Each registered user shall ensure that the user's email account information is current, that the account is monitored regularly, and that email notices sent to the account are timely opened.

d. Division-initiated registration. The division may complete the registration process on behalf of an individual in certain instances and email the username and password to the user. When the division completes the registration process, the user is required to promptly log in and change the password. Following initial notification regarding account registration, the user is required to promptly update and maintain accurate contact information for the AEDMS account.

16.3(2) *Use of username and password.* A registered user is responsible for all documents filed with the user's username and password unless proven by clear and convincing evidence that the registered user did not make or authorize the filing.

16.3(3) *Username and password security.* If a username or password is lost, misappropriated, misused, or compromised, the registered user of that username or password shall notify the division promptly.

16.3(4) *Denial of access.* The agency may refuse to allow an individual to electronically file or download information in AEDMS due to misuse, fraud, or other good cause.

481—16.4(10A) Electronic filing not mandatory.

16.4(1) *Electronic filing not mandatory.* Registration and filing through AEDMS, although encouraged, is not mandatory, and the division will still accept the traditional filing of paper or other electronic documents as set forth in 481—paragraph 10.12(3)*"a."*

16.4(2) *What constitutes filing.* The electronic transmission of a document to AEDMS consistent with the procedures specified in these rules, together with the production and transmission of a notice of electronic filing, constitutes filing of the document.

16.4(3) *Electronic file stamp.* Documents filed through AEDMS are officially filed when affixed with an electronic file stamp. Filings so endorsed have the same force and effect as documents time-stamped in a nonelectronic manner.

481—16.5(10A) Filing of paper documents.

16.5(1) *Conversion of paper or other electronic documents filed.* When a party files a document other than through AEDMS, the division will convert the filed documents to an electronic format

viewable to registered users of AEDMS. The original of converted documents need not be retained by the division.

16.5(2) *Form of paper documents.* Each document must be printed on only one side and be delivered to the division with no tabs, staples, or permanent clips but may be organized with paperclips, clamps, or some other type of temporary fastener or may be delivered to the division in an appropriate file folder.

481—16.6(10A) Date and time of filing.

16.6(1) *Date of filing.* An electronic filing may be made any day of the week, including holidays and weekends, and any time of the day AEDMS is available.

16.6(2) *Time of filing.* A document is timely filed if it is filed before midnight on the date the filing is due.

16.6(3) *Rejected filing.* The division may reject electronic filings that do not meet the requirements of this chapter. A rejected electronic filing is not filed. When an electronic filing is rejected, the filer will be electronically notified of the rejection and the reason for the rejection. In such instances, the date and time of filing will be when the filer submits a corrected document and it is approved.

481—16.7(10A) Signatures.

16.7(1) *Registered user.* A username and password accompanied by a digitized, electronic, or nonelectronic signature serves as the registered user's signature on all electronically filed documents.

16.7(2) *Format.* Any AEDMS filing requiring a signature must be signed with either a nonelectronic signature, an electronic signature, or a digitized signature. The following information about the person shall be included under the person's signature:

a. Name;
b. Name of firm or governmental agency;
c. Mailing address;
d. Telephone number; and
e. Email address.

16.7(3) *Multiple signatures.* By filing a document containing multiple signatures, the registered user confirms that the content of the document is acceptable to all persons signing the document and that all such persons consent to having their signatures appear on the document.

481—16.8(10A) Confidentiality and redaction of electronic documents.

16.8(1) *Confidential system.* AEDMS is a closed system, and filed documents are only accessible to a registered user who is attached to the case and division staff. Filed documents are not publicly accessible. There are two internal levels of enhanced filing confidentiality.

a. A filing certified by the filer as "confidential" is only accessible to the parties, the administrative law judge (ALJ), and division staff.

b. A filing certified by the filer as "sealed" is only accessible by the ALJ and division staff and is not accessible by any other party or user. This filing designation may only be made pursuant to prior order of the ALJ, and a sealed filing will be rejected if not authorized by order.

c. The responsibility for proper filing is on the filer.

16.8(2) *Omission and redaction requirements.* It is the responsibility of the filer to ensure that protected information is omitted or redacted from documents before the documents are filed.

a. Protected information that is not material to the proceedings. A filer may redact protected information from documents filed with the division when the information is not material to the proceedings.

b. Protected information that is material to the proceedings. When protected information is material to the proceedings, a filer must certify the document as confidential when submitting the filing to the division.

16.8(3) *Information that may be redacted.* A filer may redact the following information unless the information is material to the proceedings:

a. Driver's license numbers.

b. Information concerning medical treatment or diagnosis.
c. Employment history.
d. Personal financial information.
e. Proprietary or trade secret information.
f. Information concerning crime victims.
g. Sensitive security information.
h. Home addresses.

16.8(4) *Improperly included protected information.* A party may ask the division to restrict access to improperly included protected information from a filed document. The division may order a properly redacted document to be filed.

481—16.9(10A) General requirements when filing documents.

16.9(1) *Format.* All documents must be converted to a PDF before they are filed in AEDMS. Documents submitted must be properly scanned, which includes having the pages in the correct order and orientation and having the scanned content of the document be legible.

16.9(2) *Separating documents.* Each document must be separated and uploaded with the correct document type selection on the document upload page. Any attachments to a document shall be uploaded as such and linked to the correct document prior to submission.

16.9(3) *Selecting document types.* For each electronically filed document, a filer must choose an accurate document type from the options listed on the document upload page. Once a document is submitted into AEDMS, only the division may make corrections to the document type the filer has chosen.

16.9(4) *Correcting errors.* If a filer discovers an error in the electronic filing or docketing of a document, the filer must contact the division as soon as possible. If the division discovers an error in the filing or docketing of a document, the division may notify the filer of the error and advise the filer of what further action the filer must take, if any, to address the error.

481—16.10(10A) Case initiation and service.

16.10(1) *Case initiation.* A case may be initiated by an agency or governmental entity via AEDMS by the electronic filing of a transmittal form pursuant to rule 481—10.5(10A).

16.10(2) *Filings by registered user.* To the extent another party to the case is not a registered user, the registered user shall serve those filings upon the nonregistered user pursuant to the applicable rules of contested case procedure and any other controlling law.

16.10(3) *Electronic service and distribution of electronic filings.*

a. When a document is electronically filed, that document will be served automatically through AEDMS to all parties to the proceeding who are registered users. No other service to those registered users is required unless ordered by the division or unless the registered user has filed a document indicating an express withdrawal from use of the AEDMS, either entirely or for a specific case.

b. Notices of electronic filing will continue to be sent to registered users appearing or intervening in a proceeding until the registered users have filed a withdrawal of appearance or document indicating an express withdrawal from use of the AEDMS, either entirely or for a specific case.

16.10(4) *Division-generated documents.* All documents issued by the division will be electronically filed and served upon registered users. Division-generated documents will be served upon nonregistered users pursuant to the applicable rules of contested case procedure and any other controlling law.

These rules are intended to implement Iowa Code chapter 10A.

ARC 9907C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Proposing rulemaking related to Iowa agricultural development programs and providing an opportunity for public comment

The Iowa Finance Authority hereby proposes to rescind Chapter 44, "Iowa Agricultural Development Division," and to adopt a new Chapter 44, "Iowa Agricultural Development Programs," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 16 and sections 16.4A, 16.4B and 16.5D.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 44 and adopt a new Chapter 44 in lieu thereof. The chapter describes the policies and procedures applicable to the Beginning Farmer Loan Program, the Beginning Farmer Loan Participation Program, and the Beginning Farmer Tax Credit Program administered by the Authority. The rulemaking updates language for clarity, refines some definitions, removes language that is duplicative of statutory language, and adds new rules regarding fees and applicant violations of law.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025. A public hearing was held on the following date(s):

- November 4, 2025

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Tyler Barnard
Iowa Finance Authority
1963 Bell Avenue, Suite 200

Des Moines, Iowa 50315
Email: tyler.barnard@iowafinance.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 9 a.m.	Via Microsoft Teams Information about Teams participation can be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review
January 29, 2026 9 a.m.	Via Microsoft Teams Information about Teams participation can be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 265—Chapter 44 and adopt the following **new** chapter in lieu thereof:

CHAPTER 44
IOWA AGRICULTURAL DEVELOPMENT PROGRAMS

265—44.1(16) Definitions.

"Agricultural assets" means the same as defined in Iowa Code section 16.58.

"Agricultural development board" or *"IAD board"* means the agricultural development board created in Iowa Code section 16.2C.

"Agricultural improvement" means the same as defined in Iowa Code section 16.58.

"Agricultural land" means the same as defined in Iowa Code section 16.58.

"Agricultural lease agreement" or *"agreement"* means the same as defined in Iowa Code section 16.77.

"Application" means a completed instrument on a form approved by the authority.

"Authority" means the Iowa finance authority created in Iowa Code section 16.1A.

"Beginning farmer" means the same as defined in Iowa Code section 16.58.

"BFLP" means beginning farmer loan program established pursuant to Iowa Code chapter 16, subchapter VIII, part 6, subpart A.

"BFLP beginning farmer" means a beginning farmer who also meets the requirements of a first-time farmer as defined in Section 147(c) of the Internal Revenue Code.

"BFTC" means beginning farmer tax credit program established pursuant to Iowa Code chapter 16, subchapter VIII, part 6, subpart B.

"Bond purchaser" means any lender or any person who purchases an authority bond under the individual agricultural development bond program.

"Cash rent agreement" means an agreement whereby operation of agricultural assets is transferred via a fixed cash payment per annum.

"Commodity share agreement" means an agreement whereby operation of agricultural assets is transferred via a risk-sharing mechanism, whereby the agricultural assets owner receives a portion of the production as payment for use of the agricultural assets.

"Eligible taxpayer" means the same as defined in Iowa Code section 16.77.

"Farm" means a farming enterprise that is generally recognized as a farm rather than a rural residence.

"Farming" means the same as defined in Iowa Code section 16.58.

"Flex lease agreement" means an agreement that transfers operation of agricultural assets via a combination of fixed cash payments and, at times, additional payment based on production or other variables.

"Lender" means any regulated bank, trust company, bank holding company, mortgage company, national banking association, savings and loan association, life insurance company, state or federal governmental agency or instrumentality, or other financial institution or entity authorized and able to make mortgage loans or secured loans in this state.

"LPP" means loan participation program.

"LPP loan" means the "last-in/last-out" loan participation requested by the lender from the authority.

"Participated loan" means a loan or loans, any portion of which is shared with or sold to the authority by the lender.

"Person" means the same as defined in Iowa Code section 4.1(20).

"Qualified beginning farmer" means the same as defined in Iowa Code section 16.77.

"USDA" means the United States Department of Agriculture.

"USDA NASS" means the USDA's National Agricultural Statistics Service.

265—44.2(16) Maximum allowable net worth.

44.2(1) Pursuant to Iowa Code section 16.58(9), the authority will establish the maximum allowable net worth for each calendar year. The maximum allowable net worth shall be increased or decreased from the previous year by an amount equal to the percentage increase or decrease (September to September) in the USDA "Index of Prices Paid for Commodities and Services, Interest, Taxes, and Farm Wage Rates" reported as of October 1 of the immediately preceding calendar year. The maximum allowable net worth will be rounded to the nearest thousand dollars.

44.2(2) A beginning farmer's or BFTC beginning farmer's net worth will be established by determining total assets minus total liabilities as determined in accordance with generally accepted accounting principles with appropriate exceptions and exemptions reasonably related to an equitable determination of the net worth of the individual, partnership, limited liability company or corporation. Assets shall be valued at fair market value.

44.2(3) For the purposes of this rule, "total liabilities" means all liabilities, including but not limited to accounts payable, notes or other indebtedness owed, taxes, rent, amount owed on any real estate contract or real estate mortgage, judgments, accrued interest payable, and any other liabilities. Liabilities shall be determined on the basis of generally accepted accounting principles.

44.2(4) In only those cases where a beginning farmer's or BFTC beginning farmer's liabilities include an amount for deferred tax liability that causes the applicant's net worth to change from exceeding the maximum allowable net worth to an amount no greater than the maximum allowable net worth, the applicant is required to have a certified public accountant prepare the financial statement and provide supporting calculations and documentation acceptable to the IAD board.

44.2(5) For the purposes of this rule, "total assets" means all assets including but not limited to cash, crops or feed on hand, livestock held for sale, breeding stock, marketable bonds and securities, securities not readily marketable, accounts receivable, notes receivable, cash invested in growing crops, net cash value of life insurance, machinery, equipment, cars, trucks, farm and other real estate including life estates and personal residence, value of beneficial interest in a trust, government payments or grants, and any other assets. "Total assets" shall not include items used for personal, family or household purposes by the applicant; but in no event shall any property be excluded, to the extent a deduction for depreciation is allowable for federal income tax purposes. All assets shall be valued at fair market

value by the lender. The value shall be what a willing buyer would pay a willing seller in the locality. A deduction of ten percent may be made from fair market value of farm and other real estate.

44.2(6) Notwithstanding the definition of "total assets" in subrule 44.2(5), the value of any retirement accounts will not be included as assets for the purposes of establishing a beginning farmer's or BFTC beginning farmer's net worth. For the purposes of this subrule, an account type identified in rule 701—302.47(422) will be considered a retirement account.

265—44.3(16) Beginning farmer loan program eligibility. A loan to or on behalf of a BFLP beginning farmer shall be provided only if the criteria in Iowa Code section 16.75(3) are satisfied. In the loan application, the beginning farmer must demonstrate to the satisfaction of the authority that the beginning farmer has or will have access to adequate working capital, farm equipment, machinery, or livestock.

265—44.4(16) Beginning farmer loan program.

44.4(1) *Individual agricultural development bond program description.* This program is intended to allow BFLP beginning farmers to obtain lower interest rate loans for qualified purposes by obtaining loan funds from the proceeds of a tax-exempt bond issued by the authority and purchased by the bond purchaser. The authority will enter into a loan agreement with the BFLP beginning farmer and assign that BFLP loan to the bond purchaser. At the same time, the authority will issue a tax-exempt bond in the amount of the BFLP loan, and the bond purchaser will purchase that bond, which is used to fund the BFLP loan assigned to the bond purchaser. The bond that is issued by the authority and purchased by the bond purchaser is a nonrecourse obligation. The only security for the bond purchaser is the underlying security on the assigned BFLP loan.

44.4(2) *Application procedures.* The BFLP beginning farmer may apply for a BFLP loan with any bond purchaser. Any BFLP loan approved will be assigned to that bond purchaser. BFLP loan eligibility is determined by the requirements of Iowa Code sections 16.75 and 16.76 and this chapter.

a. If a BFLP beginning farmer meets the BFLP loan eligibility requirements, the decision on whether to enter into the loan agreement is between the BFLP beginning farmer and the bond purchaser. The BFLP beginning farmer and bond purchaser must agree on the terms of the loan, such as interest rates, length of loan, down payment, service fees, origination charges and repayment schedule. The terms may not be more onerous than terms charged to similar customers for similar loans, taking into account the tax-exempt nature of interest on the BFLP loan.

b. Following completion of the BFLP loan application by the BFLP beginning farmer and approval by the bond purchaser, the BFLP loan application must be submitted to the authority for its review and approval.

c. The authority's review will include but not be limited to whether:

(1) The BFLP loan applicant is a BFLP beginning farmer;

(2) The BFLP loan proceeds will be used for a qualified purpose under Iowa Code sections 16.75 and 16.76, this chapter, and the Internal Revenue Code and IRS regulations relating to private activity bonds;

(3) The terms of the BFLP loan comply with these rules; and

(4) The bond purchaser is a lender or bond purchaser as defined in this chapter.

d. The authority may require that the bond purchaser furnish any information that the authority deems necessary to determine whether the bond purchaser qualifies as either a lender or bond purchaser. If the authority determines that the bond purchaser does not qualify as either a lender or bond purchaser, it may deny the application.

e. The authority may charge fees as needed to defray its costs for processing the BFLP loan and bond.

44.4(3) *Issuance of bond.* All bonds issued by the authority will conform to all applicable requirements of the United States Internal Revenue Code of 1986 as amended, and its regulations.

a. Public hearings may be held by a member of the IAD board or an appointee or employee of the authority.

b. Following approval of the BFLP loan by the authority, and upon completion of a public hearing and approval of the bond issuance by the governor or another elected state official designated by the governor, the authority will issue a bond, to be purchased by the bond purchaser, in the amount and fitting the terms of the BFLP loan to the BFLP beginning farmer. The principal and interest on the bond are a limited obligation payable solely out of the revenues derived from the BFLP loan to the BFLP beginning farmer and the underlying collateral or other security furnished by or on behalf of the BFLP beginning farmer. The bond purchaser shall have no other recourse against the authority. The principal and interest on the bond do not constitute an indebtedness of the authority or a charge against its general credit or general fund.

44.4(4) *Priority of applications.* Applications shall be processed by the authority on a first-come, first-served basis, based upon the receipt of all completed documents by the authority.

44.4(5) *Procedures following bond issuance.* No bond proceeds may be used for a nonqualified purpose or by a nonqualified user. Following disbursement of the bond proceeds, the bond purchaser and BFLP beginning farmer may be required to certify to the authority that the proceeds were used by the BFLP beginning farmer for a qualified purpose.

44.4(6) *Assignment of BFLP loans by bond purchasers.* A bond purchaser may assign a BFLP loan in whole or in part to any person. Servicing of the BFLP loan may also be assigned. The authority must be notified in writing prior to assignment of the BFLP loan.

44.4(7) *Assumption of BFLP loans, substitution of collateral and transfer of property.* BFLP loans may not be assumed without the prior approval of the authority, and then only if the purchaser of the property is a BFLP beginning farmer. Equipment and other depreciable property may be exchanged or traded for similar property, and other property such as breeding livestock may be added or substituted as collateral at the discretion of the bond purchaser without the prior approval of the authority.

44.4(8) *Right to audit.* The authority shall have the right to audit the records of the bond purchaser and the BFLP beginning farmer relating to the BFLP loan and bond at any time to ensure that bond proceeds were used for a qualified purpose by a qualified user.

265—44.5(16) Loan participation program.

44.5(1) *Program summary.* The loan participation program is intended to assist lenders and beginning farmers by purchasing a portion of a loan made by a lender to a beginning farmer for the purchase of agricultural property.

a. Supplement to beginning farmer's down payment. The LPP loan can be used to supplement the beginning farmer's down payment so that the beginning farmer can more readily secure a participated loan from a lender.

b. Last-in/last-out collateral position. The program enables lenders to request a "last-in/last-out" LPP loan from the authority. The lender, on behalf of the beginning farmer, shall apply for the LPP loan on application forms provided by the authority.

c. Lender's certification. The lender and the beginning farmer shall certify that the information included in the application and any other documents submitted for consideration is true and correct to the best of their knowledge.

d. LPP loan in conjunction with BFLP loan. The loan participation program may be used in conjunction with the authority's beginning farmer loan program, provided the beginning farmer meets the criteria for both programs.

44.5(2) *Underwriting criteria.* Commercial underwriting criteria will be used as determined by the authority.

44.5(3) *Eligible projects and activities.*

a. Use of project. LPP loans must be for new purchases or new construction. Assets purchased or constructed with LPP loan funds must be used for agricultural purposes.

b. Agricultural land. The participated loan can be used for the purchase of agricultural land, which may include small acreages on which sufficient agricultural improvements are located to conduct a livestock operation. If a house is located on land for which an LPP loan is requested, an appraisal of the

house will be made. If the appraised value of the house exceeds 50 percent of the appraised value of the property or total collateral, then the property will not be eligible for an LPP loan.

c. Agricultural improvements. The participated loan can be used for the construction or purchase of agricultural improvements, including but not limited to confinement systems for swine, cattle, or poultry; barns or other outbuildings; and grain storage facilities and silos.

d. Livestock used for breeding purposes. The participated loan can be used for the purchase of livestock if an income tax deduction for depreciation is allowed for such livestock in computing state and federal income taxes.

e. Machinery and equipment. The participated loan can be used for the purchase of agricultural machinery and equipment if an income tax deduction for depreciation is allowed for such machinery and equipment in computing state and federal income taxes. Machinery and equipment purchased with the participated loan must be used in the beginning farmer's farming operation.

f. Interim financing by lender. Interim financing by the lender is allowed.

44.5(4) *Ineligible projects.* The following activities are ineligible for an LPP loan:

a. Refinancing of existing debt or new purchases that have been incurred by the borrower more than 60 days prior to approval of the LPP loan by the authority.

b. Financing personal or living expenses and working capital to purchase such items as feed, seed, fertilizer, fuel, and feeder livestock.

c. Financing a down payment for a contract sale, or in connection with a loan from a nonregulated lender.

44.5(5) *Program parameters.*

a. Purchase price impact. Maximum LPP loan amount and loan terms will be determined by the IAD board.

b. LPP interest rate. The IAD board will set the interest rate on the LPP loan.

c. LPP loans outstanding. Loans under the program may be issued more than once, provided that the outstanding LPP loan totals do not exceed the maximum amount set by the IAD board.

44.5(6) *LPP loan application.* Applications for LPP loans will include:

a. A financial statement, in a form acceptable to the authority, and any other information deemed necessary and appropriate to document the eligibility of the beginning farmer and the beginning farmer's ability to make principal and interest payments. If the beginning farmer or the beginning farmer's spouse is involved in a business, partnership, limited liability company, or corporation, either related or unrelated to the beginning farmer's farming operation, a financial statement from this entity must also be submitted with the application.

b. If available, copies of the beginning farmer's prior three years' federal income tax returns.

c. A letter documenting that the beginning farmer has sufficient training, experience and access to capital to the satisfaction of the authority.

44.5(7) *Application procedures.*

a. Credit evaluation. The lender will evaluate the beginning farmer's net worth and ability to pay principal and interest and certify the sufficiency of security for the participated loan. The authority will review the application and make its own credit evaluation prior to issuance of an LPP loan.

b. Processing LPP loan applications. Applications for the program will be accepted and processed by the authority on a first-come, first-served basis. The authority may cease accepting applications if the maximum allowable limit for total outstanding LPP loans is reached or the program is altered by the Iowa general assembly or by rules promulgated by the authority.

c. Security for participated loans and use of security documents. The lender shall take any security, cosignatures, guarantees or sureties that are deemed necessary by the authority for any participated loan. Any guarantee of repayment or pledge of additional collateral required by the lender to secure the participated loan shall secure the entire participated loan.

d. Recording documents and fees. Any recording or filing fees or transfer taxes associated with the participated loan will be paid by the beginning farmer or lender and not the authority. The authority will have no responsibility with respect to the preparation, execution, or filing of any declaration of value or groundwater hazard statements.

44.5(8) *Loan administration procedures.*

a. Lender's responsibilities. The lender is responsible for servicing the participated loan following accepted standards of loan servicing and for transferring LPP loan payments to the authority.

(1) At the request of the authority, the lender shall:

1. Provide the authority with copies of a current financial statement or a current tax return, or both, on an annual basis.

2. Provide copies of insurance to the authority with the lender named as loss payee.

(2) The lender shall not, without prior consent of the authority:

1. Make or consent to any substantial alterations in the terms of any participated loan instrument;

2. Make or consent to releases of security or collateral unless replaced with collateral of equal value on the participated loan;

3. Accelerate the maturity of the participated loan;

4. Sue upon any participated loan instrument;

5. Waive any claim against any beginning farmer, cosignor, guarantor, obligor, or standby creditor arising out of any instruments.

(3) The lender will apply payments to the participated loan according to the amortization schedule(s) approved by the authority or on a pro-rata basis.

b. Payment due dates. Payment due dates for the LPP loan will be the same as for the lender's share of the loan.

c. Prepayment penalty. There is no penalty for early repayment of principal or interest.

d. Repayment proceeds and collateral. Without limitation, the repayment of proceeds and collateral shall include rights of setoff and counterclaim, which the lender or the authority jointly or severally may at any time recover on any participated loan.

e. Subsequent loans. Any loan or advance made by a lender to a beginning farmer subsequent to the beginning farmer's obtaining an LPP loan under the program and secured by collateral or security pledged for the participated loan will be subordinate to the participated loan.

f. Events of loan default.

(1) Default will occur when the participated loan payment is 30 days past due. Notice to cure will be sent by the lender to the beginning farmer with a copy sent to the authority. The lender will take appropriate steps to cure the default through mediation, liquidation, or foreclosure if needed.

(2) After a participated loan is in default for a period of 30 days, the lender shall file monthly reports with the authority regarding the status of the participated loan.

(3) The authority may, anytime a participated loan is in default, purchase the unpaid portion of the participated loan from the lender including the note, security agreements, additional guarantees, and other documents. The authority would become the servicer of the participated loan if purchased.

g. Applying principal and interest payments. Lenders shall receive all payments of principal and interest. All payments made prior to liquidation or foreclosure shall be made according to the amortization schedule(s) approved by the authority or on a pro-rata basis. All accrued interest must be paid to zero at least annually on the anniversary date of the note.

h. Application of proceeds of loan liquidation. Application of proceeds of loan liquidation will be determined after a written liquidation plan is approved by the authority or the loan committee of the IAD board. All funds received from liquidation or foreclosure procedures shall be applied in the following order of priority:

First Priority: To the payment of the outstanding principal of and accrued interest on the lender's portion of the participated loan;

Second Priority: To the payment of the outstanding principal of and accrued interest on the authority's LPP loan;

Third Priority: To the payment on a pro-rata basis of all reasonable and necessary expenses incurred by the lender or the authority in connection with such liquidation or foreclosure procedures.

44.5(9) *Right to audit.* The authority shall have the right to audit records of the lender and the beginning farmer relating to any participated loan made under the program at any time.

265—44.6(16) Loan program fees. Applicants for both the BLFP and LPP shall pay the following fees:

1. A $100 application fee, due at the time an application is submitted to the authority.
2. A fee equal to 1.5 percent of the amount of a loan, due at the time of loan closing.

265—44.7(16) Beginning farmer tax credit program.

44.7(1) *Eligibility.*

a. Eligible taxpayer. Only eligible taxpayers that own agricultural assets included in an agricultural lease agreement are eligible for a tax credit. Pursuant to 701—subrules 302.87(3) and 302.88(3), an eligible taxpayer that elects to exclude all qualifying capital gains from the sale of real property used in a farming business and the sale of certain livestock or that elects to exclude net income pursuant to a farm tenancy agreement covering real property is not eligible for a tax credit.

b. Qualified beginning farmer. A beginning farmer must meet all of the criteria in Iowa Code section 16.79(2), be of majority age pursuant to Iowa Code section 599.1, and be legally able to enter into a contract to be eligible for participation in the beginning farmer tax credit program.

44.7(2) *Tax credit term.* The term of the credit shall begin in the crop year in which the authority board approves the award. The maximum term of the credit shall not exceed the term of the agricultural lease agreement.

44.7(3) *Application.*

a. The authority shall prepare and make available appropriate forms to be used in making application for the tax credit, including forms for both the taxpayer and the qualified beginning farmer.

b. Each application shall include but not be limited to the following:

(1) Taxpayer information: name, address, and social security number or tax identification number.

(2) Qualified beginning farmer information: name and address. In addition, the application shall have attached to it a copy of the qualified beginning farmer's current financial statement (generally prepared one month preceding application submission). The application will also include a background letter on the qualified beginning farmer documenting to the satisfaction of the authority that the beginning farmer has sufficient education, training, or experience in farming and has access to adequate working capital and production items.

(3) A copy of the agricultural lease agreement that conforms to the requirements in Iowa Code section 16.79A.

c. Complete applications shall be processed in the order they are received by the authority.

d. Authority staff will review applications for completeness and eligibility and make recommendations to the IAD board. The IAD board will review applications and recommendations from authority staff and make recommendations to the authority. Upon review of the recommendations of the IAD board, the authority will approve, defer, or deny each application.

e. Any applicant wishing to appeal a decision of the IAD board can appeal directly to the IAD board.

f. Upon submission of the application or a request to amend an agricultural lease agreement, the authority shall collect the application fee. The authority shall collect fees in the amounts based upon the acreage of the land that is the subject of the agreement and the length of the lease, as indicated in the chart below.

Application Fees Chart

	Length of Lease in Years			
Leased Acres	**2**	**3**	**4**	**5**
100 or fewer	$300	$350	$400	$450
101 to 250	$400	$450	$500	$550
251 or more	$500	$550	$600	$650

g. For an amendment to a previously approved agricultural lease agreement, an amendment fee of $100 shall be paid at the time the amendment is submitted. If the amendment includes additional acres,

the application fee is based on the number of additional acres being rented and the years remaining on the lease, as indicated in the chart below.

Additional Acres Fee Chart

	Number of Years Remaining on Lease				
# of Additional Acres	**1**	**2**	**3**	**4**	**5**
100 or fewer	$250	$300	$350	$400	$450
101 to 250	$350	$400	$450	$500	$550
251 or more	$450	$500	$550	$600	$650

44.7(4) *Requirements of an agricultural lease agreement.*

a. The agricultural lease agreement must be in writing and signed by all parties and must meet all of the requirements in Iowa Code section 16.79A.

b. At the end of the approved agricultural lease agreement term, a new application must be submitted to the authority. For the purposes of this paragraph, an eligible taxpayer first participating in the beginning farmer tax credit program on or after January 1, 2019, for a tax year beginning on or after that date, may participate in the program for not more than 15 years.

c. An eligible taxpayer may apply and be approved to enter into agreements with different qualified beginning farmers.

44.7(5) *Changes to an agricultural lease agreement.*

a. The underlying lease for agricultural land may only be amended under the circumstances identified in Iowa Code section 16.79A(4)*"b."* If the eligible taxpayer and the qualified beginning farmer are amending an agricultural lease agreement but none of the conditions in Iowa Code section 16.79A(4)*"b"* apply, then the eligible taxpayer must submit a new application for a tax credit.

b. If an amendment to an agreement changes the total amount that will be paid to the eligible taxpayer under the agreement, the procedures in Iowa Code section 16.79A(4)*"c"* will apply.

c. Expiration of lease. Prior to the expiration of the lease, the qualified beginning farmer will continue to be eligible for the term of the lease. Upon expiration of the lease, both the taxpayer and qualified beginning farmer must reapply to continue the tax credit.

44.7(6) *Procedure for calculating tax credit awards.*

a. The authority will determine tax credit amounts as described in Iowa Code section 16.82(3).

b. To calculate the credit for a commodity share agreement, the authority will use the following assumptions:

(1) Fifty percent of the leased land is allocated to corn and 50 percent of the leased land is allocated to soybeans, unless the lease specifies a different allocation of corn and soybeans. If the lease specifies a different allocation of corn and soybeans, then the leased land will be allocated proportionally, in accordance with the terms of the lease.

(2) For all years of the lease, the prices used for corn and soybeans will be the average prices for the last five years excluding the highest and lowest prices based on the USDA-NASS statewide data calculated at the time the application is approved.

(3) For all years of the lease, the commodity yields used for corn and soybeans will be the past ten-year average per-bushel yields for the same county where the leased land is located excluding the years of highest and lowest per-bushel yields based on the USDA-NASS data calculated at the time the application is approved.

(4) If the lease specifies a crop other than corn and soybeans, the relevant price and yield data from USDA-NASS for that crop will be used.

c. To calculate the credit for a commodity share agreement, the authority will use the following formula: (1/2 acres leased multiplied by corn yield multiplied by corn price multiplied by percentage of owner's share multiplied by the BFTC commodity share tax credit percentage) plus (1/2 acres leased multiplied by soybean yield multiplied by soybean price multiplied by owner's share multiplied by the BFTC commodity share tax credit percentage) = the amount of the tax credit. If the lease specifies a

different allocation of corn and soybeans, then the leased acres will be in accordance with the terms of the lease.

d. The amount of the tax credit for a flex lease agreement equals the sum of the following amounts:

(1) The portion of the lease that is based on rent will be calculated as a cash rent agreement.

(2) The portion of the lease that is based on crop yield will be calculated as a commodity share agreement.

(3) If the flexible or bonus portion of the lease is based on crop production, the annual yield used to calculate the bonus will be the yield defined in subparagraph 44.6(6)*"c"*(3). If the annual yield is above the yield needed to trigger the bonus, the taxpayer will be awarded additional tax credits. The formula for calculating the tax credit will be yield above lease bonus trigger multiplied by price multiplied by percentage of owner's share multiplied by the BFTC commodity share tax credit percentage.

(4) For other factors used in a flex lease agreement, the relevant data used will be the past ten-year average per-bushel yield for the same county where the leased land is located excluding the highest and lowest years based on the USDA-NASS data.

e. The amount of the tax credit shall be reduced by the percent ownership interest of the qualifying beginning farmer in the agricultural assets.

265—44.8(16) Violations of law. During the application process for the programs administered pursuant to this chapter, the authority will determine whether an applicant has a record of violations of the law that over a period of time tends to show a consistent pattern or that establishes intentional, criminal, or reckless conduct in violation of such laws. An applicant that has such a record of violations of the law will be ineligible for the programs.

265—44.9(16) References. References to the Internal Revenue Code in this chapter are as in effect on [effective date of rulemaking].

These rules are intended to implement Iowa Code sections 16.4A, 16.4B, and 16.5D and chapter 16, subchapter VIII.

ARC 9908C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Proposing rulemaking related to manufactured housing program fund and providing an opportunity for public comment

The Iowa Finance Authority hereby proposes to rescind Chapter 45, "Manufactured Housing Program Fund," Iowa Administrative Code, and to adopt a new Chapter 45 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 16.45.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 16.45.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 45 and adopt a new Chapter 45 in lieu thereof. This proposed rulemaking will eliminate language that is duplicative of statutory language, will eliminate unnecessary and inconsistent language, will remove unnecessarily restrictive terms, will clarify existing provisions, and will update outdated language.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025. A public hearing was held on the following date(s):

- November 4, 2025

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on January 29, 2026. Comments should be directed to:

Tyler Barnard
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Email: tyler.barnard@iowafinance.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 9:15 a.m.	Via Microsoft Teams Information about Teams participation can be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review
January 29, 2026 9:15 a.m.	Via Microsoft Teams Information about Teams participation can be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 265—Chapter 45 and adopt the following **new** chapter in lieu thereof:

CHAPTER 45
MANUFACTURED HOUSING PROGRAM FUND

265—45.1(16) Purpose. Iowa Code section 16.45(1) states the purpose of these rules.

265—45.2(16) Definitions.

"Authority" means the Iowa finance authority.

"Borrower" means one or more individuals borrowing or seeking to borrow money for the purchase of a manufactured home sited on leased land.

"Financial institution" means a financial institution as defined in Iowa Code section 12C.1 that has been approved as a depository of public funds pursuant to Iowa Code section 12C.2.

"Fund" means the manufactured housing program fund created pursuant to Iowa Code section 16.45.

"Interlender loan" means the lending of funds by a financial institution to a lender, which funds are, in turn, to be loaned by the lender to a borrower to finance the purchase of a manufactured home sited on leased land.

"Lender" means a lender as defined in Iowa Code section 537.1301 that is licensed by the banking division of the department of insurance and financial services and that has not been approved as a depository of public funds pursuant to Iowa Code section 12C.2.

"Manufactured home" or *"manufactured housing"* means the same as defined in Iowa Code section 435.1.

"Mortgage loan" means a loan from a financial institution or lender to a borrower to finance the purchase of a manufactured home.

"Program" means the manufactured housing program.

"Revolving funds" means the funds created by Iowa Code sections 16.46 through 16.49.

265—45.3(16) Sources of funds.

45.3(1) *Authorized transfers.* Authorized transfers to the fund are made pursuant to Iowa Code section 16.45(2)*"a"* and 16.45(2)*"b."*

45.3(2) *Recapture and repayments—nonreversion.* Recapture of awards and other repayments to the fund are made pursuant to Iowa Code section 16.45(2)*"c."*

265—45.4(16) Program overview. The program is established as a means of facilitating affordable financing for the purchase of eligible manufactured homes to be sited on leased land located in the state of Iowa. By providing capital at a low interest rate in the form of linked deposits to financial institutions and lenders, the program is intended to enable financial institutions and lenders, in turn, to offer lower interest rate mortgage loans to borrowers or to enable financial institutions to offer interlender loans to lenders, the proceeds of which are, in turn, to be loaned to borrowers at low interest rates to finance the purchase of manufactured homes. The authority's role is strictly that of a depositor, not a lender, loan guarantor, or loan participant.

265—45.5(16) Eligible financing.

45.5(1) *Lender participation agreement.* Linked deposits are made pursuant to a lender participation agreement to be created by the authority. If the mortgage loan is to be made by a financial institution, the lender participation agreement is between the authority and the financial institution. If the mortgage loan is to be made by a lender, the lender participation agreement is between the authority, the lender, and a financial institution.

45.5(2) *Eligible loans.* To be eligible for a linked deposit under the program, a mortgage loan is to meet all of the following:

a. The mortgage loan is only for the purchase of a manufactured home as the borrower's primary residence; refinancing is not eligible for the program;

b. The manufactured home is sited on leased land located in the state of Iowa;

c. The term of the mortgage loan is not to exceed 30 years;

d. The mortgage loan is fully amortized;

e. The terms of the mortgage loan contain no prepayment penalties;

f. The interest rate payable on the mortgage loan is not to exceed 9 percent APR;

g. Fees charged by the financial institution or lender to cover its costs of originating the mortgage loan (closing fees, origination fees, etc.) are, in the aggregate, not to exceed 1 percent of the principal mortgage loan amount;

h. Closing agent or settlement fees paid to third-party closers, if any, shall not exceed $500;

i. Customary and reasonable closing costs are allowed; and

j. The financial institution or lender is to comply with all applicable fair lending laws and regulations.

265—45.6(16) Linked deposits. The process to create a linked deposit follows:

45.6(1) Once a financial institution or lender has received a completed loan application from a borrower, the financial institution or lender is to notify the authority via a linked deposit reservation request. The reservation request is on a form created and periodically updated by the authority. The form may be in a paper format or an online web-based format at the authority's discretion. The authority reviews and approves or denies requests. If the reservation request is approved, the authority will tentatively reserve an amount in or available to the fund for up to 60 days for a linked deposit for the mortgage loan that was the subject of the request. No reservation is made if the requested mortgage loan amount exceeds the amount(s) in and available to the fund. The reservation is terminated if the mortgage loan does not close within the 60-day period. If the reservation request is denied, the authority will notify the financial institution or lender that originated the mortgage loan and state the reason for denial.

45.6(2) The financial institution or lender that originated the mortgage loan is to review the borrower's mortgage loan application, applying ordinary manufactured housing lending underwriting criteria. If the loan application is approved by the financial institution or lender, the financial institution or lender submits a request to the authority for a linked deposit. The request shall be on a form created and periodically updated by the authority and which may be in a paper format or an online web-based format at the authority's discretion.

45.6(3) Upon receipt of a linked deposit request, the authority will review the information provided and determine whether the mortgage loan is eligible under the program's criteria. If necessary, the authority may request additional information. If the mortgage loan is determined eligible, the authority will, if necessary to make the linked deposit, transfer moneys from one or more of the revolving funds, at the authority's discretion, into the fund to ensure there is a sufficient amount available in the fund to make the linked deposit. The authority then deposits with the financial institution an amount equal to the principal amount of the mortgage loan via automated clearing house (ACH) money transfer. The linked deposit is not security for the mortgage loan or for the interlender loan, if any, nor is it a loan guarantee. The lender or financial institution making the mortgage loan bears all financial risk for the mortgage loan. The financial institution bears all financial risk for any interlender loan. If the mortgage loan is determined ineligible, the authority will notify the financial institution or lender that originated the mortgage loan and state the reason for denial.

45.6(4) The authority shall receive monthly bank statements for the linked deposit account.

45.6(5) The moneys in the linked deposit account remain in the account for the duration of the mortgage loan. Annually, as of June 30, the financial institution or lender that originated the mortgage loan is to notify the authority of the amount of principal that has been repaid on the mortgage loan during the previous 12 months. The authority will then withdraw from the linked deposit account an amount equal to the principal that was repaid on the mortgage loan during the previous year so that the amount of the linked deposit equals the outstanding principal balance of the mortgage loan.

45.6(6) If a financial institution has more than one mortgage loan in the program, the linked deposits for those mortgage loans may be maintained in a single account.

45.6(7) The linked deposit for a mortgage loan is withdrawn in full if the mortgage loan is paid off, if the manufactured home purchased with the mortgage loan proceeds is destroyed, or if the borrower defaults on the mortgage loan.

45.6(8) The linked deposit account shall bear interest at a rate of not less than 1 percent per annum.

265—45.7(16) Limits on linked deposits. In any state of Iowa fiscal year, the authority is not to deposit more than 50 percent of the moneys in or available to the fund with any one financial institution pursuant to the program; provided, however, that after the first six months of such fiscal year, the authority may make a linked deposit with any participating financial institution regardless of any amounts previously deposited with such financial institution.

265—45.8(16) Availability of moneys for linked deposits. The obligation of the authority to deposit funds into a linked deposit account is subject to the availability of moneys either in the fund or transferrable to the fund from the sources set forth in Iowa Code section 16.45 under the limitations set forth in that section.

These rules are intended to implement Iowa Code section 16.45.

ARC 9891C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to fur harvester licenses and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 15, "General License Regulations," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 483A.1.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 483A.1 and 2025 Iowa Acts, Senate File 253.

Purpose and Summary

Chapter 15 governs hunting, fishing, and trapping license sales, fees, and general administration and a framework for license revocation and suspension. One amendment is proposed to implement 2025 Iowa Acts, Senate File 253, which created a new lifetime fur harvester permit for disabled veterans.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 1, 2025. A public hearing was held on the following date(s):

- October 21, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 28, 2026. Comments should be directed to:

Chris Ensminger
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: chris.ensminger@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at chris.ensminger@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al chris.ensminger@dnr.iowa.gov.

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 28, 2026	6200 Park Avenue, Second Floor
1 to 2 p.m.	Des Moines, Iowa

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at chris.ensminger@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 712.260.1040 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al chris.ensminger@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 712.260.1040 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Reletter paragraphs **15.10(1)"aa"** to **15.10(1)"jj"** as **15.10(1)"bb"** to **15.10(1)"kk"**.

ITEM 2. Adopt the following **new** paragraph **15.10(1)"aa"**:

aa. Fur harvester license, lifetime, disabled veteran — $59.50.

ARC 9889C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to docks and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 16, "Docks and Other Structures on Public Waters," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 461A.4 and 462A.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 461A.4 and 461A.18 and 2025 Iowa Acts, House File 710.

Purpose and Summary

Chapter 16 regulates docks on water bodies open to the public for boating and other recreational activities. It includes a permitting system and rules that seek to balance the needs of dock owners with those of the general public and to reduce conflicts between neighboring dock owners. Among these rules are limitations on enclosing docks and hoists with sides and roofs as well as restrictions on what materials may be used for such purposes. 2025 Iowa Acts, House File 710, created a new Iowa Code section that allows for a person with a Class I or III dock permit to construct a roof over a slip or hoist, subject to a number of requirements including material requirements, size limits, limits on what structures may be enclosed, a prohibition on habitation, and an insurance requirement. These new provisions of the Iowa Code supersede existing Chapter 16 provisions. As such, this rulemaking is necessary in order to bring the relevant Chapter 16 provisions into harmony with the Iowa Code.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 1, 2025. A public hearing was held on the following date(s):

- October 21, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 3, 2026. Comments should be directed to:

Greg Harson
Iowa Department of Natural Resources
122 252nd Avenue
Spirit Lake, Iowa 51360
Fax: 712.336.0921
Email: gregory.harson@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at gregory.harson@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al gregory.harson@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 10 a.m.	Via videoconference
February 3, 2026 10 a.m.	Via videoconference

Persons who wish to attend a conference call should contact Greg Harson via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Greg Harson prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at gregory.harson@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 712.260.1040 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al gregory.harson@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 712.260.1040 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 16.3(7) as follows:

16.3(7) ~~*No enclosure*~~ *Enclosure of* ~~*private*~~ *docks.* ~~Private docks and docks in dock management areas shall not be enclosed by roofs or sides. Hoists may be enclosed by roofs and sides constructed of soft-sided natural fiber or synthetic fiber materials for the purpose of protecting watercraft.~~

a. Class I and Class III docks. Hoists may be enclosed by roofs and sides constructed of soft-sided natural fiber or synthetic fiber materials for the purpose of protecting watercraft, or by a roof constructed pursuant to Iowa Code section 462A.27B.

b. Class II, Class IV, and dock management area docks. Docks, hoists and slips shall not be enclosed unless authorized by the relevant dock or slip permit. Authorization may be restricted as needed

to minimize adverse visual impact on owners of other property and the public or to ensure public safety, navigation, and access as appropriate.

ITEM 2. Rescind subrule **16.7(5)**.

ITEM 3. Renumber subrule **16.7(6)** as **16.7(5)**.

ARC 9900C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to unprotected nongame and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 76, "Unprotected Nongame," Iowa Administrative Code, and to adopt a new Chapter 76 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 481A.38, 481A.39 and 481A.42.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 481A.38, 481A.39 and 481A.42.

Purpose and Summary

Chapter 76 lists the nongame species allowed to be killed without a permit. Under Iowa Code section 481A.38, it is unlawful for any person to take, pursue, kill, trap, or conduct other listed activities against nongame animals except upon terms, conditions, limitations, and restrictions set forth in the Iowa Code or by administrative rule. The Commission has authority under Iowa Code section 481A.42 to designate species of nongame that shall not be protected due to their abundance or habits.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 23, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 2, 2026. Comments should be directed to:

Chris Ensminger
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: chris.ensminger@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at chris.ensminger@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al chris.ensminger@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 28, 2026 1 to 2 p.m.	6200 Park Avenue, Second Floor Des Moines, Iowa
February 2, 2026 1 to 2 p.m.	6200 Park Avenue, Second Floor Des Moines, Iowa

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at chris.ensminger@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.250.6886 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al chris.ensminger@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.250.6886 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 76 and adopt the following **new** chapter in lieu thereof:

SEASONS, LIMITS, METHODS OF TAKE

TITLE VIII
CHAPTER 76
UNPROTECTED NONGAME

571—76.1(481A) Species. Certain species of nongame shall not be protected.

76.1(1) *Birds.* The European starling (*Sturnus vulgaris*) and the house sparrow (*Passer domesticus*) shall not be protected.

76.1(2) *Reptiles.*

a. Common garter snake (*Thamnophis sirtalis*).

b. Timber rattlesnake (*Crotalus horridus*) within 50 yards of houses actively occupied by humans.

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.42.

ARC 9910C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to endangered and threatened species and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 77, "Endangered and Threatened Plant and Animal Species," Iowa Administrative Code, and to adopt a new Chapter 77 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 481B.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 481B and Executive Order 10.

Purpose and Summary

Chapter 77 implements Iowa Code chapter 481B. The chapter identifies plant and animal species that are protected due to being endangered or threatened in Iowa and provides for limited, regulated exceptions to those provisions.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

Kelly Poole
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.782.0358
Email: kelly.poole@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at kelly.poole@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al kelly.poole@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 10 to 11 a.m.	Via videoconference
February 4, 2026 3 to 4 p.m.	Via videoconference

Persons who wish to attend a conference call should contact Kelly Poole via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Kelly Poole prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at kelly.poole@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.326.0430 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelly.poole@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.326.0430 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 77 and adopt the following **new** chapter in lieu thereof:

CHAPTER 77
ENDANGERED AND THREATENED PLANT AND ANIMAL SPECIES

571—77.1(481B) Definitions. As used in this rule:

"Endangered species" means any species of fish, plant life, or wildlife that is in danger of extinction throughout all or a significant part of its range.

"Threatened species" means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

571—77.2(481B) Endangered and threatened animals. The natural resource commission, in consultation with scientists with specialized knowledge and experience, has determined the following animal species to be endangered or threatened in Iowa:

77.2(1) Endangered animal species:

Common Name	Scientific Name
Mammals	
Southern Bog Lemming	*Synaptomys cooperi*
Plains Spotted Skunk	*Spilogale interrupta*
Northern Myotis	*Myotis septentrionalis*
Indiana Myotis	*Myotis sodalis*
Birds	
Piping Plover	*Charadrius melodus*
Fish	
Lake Sturgeon	*Acipenser fulvescens*
Pallid Sturgeon	*Scaphirhynchus albus*
Western Silvery Minnow	*Hybognathus argyritis*
Sturgeon Chub	*Macrhybopsis gelida*
Sicklefin Chub	*Macrhybopsis meeki*
Northern Pearl Dace	*Margariscus nachtriebi*
Pugnose Shiner	*Miniellus anogenus*
Ghost Shiner	*Paranotropis buchanani*
Blacknose Shiner	*Notropis heterolepis*
Starhead Topminnow	*Fundulus dispar*
Plains Topminnow	*Fundulus sciadicus*
Crystal Darter	*Crystallaria asprella*
Bluntnose Darter	*Etheostoma chlorosoma*
Least Darter	*Etheostoma microperca*
Reptiles	
Wood Turtle	*Glyptemis insculpta*
Yellow Mud Turtle	*Kinosternon flavescens*
Great Plains Skink	*Plestiodon obsoletus*
Western Hog-nosed Snake	*Heterodon nasicus*
Eastern Copperhead	*Agkistrodon contortrix*
Prairie Rattlesnake	*Crotalus viridis*
Eastern Massasauga	*Sistrurus catenatus*
Western Massasauga	*Sistrurus tergeminus*
Amphibians	
Blue-spotted Salamander	*Ambystoma laterale*
Bumble Bees	
Rusty Patched Bumble Bee	*Bombus affinis*
Butterflies	

Arogos Skipper	*Atrytone arogos*
Dusted Skipper	*Atrytonopsis hianna*
Mottled Duskywing	*Gesta martialis*
Ottoe Skipper	*Hesperia ottoe*
Dakota Skipper	*Hesperia dacotae*
Poweshiek Skipperling	*Oarisma poweshiek*
Mulberry Wing	*Poanes massasoit*
Damselflies and Dragonflies	
Prairie Bluet	*Coenagrion angulatum*
Land Snails	
Iowa Pleistocene Snail	*Discus macclintocki*
Bluff Vertigo	*Vertigo meramecensis*
Fresh Water Mussels	
Spectaclecase	*Cumberlandia monodonta*
Purple Wartyback	*Cyclonaias tuberculata*
Spike	*Elliptio dilatata*
Sheepnose	*Plethobasus cyphyus*
Round Pigtoe	*Pleurobema sintoxia*
Slippershell	*Alasmidonta viridis*
Salamander Mussel	*Simpsonaias ambigua*

77.2(2) Threatened animal species:

Common Name	**Scientific Name**
Mammals	
Plains Pocket Mouse	*Perognathus flavescens*
Plains Pocket Gopher	*Geomys bursarius*
White-tailed Jackrabbit	*Lepus townsendii*
North American Least Shrew	*Cryptotis parvus*
Little Brown Myotis	*Myotis lucifugus*
Tricolored Bat	*Perimyotis subflavus*
Birds	
Chuck’s-will’s-widow	*Antrostomus carolinensis*
Black Tern	*Chlidonias niger*
Least Tern	*Sternula antillarum*
Forster’s Tern	*Sterna forsteri*
King Rail	*Rallus elegans*
Short-eared Owl	*Asio flammeus*
Long-eared Owl	*Asio otus*
Fish	
American Eel	*Anguilla rostrata*
Pirate Perch	*Aphredoderus sayanus*
Skipjack Herring	*Alosa chrysochloris*
Mottled Sculpin	*Cottus bairdii*
Redfin Shiner	*Lythrurus umbratilis*

Topeka Shiner	*Miniellus topeka*
Pugnose Minnow	*Opsopoeodus emiliae*
Grass Pickerel	*Esox americanus*
Banded Killifish	*Fundulus diaphanus*
Freckled Madtom	*Noturus nocturnus*
Weed Shiner	*Miniellus texanus*
Burbot	*Lota lota*
Western Sand Darter	*Ammocrypta clara*
Trout-perch	*Percopsis omiscomaycus*
Chestnut Lamprey	*Ichthyomyzon castaneus*
Reptiles	
Blanding's Turtle	*Emydoidea blandingii*
Ornate Box Turtle	*Terrapene ornata*
Eastern Musk Turtle	*Sternotherus odoratus*
Slender Glass Lizard	*Ophisaurus attenuatus*
Gophersnake	*Pituophis catenifer*
Plain-bellied Watersnake	*Nerodia erythrogaster*
Diamond-backed Watersnake	*Nerodia rhombifer*
Graham's Crayfish Snake	*Regina grahami*
Speckled Kingsnake	*Lampropeltis holbrooki*
Western Wormsnake	*Carphophis vermis*
Amphibians	
Mudpuppy	*Necturus maculosus*
Eastern Newt	*Notophthalmus viridescens*
Butterflies	
Two-spotted Skipper	*Euphyes bimacula*
Leonard's Skipper	*Hesperia leonardus*
Crossline Skipper	*Limochores origenes*
Regal Fritillary	*Argynnis idalia*
Baltimore Checkerspot	*Euphydryas phaeton*
Olympia Marble	*Euchloe olympia*
Damselflies and Dragonflies	
Taiga Bluet	*Coenagrion resolutum*
Plains Emerald	*Somatochlora ensigera*
Sioux Snaketail	*Ophiogomphus smithi*
Westfall's Snaketail	*Ophiogomphus westfalli*
Land Snails	
Midwest Pleistocene Vertigo	*Vertigo arthuri*
Fresh Water Mussels	
Monkeyface	*Theliderma metanevra*
Pistolgrip	*Tritogonia verrucosa*
Higgin's-eye Pearly Mussel	*Lampsilis higginsi*
Yellow Sandshell	*Lampsilis teres*

Mucket	*Ortmanniana ligamentina*
Ellipse	*Venustaconcha ellipsiformis*

571—77.3(481B) Endangered and threatened plants. The natural resource commission, in consultation with scientists with special knowledge and experience, determined the following plant species to be endangered or threatened in Iowa.

77.3(1) Endangered plant species:

Common Name	**Scientific Name**
Pale false foxglove	*Agalinis skinneriana*
Roundleaf serviceberry	*Amelanchier sanguinea*
Raccoon grape	*Ampelopsis cordata*
Pearly everlasting	*Anaphalis margaritacea*
Sand bluestem	*Andropogon hallii*
Round-lobed hepatica	*Anemone americana*
Carolina anemone	*Anemone caroliniana*
Bearberry	*Arctostaphylos uva-ursi*
Virginia snakeroot	*Aristolochia serpentaria*
Black chokeberry	*Aronia melanocarpa*
Fringed sagewort	*Artemisia frigida*
Mead's milkweed	*Asclepias meadii*
Showy milkweed	*Asclepias speciosa*
Green antelopehorn	*Asclepias viridis*
Wall-rue	*Asplenium ruta-muraria*
Field milkvetch	*Astragalus agrestis*
Prairie milkvetch	*Astragalus laxmannii*
Fern-leaved false foxglove	*Aureolaria pedicularia*
Water marigold	*Bidens beckii*
Matricary grape fern	*Botrychium matricariifolium*
Little grapefern	*Botrychium simplex*
Swamp moonwort	*Botrychium tenebrosum*
White-tinged sedge	*Carex albicans*
Back's sedge	*Carex backii*
Cordroot sedge	*Carex chordorrhiza*
Fringed sedge	*Carex crinita*
Raven's-foot sedge	*Carex crus-corvi*
Star sedge	*Carex echinata*
Shoreline sedge	*Carex hyalenolepis*
Hoplike sedge	*Carex lupuliformis*
Intermediate sedge	*Carex media*
Plantain-leaved sedge	*Carex plantaginea*
Drooping sedge	*Carex prasina*
Cyperus-like sedge	*Carex pseudocyperus*
Reflexed sedge	*Carex retroflexa*
Rocky Mountain sedge	*Carex saximontana*
Fireweed	*Chamaenerion angustifolium*
Pipsissewa	*Chimaphila umbellata*

Drooping woodreed	*Cinna latifolia*
Purple clematis	*Clematis occidentalis*
Blue-eyed mary	*Collinsia verna*
Spotted coralroot	*Corallorhiza maculata*
Golden corydalis	*Corydalis aurea*
Large-bracted corydalis	*Corydalis curvisiliqua*
Pale corydalis	*Corydalis flavula*
Pink corydalis	*Corydalis sempervirens*
Silky prairie-clover	*Dalea villosa*
Tree clubmoss	*Dendrolycopodium dendroideum*
Sessile-leaved tick trefoil	*Desmodium sessilifolium*
Roundleaved sundew	*Drosera rotundifolia*
Marginal shield fern	*Dryopteris marginalis*
Purple coneflower	*Echinacea purpurea*
Elliptic spikerush	*Eleocharis elliptica*
Few-flowered spikerush	*Eleocharis quinqueflora*
Wolf's spikerush	*Eleocharis wolfii*
Wiegand's wildrye	*Elymus wiegandii*
Downy willowherb	*Epilobium strictum*
Slender cottongrass	*Eriophorum gracile*
Tawny cottongrass	*Eriophorum virginicum*
Wood spurge	*Euphorbia commutata*
Forked aster	*Eurybia furcata*
Large-leaved aster	*Eurybia macrophylla*
Schreber's aster	*Eurybia schreberi*
Queen of the prairie	*Filipendula rubra*
False mermaid	*Floerkea proserpinacoides*
Rough bedstraw	*Galium asprellum*
Black Huckleberry	*Gaylussacia baccata*
Hairy goldenaster	*Heterotheca villosa*
Povertygrass	*Hudsonia tomentosa*
Rock clubmoss	*Huperzia porophila*
Canadian St. Johnswort	*Hypericum canadense*
Pineweed	*Hypericum gentianoides*
Flax-leaved aster	*Ionactis linariifolia*
White morning-glory	*Ipomoea lacunosa*
Black-based quillwort	*Isoetes melanopoda*
Alpine rush	*Juncus alpinoarticulatus*
Edged rush	*Juncus marginatus*
Vasey's rush	*Juncus vaseyi*
Creeping juniper	*Juniperus horizontalis*
Intermediate pinweed	*Lechea intermedia*
Hairy pinweed	*Lechea mucronata*
Wild lupine	*Lupinus perennis*
Bog clubmoss	*Lycopodiella inundata*
Hairy waterclover	*Marsilea vestita*

Millet grass	*Milium effusum*
Sensitive briar	*Mimosa nuttallii*
Partridge berry	*Mitchella repens*
Naked miterwort	*Mitella nuda*
Mat muhly	*Muhlenbergia richardsonis*
Small sundrops	*Oenothera perennis*
Fragile prickly-pear	*Opuntia fragilis*
Frenchgrass	*Orbexilum onobrychis*
Clustered broomrape	*Orobanche fasciculata*
One-sided shinleaf	*Orthilia secunda*
Rough-leaved ricegrass	*Oryzopsis asperifolia*
Cinnamon fern	*Osmundastrum cinnamomeum*
Philadelphia panic grass	*Panicum philadelphicum*
Arrow arum	*Peltandra virginica*
Cobaea beardtongue	*Penstemon cobaea*
Slender beardtongue	*Penstemon gracilis*
Tube beardtongue	*Penstemon tubaeflorus*
Wild dill	*Perideridia americana*
Long beechfern	*Phegopteris connectilis*
Fameflower	*Phemeranthus parviflorus*
Rough-seeded fameflower	*Phemeranthus rugospermus*
Mountain ricegrass	*Piptatherum pungens*
Wood orchid	*Platanthera clavellata*
Hooker’s orchid	*Platanthera hookeri*
Green fringed orchid	*Platanthera lacera*
Eastern prairie fringed orchid	*Platanthera leucophaea*
Woodland Bluegrass	*Poa saltuensis*
Clammyweed	*Polansia jamesii*
Crossleaf milkwort	*Polygala cruciata*
Pink milkwort	*Polygala incarnata*
Purple milkwort	*Polygala polygama*
Hairy Solomon’s-seal	*Polygonatum pubescens*
Jointweed	*Polygonella articulata*
White-stemmed pondweed	*Potamogeton praelongus*
Silverweed	*Potentilla anserina*
Pennsylvania cinquefoil	*Potentilla pensylvanica*
Stem flower dewberry	*Rubus caulifloris*
Washington dewberry	*Rubus celer*
Swamp dewberry	*Rubus hispidus*
Recurved blackberry	*Rubus recurvans*
New England blackberry	*Rubus semisetosus*
Bottomland dewberry	*Rubus serratus*
Uniform bristleberry	*Rubus uniformis*
Shining willow	*Salix lucida*
Smith’s bulrush	*Schoenoplectiella smithii*
Downy skullcap	*Scutellaria incana*

Veined skullcap	*Scutellaria nervosa*
Wild stonecrop	*Sedum ternatum*
Meadow spikemoss	*Selaginella eclipes*
Knotweed bristlegrass	*Setaria parviflora*
Annual skeletonweed	*Shinneroseris rostata*
Three-toothed cinquefoil	*Sibbaldiopsis tridentata*
Needle-pointed blue-eyed grass	*Sisyrinchium mucronatum*
Rough-leaved goldenrod	*Solidago patula*
Bog goldenrod	*Solidago uliginosa*
Yellow-lipped ladies-tresses	*Spiranthes lucida*
Hooded ladies-tresses	*Spiranthes romanzoffiana*
Little ladies-tresses	*Spiranthes tuberosa*
Spring ladies-tresses	*Spiranthes vernalis*
Rough-leaved hedge-nettle	*Stachys aspera*
Pickering morning-glory	*Stylisma pickeringii*
Snowberry	*Symphoricarpos albus*
Waxy meadowrue	*Thalictrum amphibolum*
Western spiderwort	*Tradescantia occidentalis*
Small bladderwort	*Utricularia minor*
Sessile-leaf bellwort	*Uvularia sessilifolia*
Low sweet blueberry	*Vaccinium angustifolium*
Velvetleaf blueberry	*Vaccinium myrtilloides*
American brookline	*Veronica americana*
Maple-leaved arrowwood	*Viburnum acerifolium*
Spurred violet	*Viola adunca*
Large-leaved violet	*Viola blanda*
Frost grape	*Vitis vulpina*
Rusty woodsia	*Woodsia ilvensis*
Oregon woodsia	*Woodsia oregana*

77.3(2) Threatened plant species:

Common Name	**Scientific Name**
Slender three-seeded mercury	*Acalypha gracilens*
Northern wild monkshood	*Aconitum noveboracense*
Round-stemmed false foxglove	*Agalinis gattingeri*
Inland serviceberry	*Amelanchier interior*
Fragrant false indigo	*Amorpha nana*
Woolly milkweed	*Asclepias lanuginosa*
Oval-leaved milkweed	*Asclepias ovalifolia*
Narrow-leaved milkweed	*Asclepias stenophylla*
Pawpaw	*Asimina triloba*
Water parsnip	*Berula erecta*
Watershield	*Brasenia schreberi*
Poppy mallow	*Callirhoe triangulata*
Water-starwort	*Callitriche heterophylla*
Low bindweed	*Calystegia spithamaea*

Assiniboine sedge	*Carex assininboinensis*
Carey's sedge	*Carex careyana*
Fibrous-root sedge	*Carex communis*
Spreading sedge	*Carex laxiculmis*
Delicate sedge	*Carex leptalea*
Yellow sedge	*Carex lurida*
Sterile sedge	*Carex sterilis*
Quill sedge	*Carex tenera*
Shaved sedge	*Carex tonsa*
Wood's sedge	*Carex woodii*
Pink turtlehead	*Chelone obliqua*
Marsh cinquefoil	*Comarum palustre*
Dayflower	*Commelina erecta*
Bunchberry	*Cornus canadensis*
Fireberry hawthorn	*Crataegus chrysocarpa*
Waxy-fruited hawthorn	*Crataegus pruinosa*
Showy lady's slipper	*Cypripedium reginae*
Shrubby cinquefoil	*Dasiphora fruticosa*
Silvery spleenwort	*Deparia acrostichoides*
Northern panic-grass	*Dichanthelium boreale*
Slim-leaved panic-grass	*Dichanthelium linearifolium*
Narrow-leaved spleenwort	*Diplazium pynocarpon*
Glandular wood fern	*Dryopteris intermedia*
Oval spikerush	*Eleocharis ovata*
Woodland horsetail	*Equisetum sylvaticum*
Yellow trout lily	*Erythronium americanum*
Upland boneset	*Eupatorium sessilifolium*
Slender fimbry	*Fimbristylis autumnalis*
Blue ash	*Fraxinus quadrangulata*
Bog bedstraw	*Galium labradoricum*
Oak fern	*Gymnocarpium dryopteris*
Needle-and-thread grass	*Hesperostipa comata*
Green violet	*Hybanthus concolor*
Winterberry	*Ilex verticillata*
Twinleaf	*Jeffersonia diphylla*
Green rush	*Juncus greenii*
Dwarf dandelion	*Krigia virginica*
Prairie bush clover	*Lespedeza leptostachya*
Cleft conobea	*Leucospora multifida*
Twinflower	*Linnaea borealis*
Whiskbroom parsley	*Lomatium foeniculaceum*
Western parsley	*Lomatium orientale*
Running clubmoss	*Lycopodium clavatum*
Bunchflower	*Melanthium virginicum*
Ten-petaled blazingstar	*Mentzelia decapetala*
Bog buckbean	*Menyanthes trifoliata*

Northern lungwort	*Mertensia paniculata*
Rock sandwort	*Minuartia michauxii*
Pinesap	*Monotropa hypopithys*
Southern adder's-tongue	*Ophioglossum vulgatum*
Royal fern	*Osmunda regalis*
Purple cliffbrake	*Pellaea atropurpurea*
White beardtongue	*Penstemon albidus*
Broad beech fern	*Phegopteris hexagonoptera*
Northern bog orchid	*Platanthera aquilonis*
Western prairie fringed orchid	*Platanthera praeclara*
Purple fringed orchid	*Platanthera psycodes*
Bog bluegrass	*Poa paludigena*
Nodding rattlesnake-root	*Prenanthes crepidinea*
Canada plum	*Prunus nigra*
Sand cherry	*Prunus pumila*
Pink shinleaf	*Pyrola asarifolia*
Meadow beauty	*Rhexia virginica*
Northern currant	*Ribes hudsonianum*
Wood's rose	*Rosa woodsii*
Garden dewberry	*Rubus aboriginum*
Short-stalked dewberry	*Rubus curtipes*
Southern dewberry	*Rubus enslenii*
Iron River dewberry	*Rubus ferrofluvius*
Common dewberry	*Rubus flagellaris*
Fuller's bristly dewberry	*Rubus fulleri*
Downy dewberry	*Rubus satis*
Widgeon grass	*Ruppia cirrhosa*
Bog willow	*Salix pedicellaris*
Leathery grapefern	*Sceptridium multifidum*
Low nutrush	*Scleria verticillata*
Buffaloberry	*Sheperdia argentea*
Scarlet globemallow	*Sphaeralcea coccinea*
Rush aster	*Symphyotrichum boreale*
Large arrowgrass	*Triglochin maritima*
Small arrowgrass	*Triglochin palustris*
Black arrowwood	*Viburnum molle*
Lance-leaved violet	*Viola lanceolata*
Macloskey's violet	*Viola macloskeyi*
Kidney-leaved violet	*Viola renifolia*
Summer grape	*Vitis aestivalis*
Yellow-eyed grass	*Xyris torta*

571—77.4(481B) Exemptions. Notwithstanding the foregoing list and the prohibitions in Iowa Code chapter 481B, a person may import, export, possess, transport, purchase, barter, buy, sell, offer to sell, hold for processing or process a species of animal or plant that is listed as endangered or threatened on the state list or as listed in the Code of Federal Regulations, Title 50, part 17 as amended to December 30, 1991, according to the following rules:

77.4(1) Trophies lawfully taken by persons licensed to hunt or fish (not including trapping or commercial harvest licenses) in another state, country or territory may be brought into this state and possessed, held for processing and processed but may not be sold or offered for sale.

77.4(2) Furs or skins of wildlife species appearing on the state list of endangered and threatened species that were lawfully taken or purchased in another state, country or territory may be imported, exported, purchased, possessed, bartered, offered for sale, sold, held for processing, or processed in this state if they are tagged or permanently marked by the state, country, or territory of origin.

77.4(3) Species of live animals appearing on the state list of endangered and threatened species may be imported, exported, possessed, purchased, bartered, offered for sale, or sold under the terms of a scientific collecting permit or educational project permit issued pursuant to Iowa Code section 481A.6 and administrative rules adopted by the department.

77.4(4) Plants, seeds, roots, and other parts of plants that appear on the state list of endangered and threatened plants that were lawfully taken or purchased in another state, country or territory may be imported, exported, purchased, possessed, offered for sale or sold in this state.

77.4(5) A part or product of a species of fish or wildlife appearing on the state list of endangered or threatened species that enters the state from another state or from a point outside the territorial limits of the United States may enter, be transported, exported, possessed, sold, offered for sale, held for processing or processed in accordance with the terms of a permit issued by the agency of jurisdiction in the state of origin or, if entering from outside the United States, a federal permit issued by the United States government. If proper documentation is available, a person may buy or offer to buy a part or product of a species of fish or wildlife appearing on the state or federal lists as long as it is imported from a legal source outside this state and proper documentation is provided.

77.4(6) If a person possesses a species of fish or wildlife or a part, product or offspring of such a species, proper documentation such as receipt of purchase and the permit from the state of origin or the U.S. government must be presented upon request of any conservation officer. Failure to produce such documentation is a violation of this chapter and will constitute grounds for forfeiture to the Iowa DNR.

77.4(7) A species of plant, fish or wildlife appearing on the state list of endangered and threatened species may be collected, held, salvaged and possessed under the terms of a scientific collecting permit issued pursuant to Iowa Code section 481A.6 and administrative rules adopted by the department.

77.4(8) Drainage district repairs and improvements to existing open ditch facilities are excluded from the department's protection efforts for the Topeka shiner. This includes facilities of levee and drainage districts established and maintained under Iowa Code chapter 468. This exclusion does not apply to new channelization, deepening, or leveeing of existing streams and rivers with permanent flow or existing streams with off-channel water areas capable of supporting fish.

77.4(9) The department may enter into an agreement with a private landowner for habitat improvements that benefit endangered and threatened species while limiting the potential impacts to the landowner arising when a covered species becomes more numerous due to the voluntary improvements to the habitat. If any covered species becomes more numerous as a result of the landowner's voluntary actions, a private landowner who commits to implement voluntary conservation measures for a listed species will not be required to implement additional measures, and additional land, water, or resource use restrictions will not be imposed.

a. The department will provide participating landowners with technical assistance to develop landowner habitat improvement agreements. Each agreement shall include the following:

(1) Landowner's name.

(2) Legal description of the property covered by the agreement.

(3) Length of agreement period.

(4) Species covered by the agreement.

(5) Baseline conditions: the estimated number of listed species and the size and condition of habitat for each species covered.

(6) Conservation measures to be implemented and implementation schedule.

(7) Financial commitment of the department and the landowner.

(8) Measures to determine if the agreement has been fulfilled.

(9) Any property use restrictions.

(10) Terms for the termination of the agreement prior to its scheduled expiration.

b. The landowner, through normal lawful activities, may return the property to the baseline or a mutually agreed-upon condition above the baseline at any time after expiration of the landowner habitat improvement agreement.

These rules are intended to implement Iowa Code chapter 481B.

ARC 9909C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to ginseng harvesting and sale and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 78, "Ginseng Harvesting and Sale," Iowa Administrative Code, and to adopt a new Chapter 78 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 456A.24.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 456A.24; Executive Order 10; and 50 CFR Parts 13 and 23.

Purpose and Summary

Proposed Chapter 78 contains rules related to ginseng propagation and harvest and the sale of the root. These rules are necessary to allow and maintain the lawful take of American Ginseng in the State. Pursuant to Iowa Code section 456A.24(11), the Department is charged with establishing rules to govern its ginseng program in a manner that is compliant with federal law. This is because American Ginseng is a federally regulated species subject to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

This chapter has been reviewed and edited consistent with Executive Order 10. In an attempt to reduce and simplify regulatory burdens, the new chapter defines, clarifies, and minimizes the redundancies found in the previous version.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 23, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

Karmin Klingenberg
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.326.0430
Email: karmin.klingenberg@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at karmin.klingenberg@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al karmin.klingenberg@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 28, 2026 3 to 4 p.m.	6200 Park Avenue, Suite 200 Des Moines, Iowa And via videoconference
February 4, 2026 1 to 2 p.m.	6200 Park Avenue, Suite 200 Des Moines, Iowa And via videoconference

Persons who wish to attend a conference call should contact Karmin Klingenberg via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Karmin Klingenberg prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at karmin.klingenberg@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.326.0430 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al karmin.klingenberg@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.326.0430 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 78 and adopt the following **new** chapter in lieu thereof:

CHAPTER 78
GINSENG HARVESTING AND SALE

571—78.1(456A) Definitions. All words and phrases used in these rules shall have their ordinary and customary meaning, except that the following words and phrases shall be defined as follows:

"Controlled conditions" means an environment that is manipulated by human intervention for the purpose of plant production. Characteristics of controlled conditions include but are not limited to tillage, fertilization, weed and pest control, irrigation, or artificial shade or light or nursery operations such as potting, bedding, or protection from weather.

"Cultivated or artificially propagated ginseng" means ginseng that is nurtured, propagated or maintained under controlled conditions from a seed, cutting, division, callus tissue, root, rhizome, other plant tissue, spore, or other propagule that has been derived from cultivated parental stock.

"Cultivated parental stock" means plants grown under controlled conditions that are used for reproduction and must be maintained in sufficient quantities for propagation.

"Cutting" or *"division"* means a plant grown from the root, rhizome, stem, or leaf of another plant and is considered to be artificially propagated if the specimen comes from cultivated parental stock.

"Dealer" means any person who deals in ginseng, which includes without limitation buying, selling, purchasing, holding, brokering, billing for, bartering, trading or otherwise receiving payment for wild or cultivated ginseng in Iowa for the purpose of selling or otherwise transacting wild or cultivated ginseng. "Dealer" includes any person, including without limitation a harvester, who sells ginseng to any person other than a dealer licensed pursuant to these rules or lawfully licensed in another state.

"Dealer's permit" means a permit issued to a dealer by the department under these rules.

"Department" means the Iowa department of natural resources.

"Director" means the director of the Iowa department of natural resources or a designee.

"Ginseng" means all parts of the American Ginseng (*Panax quinquefolius*) plant, including without limitation roots, rhizomes, leaves and seeds, which may be cultivated or wild. "Ginseng," for purposes of these rules, does not mean those parts of the American Ginseng plant that have been processed.

"Green ginseng" means a root of ginseng from which the moisture has not been removed by drying. For the purposes of these rules, the amount of dried ginseng rhizome that can be derived from green ginseng rhizome shall be calculated using a ratio of three and three-tenths to one (3.3:1) by weight.

"Grower" means a person who grows cultivated ginseng for the purpose of selling the ginseng.

"Grower's permit" means a permit issued under these rules to a grower.

"Harvester" means any person who harvests, possesses, transports, cuts, gathers, destroys, digs or uproots wild ginseng for the purpose of selling the ginseng or for personal use.

"Harvester's permit" means a permit issued under these rules to a harvester.

"Nonresident" means a person other than a resident as defined by Iowa Code section 483A.1A.

"Permits" means dealer's permits, grower's permits and harvester's permits issued under these rules.

"Resident" means a resident as defined by Iowa Code section 483A.1A.

"Root" means the ginseng rhizome and its roots.

"True leaves" or *"prongs"* means compound leaves that include five leaflets consisting of three large leaflets and two small leaflets.

"Wild ginseng" means an unprocessed plant, dry or green root, rhizome, seed or other part of ginseng, which is growing in or has been collected from its native habitat, including wild ginseng plants that have arisen from a wild seed that is planted in the wild or that have been transplanted into native habitat. Wild ginseng is ginseng that has not been grown or nurtured by a person beyond planting of seeds or plant.

"Wild simulated" ginseng means an unprocessed plant, dry or green root, rhizome, seed or other part of ginseng that is propagated, planted or collected in an environment with some level of human intervention for the purpose of plant production. All "wild ginseng" rules shall apply to this classification.

571—78.2(456A) Season for legal harvest. The season for legally harvesting ginseng is September 1 through October 31.

571—78.3(456A) General prohibitions.

78.3(1) *Harvest.* From November 1 through the following August 31, no person shall harvest, dig, cut, uproot, gather, intentionally disturb, or destroy ginseng, whether the ginseng is wild, wild simulated, or cultivated ginseng. This prohibition shall not apply to the transplantation or intentional disturbance of cultivated ginseng when such activities are incidental to the cultivation and growing of cultivated ginseng in a nursery business.

78.3(2) *Sale.* A person, other than a dealer licensed pursuant to these rules, shall not sell ginseng from March 16 through August 31.

78.3(3) *Sale and possession of green ginseng.* A person shall not possess or transact business in green ginseng from November 21 through August 31 unless otherwise provided for by these rules.

78.3(4) *State-owned and state-managed lands.* In an effort to conserve and protect native stands of wild ginseng, the introduction of nonnative ginseng stock on state-owned or state-managed lands under the jurisdiction of the commission is prohibited, except in narrow circumstances as described in these rules. As such, a person shall not, at any time, possess, harvest, dig, cut, uproot, gather, plant, propagate, intentionally disturb or destroy ginseng or ginseng seed on state-owned or state-managed lands under the jurisdiction of the commission. Nothing in this chapter shall prohibit the department from taking measures on state-owned or state-managed lands under the jurisdiction of the commission to conserve and protect native wild ginseng, which may include without limitation planting and possessing seeds, or from carrying out other land management practices in areas where ginseng may be present.

571—78.4(456A) Ginseng permits. The department shall issue a dealer's permit upon receipt of a signed and complete application. An application shall be submitted on the form provided by the department, and payment of the appropriate fee shall be included with the application. Grower's and harvester's permits are available for sale through the department's electronic licensing system. The department shall not issue a permit if the department determines that the permit will be detrimental to the survival of ginseng or will otherwise be in contravention of the laws of this state or applicable federal laws. A person shall not carry, possess or use any other person's permit issued pursuant to these rules, except as specifically provided by these rules.

78.4(1) *Duplicate permits.* A duplicate grower's permit, harvester's permit or dealer's permit may be issued upon application to the department and the payment of a $4.50 fee plus any charges associated with the department's electronic licensing system.

78.4(2) *Grower's permits.*

a. A person must obtain a permit from the department to legally grow cultivated ginseng and make the permit available upon request by any peace officer. There is no fee for the permit, except for the charge associated with the department's electronic licensing system.

b. A grower's permit shall be valid for five years from the date of issuance.

78.4(3) *Harvester's permits.*

a. Any person who harvests wild ginseng must have a valid harvester's permit issued by the department and shall produce such permit upon request to any peace officer or the owner or person in lawful control of the land upon which the permittee may be harvesting wild ginseng while the person is engaged in harvesting activities, including the person's moving to or from the harvest site, transporting ginseng and selling of the harvested ginseng.

b. A harvester's permit may be obtained through the department's electronic licensing system for a fee of $35 for residents and $65 for nonresidents plus any charges associated with the department's electronic licensing system.

c. A harvester's permit shall be valid from September 1 through March 15 of the following year.

d. A harvester who has a valid harvester's permit may sell wild ginseng from September 1 through March 15 of the following year.

e. A harvester with a valid harvester's permit may retain no more than four ounces of dry wild ginseng for personal consumption for one year beyond the expiration date of the permit. All wild or wild simulated ginseng possessed pursuant to this paragraph shall be for the harvester's personal use only and cannot be lawfully sold.

f. No person may sell, barter or otherwise offer for sale any ginseng that has been unlawfully collected, obtained or possessed in violation of this chapter, the Iowa Code, or the Code of Federal Regulations.

78.4(4) *Dealer's permits.*

a. A dealer in Iowa must have a valid dealer's permit issued by the department and make the permit available upon request by any peace officer. A dealer's paid employees and family members who work at a dealer's primary place of business as identified on the dealer's permit may operate legally under the dealer's permit. For purposes of this subrule, family members include a dealer's spouse, domestic partner, parents, siblings, and children.

b. In order to be considered, an application for a dealer's permit shall be made on the form provided by the department, be complete, and be executed by the person seeking the dealer's permit.

c. Dealer's permits shall be issued that authorize a person to deal in any amount of ginseng in a license year. The permit application shall be accompanied by a $250 permit fee for Iowa residents and a $500 permit fee for nonresidents plus any charges associated with the department's electronic licensing system.

d. A dealer's permit shall be valid for a license year, from April 1 until March 31 of the following year.

e. A dealer's permit must be shown to the department when the department is certifying ginseng and must be shown to harvesters or other dealers when the dealer is buying ginseng.

571—78.5(456A) Dealers—prohibitions. A dealer shall not buy, deal, purchase, sell, or otherwise transact business of ginseng, its seeds, or its parts:

1. If the dealer knows or should have known that the ginseng was harvested illegally.
2. Without inspecting the permit of the harvester or dealer.
3. If the dealer knows or should have known that the harvester or dealer has violated this chapter.

571—78.6(456A) Dealers—recordkeeping.

78.6(1) *Contents of records.* Each permitted ginseng dealer shall keep individual, accurate, legible and complete records of each ginseng transaction. The records shall be on forms prescribed by the department and completed in their entirety by the ginseng dealer or a representative of the department. The department will provide a reasonable number of these forms at no cost to the dealer. The dealer's record of each ginseng transaction shall include:

a. The date of transaction;

b. The name and address of the buyer or seller, whichever is applicable for the transaction;

c. The harvester's permit number or dealer's permit number if a dealer is buying ginseng in the transaction;

d. A description of the ginseng transacted, including the actual weight of the ginseng transacted and whether the ginseng is dried or green. If the ginseng is green ginseng, the weight shall also be converted to the dried weight of ginseng according to the ratio in 571—78.3(456A);

e. The name of the county or counties where the ginseng was harvested if the ginseng is purchased from a harvester;

f. A copy of the ginseng's certificate of origin, signed by the seller, if applicable;

g. The year of harvest for the ginseng bought or sold; and

h. Any additional information as requested by the department and included on the department's form.

78.6(2) *Monthly reporting.* Each dealer shall submit to the department copies of all records required by 78.7(1) on a monthly basis, no later than the fifteenth day of each month.

78.6(3) *Carryover report.* The dealer must complete an inventory of any roots remaining in the dealer's possession in Iowa as of April 1, including the roots' certified weight and designation as either wild, wild simulated, or cultivated ginseng, or a statement that the dealer has no roots remaining in the dealer's possession. Any certification regarding a root's weight as required by this subrule shall be completed through the department's agent upon appointment. Any roots carried over from one license year to the next shall be documented on the following license year's reports.

571—78.7(456A) Dealer locations.

78.7(1) *Transact business.* Ginseng dealers shall transact business only at the location specified on the dealer's permit or at the place of business specified on the permit of any other dealer who holds a dealer's permit in Iowa and is involved in the transaction.

78.7(2) *Location permits.*

a. A dealer who wishes to transact business at a location other than the locations provided for in 78.8(1) may obtain a location permit from the department. Each location permit shall be valid only for the location specified, on the dates and times listed on the location permit, and shall entitle the dealer to operate at that location in addition to the location specified on the corresponding dealer's permit.

b. The department shall, upon application and payment of the applicable location permit fee, furnish a location permit to the dealer. The location permit fee shall be $5 for residents and $50 for nonresidents plus any charge associated with the department's electronic licensing system.

78.7(3) *Duplicate location permits.* A duplicate location permit may be issued upon application to the department and the payment of a $4.50 fee plus any charge associated with the department's electronic licensing system.

571—78.8(456A) Certificates of origin.

78.8(1) *Shipments.* Every shipment of ginseng to a location outside the state of Iowa by a grower, harvester or dealer shall be accompanied by a certificate of origin, or shipping certificate, that certifies that the ginseng was lawfully harvested.

a. The department will issue a certificate of origin for cultivated ginseng to a grower or dealer on a form provided by the department based upon the permit holder's compliance with the requirements of this chapter.

b. The department will issue a certificate of origin for wild or wild simulated ginseng to a harvester on a form provided by the department based upon the permit holder's compliance with the requirements of this chapter.

c. The certificate of origin for cultivated, wild simulated, and wild ginseng will be issued by the department's agent after the roots have been weighed and certified upon appointment.

78.8(2) *Wild ginseng originating in another state.*

a. No person may ship in or out of this state to or from another state or foreign country any ginseng that originates in another state or foreign country without a valid certificate of origin issued by that other state or foreign country.

b. If a resident dealer receives wild ginseng that originated in another state and if a certificate of origin issued by that state does not accompany the wild ginseng, the dealer shall return the wild ginseng to the sender immediately upon its receipt.

c. A dealer shall maintain a copy of the certificate of origin with the record of the transaction.

d. It shall be lawful for any person to have in possession any ginseng lawfully harvested or purchased outside Iowa and lawfully brought into the state so long as the person possesses a valid certificate of origin for the ginseng.

571—78.9(456A) Records retention. Any records required by this chapter to be maintained or submitted shall be produced for inspection upon request by the department, director, officer appointed by the department, or peace officer. All records under this chapter must be retained for a period of three years after the expiration of the grower's, harvester's, or dealer's permit. Failure to maintain records or to submit reports as required by these rules is a violation of these rules.

571—78.10(456A) Restrictions and prohibitions for harvesting wild ginseng.

78.10(1) No person shall harvest a plant unless the plant possesses three or more true leaves or prongs and a flowering or fruiting stalk with red berries. If, after a person removes a plant from the soil with the requisite leaves or prongs, it is determined the root has less than five stem scars, the person shall return the plant to the soil at the same location and make best efforts to return the plant and the surrounding area to their condition prior to harvest of the plant. In no event shall a person harvest or possess a wild ginseng root unless the root has at least five stem scars.

78.10(2) When a person harvests ginseng, the entire plant, except the fruit and seeds, shall be retained until the plant is taken to the harvester's residence or place of business, as identified in the harvester's permit.

571—78.11(456A) Additional restrictions and prohibitions for ginseng.

78.11(1) All persons harvesting wild or wild simulated ginseng shall plant all seeds collected from such plants within 100 feet of the parent plant. Seeds collected for planting pursuant to this subrule should be collected from the fruit by gently pressing the fruit of the ginseng.

78.11(2) A person shall use no tool other than the person's finger to plant ginseng seeds and shall not push seeds to a depth greater than one inch into the soil.

78.11(3) A person shall not possess or transport seeds of wild or wild simulated ginseng more than 100 feet from the site of the parent plant.

571—78.12(456A) Compliance with laws. A person shall not violate any state, federal or local laws in harvesting, dealing or shipping ginseng.

571—78.13(456A) Violations of this chapter.

78.13(1) A person violating this chapter shall be subject to a scheduled fine pursuant to Iowa Code section 805.8B(4) and permit suspension, modification and revocation pursuant to 571—78.17(456A).

78.13(2) Each ginseng plant or part thereof, including any ginseng, unlawfully harvested, dealt, or shipped shall be a separate offense. More than one person per plant may be guilty of violating this chapter.

78.13(3) Materials determined by the department's law enforcement personnel to be contraband or to have been taken in violation of this chapter may be seized and disposed of in conformance with Iowa Code chapter 809.

571—78.14(456A) Possession.

78.14(1) When a person is in possession of ginseng, including the shipping or transporting of ginseng, if one or more parts of ginseng are deemed unlawful, the entire contents of possession shall be deemed unlawful.

78.14(2) Any person or dealer who has in possession any ginseng or parts thereof shall upon request by the department, director, any officer appointed by the department, or peace officer show the ginseng to the department, director, or officer; a refusal to do so is a violation of this chapter.

571—78.15(456A) Valuation. The value of seized ginseng that was harvested or possessed in violation of these rules shall be based on the current market value, as determined by the department.

571—78.16(456A) Revocation of permits. Any permit issued pursuant to this chapter may be revoked, in whole or in part, by written notice if the department determines that the permit holder has violated any provision of this chapter and determines that continuation of the permit is not in the public interest. Such revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the revocation and the reasons for the action. Within 30 days following receipt of the notice of a revocation, the permit holder may file a notice of appeal, requesting a contested case pursuant to 561—Chapter 7. The notice of appeal shall specify the basis for requesting that the permit be reinstated.

571—78.17(456A) Reciprocity. Nonresident harvesters, growers and dealers from states that regulate American Ginseng by allowing the harvesting, cultivating and dealing in American Ginseng but that prohibit Iowa harvesters, growers and dealers to lawfully operate in those states are not eligible for permits issued by the department.

These rules are intended to implement Iowa Code section 456A.24(11).

ARC 9913C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to fish stocking and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 79, "Fish Stocking Procedures and Fees for Private Waters," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 456A.24 and 481A.78.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 456A.24 and 481A.78 and Executive Order 10.

Purpose and Summary

Chapter 79 contains procedures and fees for the stocking of fish into private waters. This chapter is antiquated and unnecessary. The Department no longer produces nor provides fish for private waters. Consistent with Executive Order 10, this chapter is proposed to be rescinded.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

Randall Schultz
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: randy.schultz@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at randy.schultz@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al randy.schultz@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 12 noon to 1 p.m.	Via videoconference
February 4, 2026 12 noon to 1 p.m.	Via videoconference

Persons who wish to attend a conference call should contact Randall Schultz via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at randy.schultz@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.326.0430 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al randy.schultz@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.326.0430 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **571—Chapter 79**.

ARC 9919C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to salvage of fish and game and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 80, "Salvage of Fish and Game," Iowa Administrative Code, and to adopt a new Chapter 80 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 481A.11, 481A.38 and 481A.39.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 481A.11, 481A.38 and 481A.39.

Purpose and Summary

Proposed Chapter 80 establishes rules for the lawful salvage, distribution, and possession of fish and game that are either accidentally killed by motor vehicles, confiscated by authorities, or found dead. The proposed chapter ensures that salvaged resources are used appropriately (primarily for human consumption or animal feed) and not exploited for commercial gain or illegal purposes. The chapter also outlines procedures for collecting shed antlers and found-dead deer ("deadheads") during different times of the year. This chapter has been reviewed and edited consistent with Executive Order 10.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 23, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 11, 2026. Comments should be directed to:

Captain Matt Bruner
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: matt.bruner@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at matt.bruner@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al matt.bruner@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 9 a.m.	Via videoconference
February 11, 2026 9 a.m.	Via videoconference

Persons who wish to attend a conference call should contact Captain Bruner via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Captain Bruner prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at matt.bruner@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.336.5456 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al matt.bruner@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.336.5456 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 80 and adopt the following **new** chapter in lieu thereof:

CHAPTER 80
SALVAGE OF FISH AND GAME

571—80.1(481A) Salvage. Salvage authorizes the possession of confiscated fish or game or game accidentally killed by a motor vehicle on a public highway for the purpose of human consumption or the feeding of domestic animals. Any other benefits derived from the possession of legally salvaged game (such as legal sale of hides, plumage, or antlers) is a secondary benefit only. Peace officers are not to salvage game solely for the purpose of financial gain or commercial taxidermy.

80.1(1) The following game when accidentally killed by a motor vehicle shall not be considered salvageable: spotted fawn deer and hen pheasants.

80.1(2) All salvaged game or fish shall be accompanied with a salvage tag signed by the holder and a peace officer or designee of the director of the department of natural resources and shall be valid for the time period assigned on the tag. The salvage tag shall remain with the game or fish until the game or fish is consumed. All salvage tags referred to in this chapter are not transferable.

571—80.2(481A) Game killed by motor vehicle.

80.2(1) Any person wanting to possess game accidentally killed by a motor vehicle on a highway shall immediately contact the nearest conservation officer, Iowa state trooper, sheriff's department, or

police department to request and receive a salvage tag prior to taking possession of said game. The whole carcass of the game animal must be removed from the scene.

80.2(2) When a request is made for game accidentally killed by a motor vehicle, the game shall, when salvageable, be disposed of in accordance with the following priorities:

a. Individuals involved in the accident;

b. Public institutions;

c. Nonprofit organizations;

d. Others.

571—80.3(481A) Confiscated fish or game.

80.3(1) The following conditions shall apply to a person being allowed to take possession of fish or game confiscated by the department of natural resources or a court.

80.3(2) Confiscated fish or game, when salvageable, shall be disposed of in accordance with the following priorities:

a. Public institutions.

b. Nonprofit organizations.

c. Others.

571—80.4(481A) Deadheads and shed-antlers.

80.4(1) Naturally shed deer antlers may be collected and possessed at any time of year.

80.4(2) Found-dead deer heads with attached antlers, also known as deadheads, may be collected and possessed by individuals who possess a valid hunting license and have paid the habitat fee pursuant to Iowa Code section 483A.1 unless exempt under Iowa Code section 483A.24(1) or 483A.24(8). Collection is permitted during the following time periods under the following conditions:

a. February 1 through July 31: an individual must electronically complete and submit a deadhead report and possession authorization through the department's website prior to collecting and possessing each deadhead.

b. August 1 through January 31: an individual must contact the local conservation officer and request a physical deadhead tag prior to taking possession. Verbal or electronic authorization from a conservation officer is sufficient for temporary possession until a physical tag can be issued and affixed by a conservation officer.

80.4(3) This rule does not apply to deer that have been shot or killed by unlawful methods or means.

These rules are intended to implement Iowa Code sections 481A.11, 481A.38, and 481A.39.

ARC 9916C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to fishing regulations and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 81, "Fishing Regulations," Iowa Administrative Code, and to adopt a new Chapter 81 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 481A.38, 481A.39, 481A.67 and 481A.76.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 481A.38, 481A.39, 481A.67 and 481A.76.

Purpose and Summary

Proposed Chapter 81 establishes seasons, territories, daily bag limits, possession limits, and length limits for Iowa sport fishing. The regulation of fisheries ensures sustainable populations and recreational opportunities for Iowans into the future.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

Randall Schultz
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: randy.schultz@dnr.iowa.gov

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Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 12 noon to 1 p.m.	Via videoconference
February 4, 2026 12 noon to 1 p.m.	Via videoconference

Persons who wish to attend a conference call should contact Randall Schultz via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a

conference call public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al randy.schultz@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.326.0430 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 81 and adopt the following **new** chapter in lieu thereof:

CHAPTER 81
FISHING REGULATIONS

571—81.1(481A) Seasons, territories, daily bag limits, possession limits, and length limits.

	INLAND WATERS				BOUNDARY RIVERS
Lake Sturgeon	Closed	0	0	0	Same as inland waters
Shovelnose Sturgeon	Continuous	None	None	None	Same as inland waters except no harvest allowed in the Big Sioux River and aggregate daily bag limit 10, aggregate possession limit 20, in the Missouri River
Paddlefish*	Continuous	2	4	None	Mississippi River— Same as inland waters except for an open season and length limit; see below* Missouri and Big Sioux Rivers—Special regulations; see below*
Yellow Perch	Continuous	25	50	None	Same as inland waters except no bag or possession limit in the Missouri River
Trout	Continuous	5	10	None*	Same as inland waters
Catfish*	Continuous	8 Lakes 15 Streams	30	None	Same as inland waters except no bag or possession limit in the Mississippi River
Black Bass (Largemouth Bass) (Smallmouth Bass) (Spotted Bass)	Continuous	3 In Aggregate	6	See below*	Continuous open season; aggregate daily bag limit 5, aggregate possession

	INLAND WATERS				BOUNDARY RIVERS
					limit 10 See below*
Combined Walleye, Sauger and Saugeye	Continuous*	5*	10*	None*	Continuous open season; aggregate daily bag limit 6, aggregate possession limit 12; except aggregate daily bag limit 4, aggregate possession limit 8, in the Big Sioux and Missouri Rivers See below*
Northern Pike	Continuous*	3	6	None	Continuous open season; daily bag limit 5, possession limit 10; except daily bag limit 6, possession limit 12, in the Big Sioux River
Muskellunge or Hybrid Muskellunge	Continuous*	1	1	40″	Same as inland waters
Crappie	Continuous	25*	None	None	Same as inland waters except 50 in possession
Bluegill	Continuous	25*	None	None	Same as inland waters except in aggregate with pumpkinseed on the Mississippi River
All other fish species*	Continuous	None	None	None	See below*
Frogs (except Bullfrogs)	Continuous	48	96	None	Same as inland waters
Bullfrogs (*Lithobates catesbeiana*)	Continuous	12	12	None	Same as inland waters

*Exceptions noted in 571—81.2(481A).

571—81.2(481A) Exceptions to seasons and limits, set in 571—81.1(481A).

81.2(1) Exception closed season. In lakes West Okoboji, East Okoboji and Spirit, there shall be a closed season on walleye beginning February 15 each year through the first Saturday in May. Open season for muskellunge and tiger muskie shall be from May 21 through November 30.

81.2(2) Black bass. The department may post season, bag or possession limits, length limits, and catch and release regulations specific to a body of water at that body of water. For bodies of water without posted regulations, the following regulations apply to black bass:

a. A 15-inch minimum length limit shall apply in all public lakes.

b. A 12-inch minimum length limit shall apply in all interior streams, river impoundments, and the Missouri River including chutes and backwaters.

c. A 14-inch minimum length limit shall apply to the Mississippi River including chutes and backwaters.

81.2(3) Walleye.

a. West Okoboji, East Okoboji, Spirit, Upper Gar, Minnewashta, and Lower Gar Lakes in Dickinson County; Storm Lake in Buena Vista County; Clear Lake in Cerro Gordo County; and Big Creek Lake in Polk County. The daily bag limit shall be three, with a possession limit of six.

b. Length limits. Length limits shall apply to walleye in public waters that have length limits posted or published.

81.2(4) Paddlefish snagging is permitted in waters of the state designated in 571—81.1(481A) except as follows:

a. There shall be no open season above the Interstate 29 bridge in the Big Sioux River, nor in any tributary of this stream within 200 yards immediately upstream of a tributary confluence.

b. Snagging for paddlefish on the Missouri and Big Sioux Rivers is limited to Iowa waters only, beginning in the Big Sioux River below the Interstate 29 bridge to the Big Sioux River's confluence with the Missouri River and in the Missouri River, including all backwaters and sloughs and any tributary of the Missouri River, beginning at the Big Sioux River confluence and extending to the Hamburg Landing boat ramp.

(1) There shall be an open season from February 1 through April 30.

(2) Snagging hours are from sunrise to sunset.

(3) Bag limit is one paddlefish per paddlefish fishing license.

(4) Paddlefish fishing license quota is 950 for resident anglers and 50 for nonresident anglers. Anglers may purchase one paddlefish license from December 15 through December 31 and either a first or second license between January 1 and January 7.

(5) Each angler fishing for paddlefish and any species listed in 81.2(11) on the Missouri and Big Sioux Rivers shall have a valid paddlefish license and unused tag.

(6) Immediately upon an angler's taking into possession a legal paddlefish, a valid transportation tag issued with the license shall be visibly attached to the fish's lower jaw. The transportation tag shall remain affixed to the paddlefish until the paddlefish is processed for consumption. The transportation tag shall be proof of possession of the carcass by the above-mentioned licensee. During the closed season, the possession of paddlefish on the Missouri and Big Sioux Rivers is prohibited unless the paddlefish are legally taken in Nebraska or South Dakota.

(7) A gaffe hook or other penetrating device cannot be used as an aid in the landing of a snagged fish.

c. Snagging for paddlefish on the Mississippi River is restricted to the area within 500 yards below the navigation dams and their spillways. The open season on the Mississippi River is the period from March 1 through April 15.

d. On the Mississippi River, a 33-inch maximum length limit shall apply; any paddlefish measuring 33 inches or more when measured from the front of the eye to the natural unaltered fork of the tail must immediately be released alive. On the Missouri and Big Sioux Rivers and on each Missouri River tributary from its confluence and extending to below its Interstate 29 bridge, a 35-inch to 45-inch protected-slot limit shall apply; a paddlefish measuring 35 inches to 45 inches when measured from the front of the eye to the natural unaltered fork of the tail shall immediately be released alive. To measure a paddlefish, the angler shall use a flexible tape and measure along and over the center line contour of the fish while it is lying flat.

81.2(5) Trout regulations. The department may post season, bag or possession limits, length limits, catch and release regulations, and tackle restrictions specific to a body of water at that body of water. On bodies of water posted as artificial lure only, "artificial lure" means a lure that does not contain or have applied to it any natural or synthetic substances designed to attract fish by the sense of taste or smell. For bodies of water without posted regulations, the following regulations apply to trout:

a. Open season is continuous.

b. A five-fish daily bag limit and ten-fish possession limit shall apply to any combination of brown trout, brook trout, rainbow trout, and their hybrids.

c. A trout fee is required to fish for and possess trout.

81.2(6) Exception border lakes. In Little Spirit Lake, Dickinson County; Iowa and Tuttle (Okamanpedan) Lakes, Emmet County; Burt (Swag) Lake, Kossuth County; and Iowa Lake, Osceola County, the following species have a continuous open season and daily bag and possession limits as set forth below:

a. Walleye—daily bag and possession limit 3;

b. Northern pike—daily bag and possession limit 3;

c. Largemouth and smallmouth bass—daily bag and possession limit 3;

d. Channel catfish—daily bag and possession limit 8;

e. Yellow perch—daily bag and possession limit 25;

f. Crappie species—combined daily bag and possession limit 25;

g. Sunfish (bluegill, pumpkinseed, green sunfish, orangespotted sunfish, longear sunfish, warmouth, and hybrids)—combined daily bag and possession limit 25;

h. Muskellunge—daily bag and possession limit one. Open season shall be May 21 through November 30. A 40-inch minimum length limit shall apply on all border lakes;

i. Spears and bow and arrow may be used to take carp, buffalo, bowfin, gar, freshwater drum, and quillback with a continuous open season;

j. All species not listed above are subject to the inland regulations of the state and have a continuous open season.

81.2(7) DeSoto Bend Lake. All fishers shall conform with federal refuge regulations as posted under the authority of 50 CFR Section 32.34(a) effective as of [effective date of this rulemaking]. The text of the rules will be contained on the signs as posted.

81.2(8) General restriction. Anglers must comply with the most restrictive set of regulations applicable to the water on which they are fishing. Where length limits apply, fish less than the legal length must be immediately released into the water from which they were caught.

81.2(9) Catfish. For the purpose of this rule, stream catfish bag and possession limits apply at the federal flood control impoundments of Rathbun Lake, Red Rock Lake, Saylorville Lake, and Coralville Lake.

81.2(10) Identification of catch. No person shall transport or possess on any waters of the state any fish unless (a) the species of any such fish can be readily identified and a portion of the skin (at least 1 square inch) including scales is left on all fish or fillets and (b) the length of fish can be determined when length limits apply. "On any waters of the state" includes from the bank or shoreline in addition to wading and by boat.

81.2(11) Method of take. Artificial light may be used in the taking of any fish. The following species of fish may be taken by snagging, spearing, and bow and arrow: common carp, bighead carp, grass carp, silver carp, black carp, bigmouth buffalo, smallmouth buffalo, black buffalo, quillback, highfin carpsucker, river carpsucker, spotted sucker, white sucker, shorthead redhorse, golden redhorse, silver redhorse, freshwater drum, shortnose gar, longnose gar, dogfish, gizzard shad, and goldfish. All other species of fish not hooked in the mouth, except paddlefish legally taken by snagging, must be returned to the water immediately with as little injury as possible. Snagging is defined as the practice of jerking any type of hook or lure, baited or unbaited, through the water with the intention of hooking fish in an area other than the mouth. No hook larger than a 5/0 treble hook or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging. Exceptions to snagging as a method of take are as follows:

a. No snagging is permitted in the following areas:

(1) Des Moines River from directly below Saylorville Dam to the Southeast 14th Street bridge in Des Moines.

(2) Cedar River in Cedar Rapids from directly below the 5 in 1 Dam under Interstate 380 to the 1st Avenue bridge.

(3) Cedar River in Cedar Rapids from directly below the "C" Street Roller Dam to 300 yards downstream.

(4) Iowa River from directly below the Coralville Dam to 300 yards downstream.

(5) Chariton River from directly below Lake Rathbun Dam to 300 yards downstream.

(6) Spillway area from directly below the Spirit Lake outlet to the confluence at East Okoboji Lake.

(7) Northeast bank of the Des Moines River from directly below the Ottumwa Dam, including the catwalk, to the Jefferson Street Bridge. Snagging from the South Market Street Bridge is also prohibited.

(8) Missouri River, any Missouri River tributary beginning at its confluence and extending below its Interstate 29 bridge and the Big Sioux River from the Interstate 29 bridge to the confluence with the Missouri River, with the exception of snagging paddlefish or any of the species listed in 81.2(11) during the paddlefish open season.

(9) Des Moines River from directly below the Hydroelectric Dam (Big Dam) to the Hawkeye Avenue Bridge in Fort Dodge.

(10) Des Moines River from directly below the Little Dam to the Union Pacific Railroad Bridge in Fort Dodge.

(11) Skunk River from directly below Oakland Mills Dam to the downstream end of the 253rd Street boat ramp.

b. No snagging, bow and arrow fishing, or spearing of fish is permitted in the following areas:

(1) Clear Lake and Ventura Marsh from the Ventura Grade, Jetties and Bridge.

(2) Lost Island Lake Inlet within 300 feet of the concrete culvert and metal fish barrier.

(3) Lost Island Lake Outlet within 300 feet of the outlet structure and metal fish barrier.

(4) Barringer Slough Outlet within 300 feet of the outlet and metal fish barrier.

(5) The outlet area of Lower Gar Lake beginning at 230th Avenue and extending downstream to the signed Iowa Great Lakes Sanitary District property line.

81.2(12) Panfish. The daily bag limit for crappie and bluegill applies only to public waters of the state. In all waters of the Mississippi River, the daily bag and possession limit applied individually to crappie, yellow perch and rock bass shall be 25 and 50, respectively. In all waters of the Mississippi River, the daily bag and possession limit applied in the aggregate for bluegill and pumpkinseed and for white bass and yellow bass shall be 25 and 50, respectively.

81.2(13) Culling. It is prohibited to sort, cull, high-grade, or replace any fish already in possession. Participants in permitted black bass fishing tournaments are exempted, as are participants in catch and release catfish fishing tournaments if the participants are fishing from a boat with a functioning aerated or water-circulated live well. Any fish taken into possession by holding in a live well, on a stringer, or in other fish-holding devices is part of the daily bag limit. Once the daily bag limit of a particular species is reached, fishing for that species is permitted as long as all fish of that species caught are immediately released.

571—81.3(481A) Trotlines and throw lines.

81.3(1) *Where permitted.* It shall be lawful to use trotlines or throw lines in all rivers and streams of the state, except in Mitchell, Howard, Winneshiek, Allamakee, Fayette, Clayton, Delaware, Dubuque, and Jackson counties. Trotlines or throw lines may be used in the above nine counties in the following stream segments: Mississippi River; Maquoketa River, mouth to Backbone State Park Dam; North Fork Maquoketa River, mouth to Jones-Dubuque County line; Turkey River, mouth to the Elkader Dam; and Upper Iowa River, mouth to the first dam upstream in Winneshiek County.

81.3(2) *Removal of lines.* All trotlines and parts thereof shall be removed from the shore when not being actively fished. A trotline shall be considered actively fished if at least once daily the trotline is left with at least one baited hook in the water.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67 and 481A.76.

ARC 9914C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to commercial fishing and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 82, "Commercial Fishing," Iowa Administrative Code, and to adopt a new Chapter 82 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 482.1.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 481A.38, 481A.39, 482.1, 482.3, 482.5 and 482.14.

Purpose and Summary

Proposed Chapter 82 allows for and regulates the commercial harvest of fishes from public waters. The Department of Natural Resources (Department) is directed to implement permits and regulate such harvest by the Iowa Code. The rules provide a transparent process for those who wish to bid on the limited commercial harvest opportunities on inland waters. The rules also contain regulations for commercial harvest from the border rivers, including designating those species that may be commercially harvested, size/length limits, open and closed seasons and locations, and gear and licensing requirements. This chapter has been reviewed and edited consistent with Executive Order 10.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

Randall Schultz
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: randy.schultz@dnr.iowa.gov

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Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 12 noon to 1 p.m.	Via videoconference

February 4, 2026 12 noon to 1 p.m.	Via videoconference

Persons who wish to attend a conference call should contact Randall Schultz via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

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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).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 82 and adopt the following **new** chapter in lieu thereof:

CHAPTER 82
COMMERCIAL FISHING

INLAND WATERS

571—82.1(482) Contract policy. All contracts for removal of fish from inland waters shall be awarded on a competitive basis to the maximum practical extent subject to the following provisions. Commercial fishers licensed with the state may enter into contract with owners of private water bodies for the removal of injurious fish provided approval is received from the director or staff of the department prior to any sampling or removal operations. Owners of private water bodies need not comply with 82.1(1) through 82.1(5).

82.1(1) *Invitation for bids.* Sealed bids must be solicited for all fish removal operations under contract. Prospective bidders shall be informed by an advertisement via the state's public solicitation portal in sufficient time to enable prospective bidders to prepare and submit bids. Specifications of the contract shall be provided to all prospective bidders as provided in the invitation for bids.

82.1(2) *Contract award.* The contract shall be awarded to the firm or individual whose bid is believed to be the most advantageous to the state. Bids may be rejected if they do not appear to be reasonable or if there is reason to believe that the firm or individual is not sufficiently qualified to accomplish the desired work.

82.1(3) *Contract approval.* All contracts for fish removal operations shall be approved by the director.

82.1(4) *Failure to receive a bid.* In the event that no sealed bids are received, the fisheries bureau chief or staff at the direction of the fisheries bureau chief may negotiate a contract with a qualified contractor.

82.1(5) *Contract period.* Contracts shall have a maximum duration of 12 months. A contract may be extended, with the mutual consent of both parties, on an annual basis for a period up to and including three years from the time of the original contract. All terms and conditions existing in the original contract will apply during the extended contract period.

MISSISSIPPI AND MISSOURI RIVERS

571—82.2(482) Commercial taking. Fish may be taken for commercial purposes from the Mississippi and Missouri Rivers subject to the following regulations.

82.2(1) *Permissive catch.* Except for channel catfish, flathead catfish, and shovelnose sturgeon, which cannot be taken from the Missouri River, it shall be lawful to take with licensed commercial fishing gear the following species: carp, smallmouth buffalo, largemouth buffalo, black buffalo, channel catfish, flathead catfish, black bullhead, yellow bullhead, brown bullhead, freshwater drum, northern redhorse, silver redhorse, spotted sucker, white sucker, river carpsucker, quillback, highfin carpsucker, grass carp, bighead carp, silver carp, shovelnose sturgeon, longnose gar, shortnose gar, bowfin, gizzard shad, goldeye, and mooneye.

82.2(2) *Size limits.* Fish shorter than a minimum length or longer than the maximum length shall be returned to the water unharmed. The minimum total length for all catfish is 15 inches. The minimum fork length for shovelnose sturgeon, measured from the tip of the snout to the fork of the tail, is 27 inches. No shovelnose sturgeon longer than 34 inches fork length may be harvested from waters of the Mississippi River bordering Wisconsin. No shovelnose sturgeon less than 27 inches fork length may be possessed in Iowa waters.

82.2(3) *Permitted gear.* Hoop nets, trap nets (fyke nets), gill nets, trammel nets, slat nets (basket traps), seines, and trotlines (setlines) may be used by licensed commercial fishers.

82.2(4) *Mesh size restrictions.*

a. Hoop nets. An escape hole with a minimum diameter of 1½ inches all directions shall be provided within 12 inches beyond the last hoop to the tail-line.

b. Trap nets. An escape hole with a minimum diameter of 1½ inches all directions shall be provided within 12 inches beyond the last hoop to the tail-line.

c. Gill nets. The webbing shall have a mesh size not less than 3½ inches square measure.

d. Trammel nets. The webbing shall have a mesh size not less than 2 inches square measure.

e. Seines. There are no mesh size restrictions.

f. Slat nets. An escape hole with a minimum diameter of 1½ inches all directions shall be provided in the end opposite the throat.

82.2(5) *Gear attendance.* All commercial gear shall be lifted and emptied of catch at the following time intervals, except during periods of inclement weather. Inclement weather is defined as that threatening to life, health, or safety.

a. Hoop nets shall be attended at least once every 96 hours and slat nets at least once every 48 hours during open water conditions. Hoop nets shall be attended at least once every 20 days during ice cover conditions.

b. Trap nets and trotlines shall be attended at least once every 24 hours.

c. Gill nets and trammel nets shall be attended at least once every 24 hours during open water conditions and at least once every 96 hours during ice cover conditions.

82.2(6) *Report of catch.* Licensed commercial fishers must comply with the reporting requirements as set forth in Iowa Code section 482.14.

82.2(7) *Duplicate operator's license.* An owner making a request for a duplicate operator's license will be issued one only after records show the owner has purchased a limit of five operator's licenses. The duplicate helper's license will be issued to one individual and is not transferable. The issuing fee is $1.

82.2(8) *Seasons.* There is a continuous open season for commercial fishing of all species listed in 82.2(1), except there is a closed season for shovelnose sturgeon from May 16 through October 14. No shovelnose sturgeon may be harvested from gear set prior to midnight on October 15.

82.2(9) *Special shovelnose and bowfin regulations.* Shovelnose sturgeon and bowfin must remain intact until the fish reach the final processing facility or business. For the purposes of this subrule, a final processing facility does not include vessels or vehicles.

82.2(10) *Closed areas.* The use of entanglement gear, including gill and trammel nets, is prohibited from that area extending 600 feet downstream of the 900-foot existing closed areas (Iowa Code section 482.9(2)) located below each of the locks and dams on the Mississippi River. Shovelnose sturgeon caught in entanglement gear within 600 feet of the mouth of any stream or tributary shall be returned to the water unharmed.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 482.1, 482.3, 482.5, and 482.14.

ARC 9915C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to rough fish and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 83, "Scuba and Skin Spearing of Rough Fish," Iowa Administrative Code, and to adopt a new Chapter 83 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 481A.38, 481A.39 and 481A.67.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 481A.38, 481A.39, 482.1, 482.3, 482.5 and 482.14.

Purpose and Summary

Proposed Chapter 83 authorizes the taking of rough fish by scuba and skin divers. The chapter contains provisions designating off-limits areas and allowable and not-allowable gear and requiring the use of a diver's flag. These requirements are to ensure public and diver safety. The Iowa Code requires that these activities be authorized via rulemaking, so this chapter is necessary for these recreational activities to be lawful in Iowa. This chapter has been reviewed and edited consistent with Executive Order 10.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

Randall Schultz
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: randy.schultz@dnr.iowa.gov

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Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 12 noon to 1 p.m.	Via videoconference
February 4, 2026 12 noon to 1 p.m.	Via videoconference

Persons who wish to attend a conference call should contact Randall Schultz via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

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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).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 83 and adopt the following **new** chapter in lieu thereof:

CHAPTER 83
SCUBA AND SKIN SPEARING OF ROUGH FISH

571—83.1(481A) When permitted. The spearing of rough fish by scuba and skin divers will be permitted in accordance with the following seasons and rules.

571—83.2(481A) Prohibited areas. Scuba and skin spearing for rough fish shall be lawful in all natural lakes and state-owned meandered streams in Iowa year-round.

83.2(1) Scuba and skin spearing shall be permitted in streams or impoundments on private land where access is permitted by owner or lessee.

83.2(2) Scuba and skin spearing is prohibited in all state-owned artificial lakes.

83.2(3) Scuba and skin spearing is prohibited in all state-owned strip mines, county conservation board areas and fish and game management areas where posted as such.

83.2(4) Scuba and skin spearing is prohibited within 100 feet of any swimming beach area.

83.2(5) A valid fishing license shall be required of all individuals engaged in scuba and skin spearing unless the individual is exempt under the provisions of Iowa Code section 483A.17.

571—83.3(481A) Permitted equipment. Permitted equipment to be used in scuba and skin spearing shall be:

1. Hand and pole spears.
2. Spear guns powered by rubber bands, springs, or pneumatically powered springs.
3. If used on powered spear guns, attached to the gun by a cord lanyard or other device.

The overall length of spear gun and cord shall not exceed 20 feet.

571—83.4(481A) Prohibited equipment.

1. No power or exploding spear heads will be permitted.
2. No guns powered by gunpowder explosive or explosives or compressed gas will be permitted.

571—83.5(481A) Diver's flag. The "International Diver's Flag" shall be displayed by each diver or group of divers on a buoy, float or boat during any underwater spear fishing activity. The diver or group of divers must stay within a 100-foot circle of the flag.

571—83.6(481A) Employees exempt. Underwater scuba and skin spearing regulations shall not apply to authorized agents of the department of natural resources when engaged in research or management studies or enforcement.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.67.

ARC 9906C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to promiscuous fishing and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 84, "Promiscuous Fishing," Iowa Administrative Code, and to adopt a new Chapter 84 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 481A.38, 481A.39 and 481A.76.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 481A.38 and 481A.76.

Purpose and Summary

Proposed Chapter 84 regulates the taking of imperiled fish populations by licensed anglers. "Imperiled" refers to situations where there is an imminent danger of fish loss (die off) through natural causes. This chapter allows the Commission to issue an order allowing the public to salvage these fish before they die and go to waste by authorizing more permissive methods of take than are generally allowed. This chapter has been reviewed and edited consistent with Executive Order 10.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

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Iowa Department of Natural Resources
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Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 12 noon to 1 p.m.	Via videoconference

February 4, 2026 12 noon to 1 p.m.	Via videoconference

Persons who wish to attend a conference call should contact Randall Schultz via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

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Review by Administrative Rules Review Committee

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The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 84 and adopt the following **new** chapter in lieu thereof:

CHAPTER 84
PROMISCUOUS FISHING

571—84.1(481A) General. The natural resource commission may, after an investigation, when it is found there is imminent danger of loss of fish through natural causes, authorize by public order the taking of fish from any area and by such means as the commission may deem advisable to salvage such imperiled fish populations.

84.1(1) *Method of take.* Fish may be taken by any means except by use of dynamite, poison, electric shocking devices or any stupefying substances.

84.1(2) *Commercial purposes.* This rule shall not authorize the taking of fish for commercial purposes.

This rule is intended to implement Iowa Code chapter 481A.

ARC 9905C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to turtles and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 86, "Turtles," Iowa Administrative Code, and to adopt a new Chapter 86 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 481A.38, 481A.39, 481A.67, 482.1, 482.5 and 482.11.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 481A.38, 481A.39, 481A.67, 482.1, 482.4, 482.5 and 482.11.

Purpose and Summary

Proposed Chapter 86 regulates the taking and possession of turtles from the waters of the State. These regulations ensure a sustainable harvest, which protects turtle populations from overharvest. This is accomplished by providing daily catch and possession limits, providing gear and method of take provisions, and designating open season dates. This chapter has been reviewed and edited consistent with Executive Order 10.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

Randy Schultz
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50319
Email: randy.schultz@dnr.iowa.gov

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Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 12 noon to 1 p.m.	Via videoconference (Google Meet or Zoom)
February 4, 2026 12 noon to 1 p.m.	Via videoconference (Google Meet or Zoom)

Persons who wish to attend the conference call should contact Randall Schultz via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

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Review by Administrative Rules Review Committee

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The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 86 and adopt the following **new** chapter in lieu thereof:

CHAPTER 86
TURTLES

571—86.1(481A,482) Harvesting. Turtles may be harvested from waters of the state subject to the following regulations.

86.1(1) *Species and season.* It shall be lawful to commercially and noncommercially (recreationally) harvest spiny softshell *Apalone spinifera*, smooth softshell *Apalone mutica*, and painted *Chrysemys picta* turtles from July 16 through May 14. Common snapping turtles *Chelydra serpentina* may be harvested commercially from July 16 through May 14 and recreationally year-round. Harvesting turtle eggs from wild nests is prohibited. Turtles shall not be harvested from gear set prior to midnight on July 15.

86.1(2) *Methods.* Harvest of turtles shall only be by hand, turtle hook, turtle trap, licensed commercial fishing gear in the Mississippi and Missouri Rivers only, and hook-and-line. Turtle traps shall be constructed with no more than one throat or funneling device. The last hoop to the tail-line of turtle traps shall have an unobstructed, functional escape hole with a minimum diameter in all directions of 7½ inches to allow passage of fish and small turtles. Barrel- and floating-type turtle traps must also meet the unobstructed, functional escape hole criterion.

86.1(3) *Daily catch and possession limits.*

a. The following daily catch limits apply to commercial and recreational harvesters, while the possession limits apply only to commercial harvesters:

Turtle Species	Daily Catch Limit (commercial and recreational)	Possession Limit (commercial only)

Common snapping turtle	4	20
Spiny softshell and smooth softshell turtle, in aggregate	1	5
Painted turtle	1	5

b. The possession limit for recreational harvesters is a maximum of 100 pounds of live turtles or 50 pounds of dressed turtles pursuant to Iowa Code section 483A.28. A recreational harvester's daily catch limit shall not exceed this possession limit.

86.1(4) *Culling.* It is unlawful to sort, cull, high-grade, or otherwise replace any turtle in possession.

86.1(5) *Tags.* All harvesters shall affix a weather-resistant gear tag above the waterline to each piece of gear. The gear tag must plainly show the name, address, and license number of the licensee.

86.1(6) *Gear attendance.* All turtle traps shall be set with the top of the trap visible above the waterline at all times and shall be checked and completely emptied of catch at least once every 72 hours. When a trap is checked, turtles shall either be taken into possession up to the daily catch limit or immediately released.

86.1(7) *Exclusions.* Iowa Code chapter 482 does not apply to turtles taken and imported from outside the state. The boundary waters are considered to be within the state.

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67, 482.1, 482.4, 482.5, and 482.11.

ARC 9903C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to mussel regulations and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 87, "Mussel Regulations," Iowa Administrative Code, and to adopt a new Chapter 87 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 481A.38, 481A.39, 482.1 and 482.3.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 481A.38, 481A.39, 482.1, 482.3 and 483A.28.

Purpose and Summary

Proposed Chapter 87 regulates the taking and possession of mussels. Methods of take, open and closed locations and hours, possession limits, and licensing requirements are provided to ensure use of the resource in a sustainable manner. This chapter has been reviewed and edited consistent with Executive Order 10.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

Randall Schultz
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
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Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 12 noon to 1 p.m.	Via videoconference
February 4, 2026 12 noon to 1 p.m.	Via videoconference

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Review by Administrative Rules Review Committee

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The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 87 and adopt the following **new** chapter in lieu thereof:

CHAPTER 87
MUSSEL REGULATIONS

571—87.1(481A) Seasons, areas, methods, species, limits. The taking and possession of mussels from the public waters of the state shall be limited to the following regulations.

87.1(1) *Seasons.* There shall be an open season for taking mussels throughout the year. The taking of mussels is restricted to the hours between sunrise and sunset.

87.1(2) *Species.* Species other than those listed as threatened or endangered may be lawfully taken and possessed. Zebra mussels shall not be taken and possessed.

87.1(3) *Areas.* Live mussels may be harvested only from the Mississippi River and connected backwaters. Dead mussels may be harvested from all waters of the state.

87.1(4) *Limits.* The possession limit is 24 whole mussels or 48 shell halves. The sale of mussels or shells is not permitted. Licensed commercial fishers, licensed sport anglers, and children younger than 16 years of age may take and possess mussels.

87.1(5) *Methods.* Mussels may be taken by hand, pole and line, diving, and crowfoot bar not to exceed 20 feet in length.

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, 482.1, 482.3 and 483A.28.

ARC 9904C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to aquaculture and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 89, "Aquaculture," Iowa Administrative Code, and to adopt a new Chapter 89 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 481A.142 and 481A.143.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 481A.142 and 481A.143 and Executive Order 10.

Purpose and Summary

Proposed Chapter 89 regulates the sale and propagation of fish, reptiles, and amphibians within the aquaculture industry. The rules include a list of species that are approved for use in aquaculture and a

list of diseases that require monitoring and reporting. Additional provisions allow for the permitting of species not on the approved list, while prohibiting the possession and importation of certain species. These rules are intended to reduce the risk of invasive species introductions or the spread of disease from captive to wild populations. This chapter has been reviewed and edited consistent with Executive Order 10.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

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Public Hearing

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January 28, 2026 12 noon to 1 p.m.	Via videoconference
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Review by Administrative Rules Review Committee

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The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 89 and adopt the following **new** chapter in lieu thereof:

CHAPTER 89
AQUACULTURE

571—89.1(481A) Approved aquaculture species. The following approved aquaculture species may be propagated and sold:

FISH

American Eel	*Anguilla rostrata*
Banded Darter	*Etheostoma zonale*
Banded Killifish	*Fundulus diaphanus*
Bigmouth Buffalo	*Ictiobus cyprinellus*
Bigmouth Shiner	*Ericymba dorsalis*
Black Buffalo	*Ictiobus niger*
Black Bullhead	*Ameiurus melas*
Black Crappie	*Pomoxis nigromaculatus*
Blackchin Shiner	*Miniellus heterodon*
Blacknose Dace	*Rhinicthys atratulus*
Blackside Darter	*Percina maculata*
Blackstripe Topminnow	*Fundulus notatus*
Blue Catfish	*Ictalurus furcatus*
Blue Sucker	*Cycleptus elongatus*
Bluegill and Hybrids	*Lepomis macrochirus*
Bluntnose Minnow	*Pimephales notatus*
Bowfin	*Amia calva*
Brassy Minnow	*Hybognathus hankinsoni*
Brook Silverside	*Labidesthes sicculus*
Brook Stickleback	*Culaea inconstans*
Brook Trout	*Salvelinus fontinalis*
Brown Bullhead	*Ameiurus nebulosus*
Brown Trout	*Salmo trutta*

Bullhead Minnow	*Pimephales vigilax*
Central Mudminnow	*Umbra limi*
Central Stoneroller	*Campostoma anomalum*
Channel Catfish	*Ictalurus punctatus*
Common Carp	*Cyprinus carpio*
Common Shiner	*Luxilus cornutus*
Creek Chub	*Semotilus atromaculatus*
Crystal Darter	*Crystallaria asprella*
Emerald Shiner	*Notropis atherinoides*
Fantail Darter	*Etheostoma flabellare*
Fathead Minnow and Hybrids	*Pimephales promelas*
Flathead Catfish	*Pylodictis olivaris*
Flathead Chub	*Platygobio gracilis*
Freshwater Drum	*Aplodinotus grunniens*
Ghost Shiner	*Paranotropis buchanani*
Gilt Darter	*Percina evides*
Gizzard Shad	*Dorosoma cepedianum*
Golden Redhorse	*Moxostoma erythrurum*
Golden Shiner	*Notemigonus crysoleucas*
Goldeye	*Hiodon alosoides*
Goldfish	*Carassius auratus*
Grass Carp	*Ctenopharyngodon idella*
Gravel Chub	*Erimystax x-punctatus*
Greater Redhorse	*Moxostoma valenciennesi*
Green Sunfish	*Lepomis cyanellus*
Highfin Carpsucker	*Carpiodes velifer*
Hornyhead Chub	*Nocomis biguttatus*
Iowa Darter	*Etheostoma exile*
Ironcolor Shiner	*Alburnops chalybaeus*
Johnny Darter	*Etheostoma nigrum*
Lake Chub	*Couesius plumbeus*
Largemouth Bass	*Micropterus salmoides*
Largescale Stoneroller	*Campostoma oligolepis*
Longear Sunfish	*Lepomis megalotis*
Longnose Dace	*Rhinichthys cataractae*
Longnose Gar	*Lepisosteus osseus*
Mimic Shiner	*Paranotropis volucellus*
Mississippi Silvery Minnow	*Hybognathus nuchalis*
Mooneye	*Hiodon tergisus*
Western Mosquitofish	*Gambusia affinis*
Mottled Sculpin	*Cottus bairdii*
Mud Darter	*Etheostoma asprigene*
Muskellunge and Hybrids	*Esox masquinongy*
Northern Hog Sucker	*Hypentelium nigricans*
Logperch	*Percina caprodes*
Northern Pike	*Esox lucius*

Rock Bass	*Ambloplites rupestris*
Orangespotted Sunfish	*Lepomis humilis*
Ozark Minnow	*Miniellus nubilus*
Pallid Shiner	*Hybopsis amnis*
Pirate Perch	*Aphredoderus sayanus*
Plains Minnow	*Hybognathus placitus*
Plains Topminnow	*Fundulus sciadicus*
Pugnose Minnow	*Opsopoeodus emiliae*
Pumpkinseed	*Lepomis gibbosus*
Quillback	*Carpiodes cyprinus*
Rainbow Darter	*Etheostoma caeruleum*
Rainbow Smelt	*Osmerus mordax*
Rainbow Trout	*Oncorhynchus mykiss*
Red Shiner	*Cyprinella lutrensis*
Redear Sunfish and Hybrids	*Lepomis microlophus*
Redfin Shiner	*Lythrurus umbratilis*
Redside Dace	*Clinostomus elongatus*
River Carpsucker	*Carpiodes carpio*
River Darter	*Percina shumardi*
River Redhorse	*Moxostoma carinatum*
River Shiner	*Alburnops blennius*
Rosyface Shiner	*Notropis rubellus*
Sand Shiner	*Miniellus stramineus*
Sauger and Hybrids	*Sander canadensis*
Shorthead Redhorse	*Moxostoma macrolepidotum*
Shortnose Gar	*Lepisosteus platostomus*
Shovelnose Sturgeon	*Scaphirhynchus platorynchus*
Sicklefin Chub	*Macrhybopsis meeki*
Silver Chub	*Macrhybopsis storeriana*
Silver Lamprey	*Ichthyomyzon unicuspis*
Silver Redhorse	*Moxostoma anisurum*
Silverband Shiner	*Paranotropis shumardi*
Skipjack Herring	*Alosa chrysochloris*
Slender Madtom	*Noturus exilis*
Slenderhead Darter	*Percina phoxocephala*
Slimy Sculpin	*Cottus cognatus*
Smallmouth Bass	*Micropterus dolomieu*
Smallmouth Buffalo	*lctiobus bubalus*
Southern Redbelly Dace	*Chrosomus erythrogaster*
Speckled Chub	*Macrhybopsis aestivalis*
Spotfin Shiner	*Cyprinella spiloptera*
Spottail Shiner	*Hudsonius hudsonius*
Spotted Bass	*Micropterus punctulatus*
Spotted Sucker	*Minytrema melanops*
Starhead Topminnow	*Fundulus dispar*
Stonecat	*Noturus flavus*

Striped Bass and Hybrids	*Morone saxatilis*
Sturgeon Chub	*Macrhybopsis gelida*
Suckermouth Minnow	*Phenacobius mirabilis*
Tadpole Madtom	*Noturus gyrinus*
Topeka Shiner	*Miniellus topeka*
Trout-perch	*Percopsis omiscomaycus*
Walleye and Hybrids	*Sander vitreus*
Warmouth	*Lepomis gulosus*
Western Silvery Minnow	*Hybognathus argyritis*
White Bass and Hybrids	*Morone chrysops*
White Crappie	*Pomoxis annularis*
White Sucker	*Catostomus commersonii*
Yellow Bass	*Morone mississippiensis*
Yellow Bullhead	*Ameiurus natalis*
Yellow Perch	*Perca flavescens*
AMPHIBIANS	
Bullfrog	*Lithobates catesbeianus*
Leopard Frog	*Lithobates pipiens*
REPTILES	
Common Snapping Turtle	*Chelydra serpentina serpentina*
Painted Turtle	*Chrysemys picta*
Smooth Softshell	*Apalone mutica*

571—89.2(481A) Importation permit. An importation permit is required to receive, propagate or sell in the state any aquaculture species not listed in 571—89.1(481A). In addition, aquaculture units shall not import live fish, viable eggs, or semen of any species of the salmonid family (trout, salmon or char) and ictalurid family (catfishes and bullheads) unless the owner or operator possesses a fish importation permit. Importation permits may be applied for on forms provided by the department.

571—89.3(481A) Disease-free certification. Importation permits will not be issued for live fish, viable eggs, or semen of any species of the salmonid family (trout, salmon or char) unless the owner or operator of an aquaculture unit provides a statement certifying the fish, eggs or semen to be free of the following diseases.

89.3(1) *Diseases detrimental to the state's fishery resources.*

Viral Hemorrhagic Septicemia (VHS)
Infectious Pancreatic Necrosis (IPN)
Whirling Disease (*Myxosoma cerebralis*)
Infectious Hematopoietic Necrosis (IHN)
Ceratomyxosis (*Ceratomyxa shasta*)
Bacterial Kidney Disease (*R. salmoninarium*)
Proliferative Kidney Disease (PKD)
Enteric Redmouth (*Yersinia ruckeri*)
Vibriosis (*vibrio sp.*)

89.3(2) *Reportable diseases.* Reportable diseases are detrimental to individual aquaculture units and may be detrimental to wild fish populations. Reportable diseases are Enteric Septicemia of Catfish (*Edwardsiella ictaluri*) (ESC), Channel Catfish Virus Disease (CCVD) and Furunculosis (*Aeromonas salmonicida*). Disease certification statements are required for the diseases prior to importation of any live fish, viable eggs, or semen of any species of the Ictalurid (catfishes and bullheads) and Salmonid

(trout, salmon and char) families. Importation permits will be considered on a case-by-case basis for fish with reportable diseases.

89.3(3) *Certified pathologists for inspection.* All disease certification statements must be issued by approved certified pathologists. A list of approved certified pathologists will be made available to the owner or operator of the aquaculture unit requesting a fish importation permit.

These rules are intended to implement Iowa Code sections 481A.142 and 481A.143.

ARC 9917C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to aquatic invasive species and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 90, "Aquatic Invasive Species," Iowa Administrative Code, and to adopt a new Chapter 90 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 456A.37.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 456A.37.

Purpose and Summary

Proposed Chapter 90 contains restrictions related to aquatic invasive species and provides a list of those species. The purpose of this chapter is to prevent introductions of invasive species and limit the spread of invasive species that have already been detected in Iowa. Aquatic invasive species can negatively impact native species; interfere with recreational activities, such as boating and fishing; and interfere with water supply infrastructure. This chapter has been reviewed and edited consistent with Executive Order 10.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

Randall Schultz
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: randy.schultz@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at randy.schultz@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al randy.schultz@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 12 noon to 1 p.m.	Via videoconference
February 4, 2026 12 noon to 1 p.m.	Via videoconference

Persons who wish to attend a conference call should contact Randall Schultz via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at randy.schultz@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.326.0430 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al randy.schultz@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.326.0430 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 90 and adopt the following **new** chapter in lieu thereof:

CHAPTER 90
AQUATIC INVASIVE SPECIES

571—90.1(456A) Definitions. As used in this chapter:

"Commission" means the natural resource commission.

"Department" means the department of natural resources.

"Director" means the director of the department of natural resources.

"Introduce" means to release a species into waters of the state. "Introduce" does not include the immediate return of a nonnative species to waters of the state from which it was removed.

"Transport" means to move a species into or within the state and includes accepting or receiving the species for transportation or shipment. "Transport" does not include the unintentional transport of a species within a water of the state or to a connected water of the state where the species being transported is already present.

"Watercraft" means a device used or designed for navigation on water.

571—90.2(456A) Aquatic invasive species. For the purposes of this rule, the following species and any hybrids, cultivars, or varieties of the species are designated as aquatic invasive species.

90.2(1) *Aquatic invasive plants.*

Brittle naiad	*Najas minor*
Curlyleaf pondweed	*Potamogeton crispus*
Eurasian watermilfoil	*Myriophyllum spicatum*
Flowering rush	*Butomus umbellatus*
Purple loosestrife	*Lythrum salicaria, Lythrum virgatum*
Salt cedar	*Tamarix spp.*

90.2(2) *Aquatic invasive fish.*

Bighead carp	*Hypophthalmichthys nobilis*
Black carp	*Mylopharyngodon piceus*
Round goby	*Neogobius melanostomus*
Rudd	*Scardinius erythrophthalmus*
Ruffe	*Gymnocephalus cernuus*
Silver carp	*Hypophthalmichthys molitrix*
White perch	*Morone americana*

90.2(3) *Aquatic invasive invertebrates.*

Fishhook waterflea	*Cercopagis pengoi*
New Zealand mudsnail	*Potamopyrgus antipodarum*
Quagga mussel	*Dreissena bugensis*
Rusty crayfish	*Orconectes rusticus*
Spiny waterflea	*Bythotrephes cederstroemi*
Zebra mussel	*Dreissena polymorpha*

90.2(4) *Federal noxious weed list.* For purposes of this rule, the aquatic plants listed in 7 CFR Section 360.200 as amended to [effective date of this rulemaking] are also designated as aquatic invasive species.

90.2(5) *Injurious wildlife species.* For purposes of this rule, aquatic species listed in 50 CFR Sections 16.11 through 16.15 as amended to [effective date of this rulemaking] are also designated as aquatic invasive species.

571—90.3(456A) Restrictions.

90.3(1) A person shall not possess, introduce, import, purchase, sell, barter, propagate, or transport aquatic invasive species in any form in this state, except:

a. By written permission of the director;

b. For disposal as part of a harvest or control activity;

c. When a species is being transported to the department, or to another destination as directed by the department, in a sealed container for purposes of identifying the species or reporting the presence of the species;

d. When the specimen has been lawfully acquired dead and, in the case of plant species, when all seeds are removed or are otherwise secured in a sealed container;

e. In the form of herbaria or other preserved specimens;

f. When a species is being removed from watercraft and equipment or when a species is caught by an angler and immediately returned to the water from which it came; or

g. When an individual angler possesses a species that has been caught and immediately killed.

90.3(2) A conservation officer, other licensed peace officer, or employee of the department may seize or dispose of all specimens of aquatic invasive species unlawfully possessed, introduced, imported, purchased, sold, bartered, propagated, or transported in the state.

571—90.4(456A) Infested waters.

90.4(1) *Designation of infested waters.* The department will designate infested waters of the state and publish the names of infested waters in the fishing regulations brochure and on the department webpage, www.iowadnr.gov/programs-services/aquatic-invasive-species, and will provide notice through other available means where practical. At any time, the department may designate additional waters or remove from designation those waters that are no longer infested.

90.4(2) *Restricted activities on infested waters.* The department may restrict boating, fishing, swimming, and trapping in infested waters of the state. When determining when to restrict activities in infested waters, the department will consider:

a. The extent of a species' distribution within the state;

b. The likely means of spread for a new species; and

c. Whether restrictions specific to infested waters containing a specific species will effectively reduce that species' spread.

These rules are intended to implement Iowa Code section 456A.37.

ARC 9918C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to captive-reared waterfowl and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 93, "Commercial Use of Captive-Reared Waterfowl," Iowa Administrative Code, and to adopt a new Chapter 93 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455A.5(6)"a," 481A.55, 481A.126 and 484B.8.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 481A.55, 481A.126 and 484B.8 and 50 CFR 21.63.

Purpose and Summary

Chapter 93 establishes the commercial use of captive-reared waterfowl and the regulations that apply.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 23, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 2, 2026. Comments should be directed to:

Chris Ensminger
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: chris.ensminger@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at chris.ensminger@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al chris.ensminger@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 28, 2026 1 to 2 p.m.	6200 Park Avenue, Second Floor Des Moines, Iowa
February 2, 2026 1 to 2 p.m.	6200 Park Avenue, Second Floor Des Moines, Iowa

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at chris.ensminger@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.250.6886 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al chris.ensminger@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.250.6886 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 93 and adopt the following **new** chapter in lieu thereof:

CHAPTER 93
COMMERCIAL USE OF CAPTIVE-REARED WATERFOWL

571—93.1(481A) General. Nothing in this chapter authorizes the taking of live waterfowl or their eggs from the wild.

571—93.2(481A) Required markings. All waterfowl released for shooting purposes or sold by a licensed taxidermist must be captive-reared and marked pursuant to Iowa Code section 481A.22 and these rules.

571—93.3(481A) Definitions.

"Bred in captivity" or *"captive-reared"* means waterfowl, including eggs hatched in captivity from parents that mated or otherwise transferred gametes in captivity.

"Captivity" means that live waterfowl are held in a controlled environment that is intensively manipulated by man for the purpose of producing waterfowl of selected species, and that has boundaries designed to prevent waterfowl, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of captivity may include but are not limited to artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

"Form 3-186" means the U.S. Fish and Wildlife Service form titled "Notice of Transfer or Sale of Migratory Waterfowl."

"Waterfowl" means any goose, brant, or duck.

571—93.4(484B) Marked for shooting. All waterfowl released for shooting purposes shall be physically marked by removal of the hind toe from the right foot at not more than four weeks of age.

571—93.5(481A) Commercial sale of captive-reared waterfowl by a taxidermist.

93.5(1) Taxidermist permit required. No person may perform taxidermy services on migratory birds or their parts, nests, or eggs for any reason other than personal use without a taxidermist permit.

93.5(2) In addition to the records required by Iowa Code section 481A.126, the permittee must maintain files containing the original of federal Form 3-186 as required by 50 CFR 21.63 (as amended through May 6, 2025). Properly marked, captive-reared mallards are exempt from this requirement.

93.5(3) All captive-reared waterfowl being purchased or held by a taxidermist for mounting and resale shall have been physically marked by at least one of the following methods:

a. Removal of the hind toe from the right foot.

b. Pinioning of a wing by the removal of the metacarpal bones of one wing or a portion of the metacarpal bones, which renders the bird permanently incapable of flight.

c. Banding of one metatarsus with a seamless metal band.

d. Tattooing of a readily discernible number or letter or combination thereof on the web of one foot.

93.5(4) When any mounted captive-bred waterfowl (except captive-reared, properly marked mallards) are acquired from a taxidermist, the taxidermist shall furnish a copy of federal Form 3-186, indicating all information required by the form and the method or methods by which individual birds are marked as required in 93.5(3).

93.5(5) The buyer shall retain Form 3-186 on file for the duration of the buyer's possession of such mounted, captive-reared waterfowl.

These rules are intended to implement Iowa Code sections 481A.55, 481A.126, and 484B.8.

ARC 9924C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to game harvest reporting and landowner-tenant registration and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 95, "Game Harvest Reporting and Landowner-Tenant Registration," Iowa Administrative Code, and to adopt a new Chapter 95 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.8, 483A.8A and 483A.24.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.8, 483A.8A and 483A.24 and Executive Order 10.

Purpose and Summary

Proposed Chapter 95 establishes the harvest reporting process for deer and turkey hunters and the eligibility verification process for free landowner or tenant licenses.

In accordance with Executive Order 10, the rules have been edited for length and clarity by removing outdated provisions. The proposed rules also include two new methods for hunters to report harvests, making a total of five methods available to hunters to increase efficiency and convenience.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 23, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 2, 2026. Comments should be directed to:

Denise Roberg
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: denise.roberg@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at denise.roberg@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al denise.roberg@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 28, 2026 1 to 2 p.m.	6200 Park Avenue, Second Floor Des Moines, Iowa
February 2, 2026 1 to 2 p.m.	6200 Park Avenue, Second Floor Des Moines, Iowa

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at denise.roberg@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.350.8434 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al denise.roberg@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.350.8434 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 95 and adopt the following **new** chapter in lieu thereof:

CHAPTER 95
GAME HARVEST REPORTING AND LANDOWNER-TENANT REGISTRATION

571—95.1(481A) Harvest reporting system. Deer and turkey hunters must report each deer and wild turkey harvested to the department of natural resources (DNR) harvest reporting system. The hunter whose name is on the transportation tag is responsible for making the report. Hunters who do not bag a deer or wild turkey do not report.

95.1(1) *Reporting deadlines for deer and turkey.* A harvest report must be made by midnight on the day after the animal is tagged or before the animal is taken to a locker or taxidermist, is processed for consumption, or is transported out of state, whichever occurs first.

95.1(2) *Method of reporting.* Hunters may report the harvest in one of five ways:

a. Through the electronic licensing system for Iowa (ELSI) application.

b. By texting the registration number to 1.800.771.4692 and following the prompts.

c. By calling the DNR toll-free harvest reporting telephone number at 1.800.771.4692.

d. By reporting through the internet using the DNR online harvest reporting system.

e. By visiting an ELSI license agent during the license agent's normal business hours.

95.1(3) *Report confirmation.* The hunter will be given a confirmation number to write on the harvest report tag to verify that the hunter has reported the kill. The harvest report tag and confirmation number must remain attached to the deer or wild turkey until the deer or wild turkey is processed for consumption.

571—95.2(481A) Verifying eligibility for free landowner or tenant licenses. Eligibility for free and reduced-fee deer and wild turkey hunting licenses, hereafter referred to as free licenses, is defined in Iowa Code section 483A.24 and 571—98.6(483A) and 571—106.17(481A). The ELSI will not issue free licenses to persons who have not registered their eligibility with ELSI.

95.2(1) *Farm unit.* As provided in 571—subrule 106.17(6), all the land under the lawful control of the landowner or tenant is considered one farm unit no matter how it is subdivided for business purposes. No one may be registered as eligible for free licenses on more than one farm unit. Registering on one parcel of land within the farm unit will allow the landowner, tenant or family member to hunt on all land in the farm unit.

95.2(2) *Who may obtain free licenses.* One member of the landowner family (the landowner or an eligible family member) may obtain a free any-deer license. Members of the landowner family may divide the free antlerless-deer-only licenses for which the family is eligible among themselves in any way they choose. If there is a tenant on the same property, one member of the tenant family (the tenant or an eligible family member) may also obtain a free any-deer license. Members of the tenant family may divide the free antlerless-deer-only licenses for which they may be eligible among themselves in any way they choose. One member of the landowner family and one member of the tenant family may each obtain one free spring turkey hunting license and one free fall turkey hunting license.

95.2(3) *Method of registration.* A landowner or tenant may register on the internet through ELSI or by mailing an affidavit obtained from DNR. The online system is available 24 hours a day, seven days a week. An online registrant may obtain a free license once the registration process is complete. A person who registers through the mail or by fax may have to wait up to ten business days after the form is received by DNR to obtain a free license.

95.2(4) *Information verifying eligibility.* In order to register, a landowner, tenant or qualifying family member must have a customer record in ELSI. When registering, landowners, tenants and family members will be required to provide their ELSI customer number or their Iowa driver's license number or social security number and their date of birth to identify their ELSI customer record.

a. Landowners. A landowner shall provide the parcel identification number (PIN) from the landowner's current property tax statement for one parcel of qualifying land owned by the landowner and the number of the county where the land is located. Qualifying family members shall be registered to the same parcel of qualifying land as the landowner.

b. Partnerships, corporations or other forms of joint land ownership. Each owner of a jointly owned farm unit and the owner's qualifying family members who wish to receive free licenses for that farm unit shall register with the same county number and PIN. Only one joint owner or family member may obtain the one any-deer license available for the farm unit. The other joint owner(s) and family members may divide any other free licenses to which they are entitled among themselves in any way they choose.

c. Tenants. A tenant shall provide an affidavit that contains the name, address, and telephone number of the owner of the qualifying land rented by the tenant; the county number where the land is located; and the landowner's PIN from one parcel of that qualifying land. If a tenant rents land from more than one landowner, the tenant shall provide the required information about only one landowner. The tenant's qualifying family members shall be registered to the same parcel of qualifying land as the tenant.

d. Signature required. Pursuant to Iowa Code section 483A.24(2)*"f,"* all affidavits submitted to register eligibility for free licenses shall bear the signature of the landowner, tenant, or family member attesting that the information contained therein is true.

95.2(5) *Forms.* Instructions and affidavits may be obtained online at www.iowadnr.gov, at DNR offices, or by calling 515.725.8200.

95.2(6) *Registration expiration and renewal.* A registered landowner, tenant, or eligible family member may obtain free licenses as allowed in 95.2(2) provided the registration information and eligibility status remain valid. If the registration information or eligibility status of a registered landowner, tenant, or eligible family member changes, that individual must mail a DNR affidavit form or contact the DNR by telephone. The DNR will periodically review registration information to verify eligibility status and will inactivate registrations when the registration information fails to indicate eligibility.

95.2(7) *Penalties.* Free licenses will not be issued to an applicant until a legible and complete affidavit is received by DNR. An illegible or incomplete affidavit will be returned to the applicant for correction. A person who has made a false attestation in obtaining a license in violation of Iowa Code section 483A.24(2)*"f"* shall be guilty of a simple misdemeanor and subject to license revocation as provided in Iowa Code sections 483A.21 and 483A.24(2)*"f"* and 571—subrule 106.8(3).

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.7, 483A.8, 483A.8A, and 483A.2.

ARC 9888C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to wild turkey hunting and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 98, "Wild Turkey Hunting," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.7 and 483A.24.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.7 and 483A.24 and 2025 Iowa Acts, Senate File 148.

Purpose and Summary

Chapter 98 governs spring and fall wild turkey hunting by residents and nonresidents. Four amendments are proposed to implement 2025 Iowa Acts, Senate File 148, which removed the requirement that a landowner or tenant, as defined by Iowa Code chapter 483A, select a method of take and instead makes resident turkey hunting licenses valid until filled during the applicable time of year.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 1, 2025. A public hearing was held on the following date(s):

- October 21, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 28, 2026. Comments should be directed to:

Chris Ensminger
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: chris.ensminger@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at chris.ensminger@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al chris.ensminger@dnr.iowa.gov.

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 28, 2026	6200 Park Avenue, Second Floor
1 to 2 p.m.	Des Moines, Iowa

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at chris.ensminger@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 712.260.1040 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al chris.ensminger@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 712.260.1040 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Amend paragraph **98.1(1)"d"** as follows:

d. Number of fall licenses. No one may apply for or obtain more than two wild turkey fall hunting licenses. ~~A hunter may obtain no more than two combination shotgun-or-archery licenses, or two archery-only licenses, or one of each. One license of either type may be free to eligible landowners or tenants.~~

ITEM 2. Amend subrule 98.2(4) as follows:

98.2(4) *Archery-only licenses.* The total number of available fall archery-only licenses shall not be limited by zones or quotas.

ITEM 3. Amend subrule 98.2(5) as follows:

98.2(5) *Landowner/tenant licenses.* The total number of available fall landowner/tenant licenses shall not be limited by zones or quotas.

ITEM 4. Amend subrule 98.3(2) as follows:

98.3(2) Landowner/tenant licenses. An eligible resident landowner or tenant may obtain ~~a combination shotgun-or-archery license or a~~ one free ~~archery-only~~ spring turkey license or one free fall turkey license that is valid until filled using an appropriate method of take as defined for the season and only on the farm unit of the landowner or tenant. One combination shotgun-or-archery license or one archery-only license may be obtained in addition to the free spring or fall license. Nonresident landowners are not eligible for resident or landowner turkey hunting licenses.

~~*a. Spring combination shotgun-or-archery licenses.* A spring combination shotgun-or-archery license will be issued by season and will be valid only on the farm unit of the landowner or tenant.~~

~~*b. Spring archery-only licenses.* A spring archery-only license will be valid for all seasons but only on the farm unit of the landowner or tenant.~~

~~*c. Number of spring licenses.* One combination shotgun-or-archery license or one archery-only license may be obtained in addition to the free shotgun-or-archery license or the free archery-only license. If an archery-only license and a combination shotgun-or-archery license are obtained, the shotgun-or-archery license must be for season 4. If a free shotgun-or-archery license and a paid shotgun-or-archery license are obtained, one of the licenses must be for season 4.~~

ARC 9920C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to mobile radio transmitters and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 103, "Mobile Radio Transmitters," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 481A.24.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 481A.24.

Purpose and Summary

This chapter defines one-way and two-way mobile radio transmitters and outlines the legal use of these transmitters for falconry and hunting with dogs. This chapter is redundant to Iowa Code section 481A.24, and, consistent with Executive Order 10, the chapter is proposed to be rescinded.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 23, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 28, 2026. Comments should be directed to:

Captain Matt Bruner
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: matt.bruner@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at matt.bruner@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al matt.bruner@dnr.iowa.gov.

Public Hearing

A public hearing at which persons may present their views orally will be held as follows:

January 28, 2026 9 a.m.	Via videoconference

Persons who wish to attend the conference call should contact Captain Bruner via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Captain Bruner prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at matt.bruner@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.336.5456 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al matt.bruner@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.336.5456 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **571—Chapter 103**.

ARC 9923C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to hunting and wildlife and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 104, "Wildlife Importation, Transportation and Disease Monitoring"; to rescind Chapter 112, "Hunting Preserves," and adopt a new Chapter 112 with the same title; and to rescind Chapter 115, "Whitetail Hunting Preserves," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 484B and 484C.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 484B and 484C and section 481A.6.

Purpose and Summary

Proposed Chapter 112 consolidates two chapters related to private hunting preserves in the State of Iowa. Specifically, the Iowa Code authorizes private hunting preserves for game birds and whitetails and other ungulates. This proposed chapter sets forth general operation, registration, and fees for hunting preserves; signage and fencing requirements; recordkeeping and reporting requirements; tagging and transportation requirements; and health and disease testing requirements, both generally and for

whitetails specifically. The substance of these chapters has been revised to eliminate redundancies, improve efficiency, and align with the Iowa Code.

This rulemaking also proposes to rescind Chapter 104, which contains antiquated provisions related to farm deer, which are now under the jurisdiction of the Department of Agriculture and Land Stewardship.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 23, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 2, 2026. Comments should be directed to:

Chris Ensminger
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: chris.ensminger@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at chris.ensminger@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al chris.ensminger@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 28, 2026 1 to 2 p.m.	6200 Park Avenue, Second Floor Des Moines, Iowa
February 2, 2026 1 to 2 p.m.	6200 Park Avenue, Second Floor Des Moines, Iowa

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at chris.ensminger@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.250.6886 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al chris.ensminger@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.250.6886 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **571—Chapter 104**.

ITEM 2. Rescind 571—Chapter 112 and adopt the following **new** chapter in lieu thereof:

CHAPTER 112
HUNTING PRESERVES

571—112.1(484B,484C) Definitions. In addition to the definitions in Iowa Code sections 484B.1 and 484C.1, the following definitions apply:

"Accredited veterinarian" means a Category II-accredited veterinarian as authorized by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) and the state veterinarian in accordance with 9 CFR Part 161 as amended through February 25, 2020, to perform functions required by cooperative state/federal animal disease control and eradication programs.

"Annual activity report" means the Annual Report Form provided by the department.

"Approved laboratory" means an American Association of Veterinary Laboratory Diagnosticians (AAVLD)-accredited laboratory or the National Veterinary Services Laboratories in Ames, Iowa.

"Boundary sign" means a sign prescribed by the department that, when posted, designates the registered hunting preserve's boundaries.

"Cervidae" or *"cervids"* means any member of the Cervidae family, whether free-ranging or captive, except those classified as farm deer by Iowa Code section 481A.1(21)*"h."* "Farm deer" does not include any unmarked free-ranging elk, moose or mule deer.

"CWD" means chronic wasting disease, an infectious prion disease of cervids.

"Department" means the Iowa department of natural resources.

"Hunting preserve operator's registration" means the authority of the holder to establish a hunting preserve for the purpose of holding, propagating, and releasing game birds or privately owned whitetails or other ungulates for hunting purposes. "Registration" means both the license created in Iowa Code section 484B.4 and the registration created in Iowa Code section 484C.7.

"Lease" means a land-lease document for hunting preserve purposes.

"Privately owned" means the propagation and holding of whitetails whose origins are from privately owned populations.

"Quarantine" means an imposed restriction prohibiting movement of whitetails to any location without specific written permits.

"Registrant" means a person or organization that is registered to possess a hunting preserve operator's registration issued by the department.

"Transportation tag" means a self-adhesive, numbered tag for marking individual game birds and whitetails and other ungulates prior to transportation.

"Tissue sample" refers to the medial retropharyngeal lymph node, which is the preferred tissue type for CWD testing in whitetail deer and mule deer, or the lymph node and obex (caudal brainstem) in other cervid species. When damaged or degraded, the obex can be substituted in deer, though individual deer in early disease can be missed.

DIVISION I
GENERAL HUNTING PRESERVE OPERATIONS

571—112.2(484B,484C) Hunting preserve registration. A hunting preserve operator's registration may, following review and inspection, be issued to a person or organization that, upon application, complies with all requirements established in Iowa Code section 484B.4 or 484C.7, as applicable, and this chapter.

571—112.3(484B,484C) Land leases required. All hunting preserve applications that include leased tract(s) of land shall be accompanied by a legible copy of the land-lease document(s). The lease document(s) shall include but not be limited to the following information: name/address of the lessee and lessor, term of the lease (not less than five years), purpose of the lease, description/location of the leased tract(s) (acreage—section—township—county), one copy of the plat map depicting the location of leased tract(s), and dated signatures by both parties.

571—112.4(484B,484C) Boundary signs required. All registered hunting preserves shall provide, post, and maintain boundary signs that meet the following minimum specifications: 160-square-inch surface area; sign material of wood, steel, aluminum or heavy poly-plastic; and white/red sign color combination with the message "Registered Hunting Preserve." Boundary sign spacing shall be no more than 500 feet apart. Boundary signs shall be posted at each entrance and perimeter gate and at every boundary corner. If the facility operated prior to September 1, 2005, and was signed as a "Licensed Hunting Preserve," those signs will satisfy the signing requirement. However, once existing sign supplies are depleted, new signs must read "Registered Hunting Preserve."

571—112.5(484B,484C) Fencing required. All registered hunting preserves for whitetails or other ungulates shall construct and maintain a "deer-proof" boundary fence. Such fence shall be constructed and maintained with a minimum fence height of eight feet above ground level. Fencing shall be inspected and approved by officers of the department prior to registration. Follow-up fence inspections by the department shall be allowed at any reasonable time by appointment or by providing the landowner or preserve registrant with at least 48 hours' notice. Boundary fence gates shall remain closed at all times except for preserve maintenance activity, at which time no open gate shall be left unattended.

571—112.6(484B,484C) Records and annual report. All registered hunting preserves shall submit to the department a completed annual activity report on forms provided by the department. All registered hunting preserves shall retain sales/shipping receipts involving the purchase and delivery of any game birds or whitetails or other ungulates to the registrant. All registered hunting preserves shall record any transaction involving the sale of game birds or whitetails or other ungulates by the registrant. All original sales receipts for harvested game birds and whitetails and other ungulates shall remain with the registrant as a part of the permanent record and a copy shall be provided to the purchasing hunter. This record requirement shall also apply to any sale of live birds or whitetails or other ungulates for private or commercial use, and the sale must be recorded immediately following the event.

Any registered hunting preserve having a registration for ungulates shall maintain an inventory record of all ungulates released and being held on the property at any given time.

571—112.7(484B) Game bird transportation tags. Tags shall be placed on a leg of all birds harvested on a registered hunting preserve prior to the bird being transported from the registered area. The tag shall

remain attached to the bird until the time it is processed for consumption. Tags are available from the department at a cost of $5 per 100 tags.

571—112.8(484B,484C) Whitetail and other ungulate transportation tags. Tags shall be placed on a leg of each whitetail or other ungulate harvested on a registered hunting preserve prior to moving the carcass in any manner. The hunter shall, upon taking a whitetail or other ungulate, immediately validate the tag by including the following information in the space provided: species and sex of animal taken and the hunter's signature. The hunter shall also notch or punch a hole in the corresponding blocks on the tag designating the year, month and day the animal was taken. The tag shall remain attached to the animal until the animal is processed for consumption. Tags are available from the department at a cost of $1 per tag.

571—112.9(484B) Processed game birds. Registered hunting preserves may prepare game birds for hunters by cleaning, dressing, preserving, and packaging whole birds or bird parts. Packaging material shall be a see-through plastic bag. The plastic bag shall be sealed and the tag placed around the opening of the bag or attached to the bag in such a manner so that the tag number(s) is completely legible. The number of game birds or combination of bird parts shall correspond to the number of tags affixed to the clear plastic bag.

571—112.10(484B,484C) Processed whitetails or other ungulates. Registered hunting preserves may prepare whitetails or other ungulates for hunters by cleaning, dressing, preserving, and packaging the meat. Packaging material shall bear the species name, date the animal was killed, and hunting preserve name in a legible fashion on the outside of the package. The tag shall remain with the meat during processing and shipment.

571—112.11(484B,484C) Health requirements. No game birds or whitetails or other ungulates shipped or transported into Iowa shall be affected with, or recently exposed to, any infectious, contagious, or communicable disease, or originate from a quarantined area.

112.11(1) *Game birds.* All game birds and their hatching eggs shipped or transported into Iowa shall have proof of origination from flocks or hatcheries that have a pullorum-typhoid clean rating given by the official state agency of the National Poultry Improvement Plan or its equivalent and shall be in accordance with the United States Department of Agriculture and the Iowa department of agriculture and land stewardship.

112.11(2) *Whitetails.* All whitetails shipped or transported into or within Iowa for hunting preserve purposes must be in compliance with all movement requirements, including but not limited to health certificate requirements, as prescribed by the department and the department of agriculture and land stewardship as established in 21—65.9(163) and 21—66.14(163). Whitetails are also subject to the rules in Division II of this chapter.

112.11(3) *Other ungulates.* All other ungulates shipped or transported into Iowa for hunting preserve purposes shall be accompanied by an approved Certificate of Veterinary Inspection. All veterinary inspection certificates shall be retained by the registrant for a period of no less than five years.

571—112.12(484B,484C) General conditions for registrants.

112.12(1) Records and facilities shall be available for inspection by officers of the department during reasonable hours. The department may conduct an annual site visit and visual inventory of whitetails or other ungulates observed.

112.12(2) All records and reports must be kept current and reflect a true and accurate account of the registrant's activities.

112.12(3) The department must be notified within 30 days in writing if the registrant ceases operation as a hunting preserve, at which time all unused transportation tags shall be returned to the department.

112.12(4) Whitetail or other ungulate hunting preserves that cease operation shall not remove boundary fencing without approval from the department. Whitetail or other ungulate hunting preserves shall be depopulated prior to any boundary fence removal.

112.12(5) Game bird and ungulates-other-than-whitetail hunting preserves.

a. Registrants must seek to renew their hunting preserve operator's registration within 30 days following the expiration date. Renewal requests received after this period may be considered a new application pursuant to 571—112.2(484B,484C) and 571—112.3(484B,484C).

b. All new hunting preserve operator's applications shall be considered on a first-come, first-served basis following April 30 of each year.

112.12(6) Whitetail preserves.

a. A registrant shall renew the hunting preserve operator's registration and recertify no later than June 30. Registration renewal and recertification requests received by the department after June 30 shall be considered delinquent.

b. The department shall not renew a hunting preserve operator's registration unless a completed annual report, including all documented events for the reporting period, has been received by the department prior to the reporting deadline.

c. For purposes of this chapter, there shall be a continuous open season on whitetails enclosed on registered preserves.

d. Individuals may use centerfire rifles, pistols, crossbows, modern or traditional archery equipment, muzzleloaders, or shotguns to hunt and harvest preserve whitetails.

DIVISION II
WHITETAIL DISEASE MONITORING

571—112.13(481A,484C) CWD in whitetails.

112.13(1) *Testing required.* A person who keeps preserve whitetails in this state shall have CWD tests performed on any preserve whitetail that dies or is killed on the premises. Whenever any person receives a laboratory test result for CWD, that person shall immediately report that result to the department. The person shall report by telephone, email, fax or other rapid means within one day after receiving the test result and shall report in writing within ten days. The person shall provide a copy of the test result to the owner of the tested whitetail. This reporting requirement applies to any laboratory test result for CWD.

112.13(2) *Collecting tissue samples.* One of the following persons shall collect a tissue sample and submit it for testing:

a. An accredited veterinarian.

b. A trained employee of the department authorized by the department.

112.13(3) *Reporting disease findings.* Accredited veterinarians unaffiliated with the department shall share results of CWD or other disease testing by phone or email as soon as received. Accredited veterinarians unaffiliated with the department shall also provide a copy of the test result to the owner of the tested whitetail.

571—112.14(481A,484C) Official whitetail CWD tests. The following are recognized as official cervid tests for CWD:

1. Immunohistochemistry.
2. Enzyme-linked immunosorbent assay.
3. Any other tests performed by an approved laboratory to confirm a diagnosis of CWD.

571—112.15(481A,484C) Duration of quarantine. A positive test result for CWD will result in a minimum of a five-year quarantine on the preserve and all remaining animals located within the infected preserve. No animal movement in or out of the preserve can occur during the quarantine period.

571—112.16(481A,484C) Herd plan. The registered hunting preserve owner, the owner's veterinarian, if requested, and a designated epidemiologist shall develop a plan for eradicating CWD in affected herds. The plan must be designed to reduce and then eliminate CWD from the herd and prevent spillover into wild cervids. The herd plan must be developed and signed within 60 days after the determination that the herd is affected. The plan must be formalized as a memorandum of agreement between the owner and program officials within the department.

These rules are intended to implement Iowa Code chapters 481A, 484B and 484C.

ITEM 3. Rescind and reserve **571—Chapter 115**.

ARC 9921C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to scientific collecting and wildlife rehabilitation and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 111, "Scientific Collecting and Wildlife Rehabilitation," and to adopt a new Chapter 111, "Natural Resources Collector Permits: Research, Education and Wildlife Rehabilitation," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 461A.41, 481A.39 and 481A.65.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 461A.41, 481A.39 and 481A.65 and 50 CFR Parts 10, 20 and 21.

Purpose and Summary

Proposed Chapter 111 explains the process for members of the public to obtain permits to take, acquire, or possess wildlife or plants for educational projects, scientific collecting, wildlife rehabilitation, and wildlife salvage. The rules also formally adopt standards as identified by the National Wildlife Rehabilitator's Association, the International Wildlife Rehabilitation Council, the Fish and Wildlife Service, and the United States Department of Agriculture.

This chapter has been reviewed and edited consistent with Executive Order 10. Definitions and rules have been revised to align with State and federal law.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 23, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

Karmin Klingenberg
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.326.0430
Email: karmin.klingenberg@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at karmin.klingenberg@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al karmin.klingenberg@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 28, 2026 2 to 3 p.m.	6200 Park Avenue, Suite 200 Des Moines, Iowa And via videoconference
February 4, 2026 4 to 5 p.m.	6200 Park Avenue, Suite 200 Des Moines, Iowa And via videoconference

Persons who wish to attend a conference call should contact Karmin Klingenberg via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Karmin Klingenberg prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at karmin.klingenberg@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.326.0430 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al karmin.klingenberg@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.326.0430 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 111 and adopt the following **new** chapter in lieu thereof:

CHAPTER 111
NATURAL RESOURCES COLLECTOR PERMITS:
RESEARCH, EDUCATION AND WILDLIFE REHABILITATION

571—111.1(481A) Definitions.

"Department" means the same as defined in Iowa Code section 481A.1.

"Educational project permit" means a permit to take, acquire and possess live wildlife for natural resource-based educational programs and displays.

"Permit" means a license for the purpose of this chapter.

"Permittee" means an organization or person that possesses a valid permit issued by the department under Iowa Code section 481A.65.

"Scientific collector's permit" means a permit to take, for scientific purposes only, any birds, nests, eggs, mammals, amphibians, reptiles, fish, invertebrates, plants or parts thereof that are protected by state regulations.

"Wildlife rehabilitation permit" means a permit to take and temporarily possess injured, sick or orphaned authorized wildlife species with the sole intent to return the animal to its natural habitat as soon as possible.

"Wildlife salvage permit" means a permit to possess, for natural resource education programs or scientific studies, authorized protected wildlife species that have died as the result of natural causes or accidents, were legally taken, or were donated specimens that have been legally obtained.

571—111.2(481A) General conditions for permits.

1. Applications will not be approved for private collections or for commercial use of protected species.

2. Any costs incurred by the permittee for the administration of any permit authorized by this chapter are the responsibility of the permittee.

3. Scientific collecting permits, wildlife salvage permits, and educational project permits unless for migratory birds are generally issued in the name of the institution or organization. The principal collector or permittee will be listed on the permit and be responsible for administering the permit. All persons collecting or working under the authority of the permit shall carry a copy of the permit and a letter of authorization from the principal permittee.

4. Educational project permits for migratory birds and wildlife rehabilitation permits may list an institution or organization but also must list the person or persons with the qualifications for that particular permit. These permits do not necessarily continue with the institution or organization if the person or persons listed on the permits leave. If replacement personnel with the proper qualifications for the permit or permits are found, then the permit or permits may stay in the institution's or organization's name.

5. Specimens collected or possessed under any permit authorized by this chapter remain the property of the state of Iowa. The department reserves the right to determine the disposition of all specimens collected under authority of these permits.

6. Records, facilities and inventories must be made available for inspection by the department's agents during reasonable hours.

7. Records of collections and the manner in which specimens have been acquired and their disposition must be kept current at all times.

8. Authorization to collect or possess endangered or threatened species requires special permission and must comply with provisions established in Iowa Code chapter 481B.

9. A representative of the department must be notified within 72 hours of a permittee taking or holding threatened or endangered species that are found dead and within 24 hours for those that are injured or sick.

10. A permitted rehabilitator or veterinarian must determine if a migratory bird is permanently crippled before it may be held under an educational project permit.

11. Permit fees will be $5 for one year, $10 for two years, and $15 for three years.

12. Applicants for scientific collectors, wildlife rehabilitation, and educational projects must be at least 18 years old or provide written permission from a parent or guardian.

13. No animals being rehabilitated may be used for educational programs.

14. Applicants for scientific collector, wildlife rehabilitation, wildlife salvage, and educational project permits that are requesting permission to collect, possess, or hold wildlife species as listed in 50 CFR Parts 10, 20, and 21 as amended through August 4, 2025, must follow provisions set forth and may be required to obtain a federal permit issued by the U.S. Fish and Wildlife Service.

15. Any native mammals, reptiles, amphibians, or fish that are not state-listed endangered or threatened species and are obtained from legal sources outside the state of Iowa are exempt from these permit requirements. Proof of origin of each animal is the responsibility of the owner.

571—111.3(481A) Scientific collector's permit. A scientific collector's permit may, after investigation, be issued to any business, organization, university, college or person engaged in a scientific project approved by the department.

This permit may be issued for a period of up to three years.

The application narrative shall include the reason for study, expected conservation benefit for Iowa, species, number of specimens to be collected, geographic location, time frame and collection methods subject to department approval.

571—111.4(481A) Wildlife salvage permit. A wildlife salvage permit may be issued to any business, university, college, school, public agency, other organization or person engaged in a natural resource education or research program approved by the department.

This permit may be issued for a period of up to three years.

Special approval is required for the salvage of migratory birds, including nests and eggs.

571—111.5(481A) Educational project permit. The following classes of educational project permits may be issued by the department:

111.5(1) A general educational project permit for protected animal species, other than migratory birds, may be issued to any university, college, school, public agency, other organization or person engaged in a natural resource education program approved by the department. The limitation on the number of animals in possession shall be established by the ability of the applicant to provide adequate facilities and care.

This permit may be issued for a period of up to three years.

111.5(2) A migratory bird apprentice educational project permit may be issued to a person interning to meet the requirements of the federal special purpose possession permit and being sponsored by a person possessing the following: a master wildlife rehabilitation permit and two years' experience using migratory birds under a state or federal educational project permit, a master class falconry permit or a migratory bird general educational project permit for at least five years. Sponsorship information shall be submitted with the apprentice application on a form prescribed by the department. An apprentice will be limited to the possession of one American kestrel and one screech owl that are permanently crippled or human imprinted. In the case where an apprentice will be in charge of an existing facility with additional birds, the sponsor and the conservation officer must approve the possession of the additional species and individuals.

This permit may be issued for a period of up to two years.

111.5(3) A migratory bird general educational project permit for migratory birds may be issued to a person who has served the appropriate apprenticeship and is recommended by the person's sponsor, has previously held an educational project permit for migratory birds issued by the department or the U.S.

Fish and Wildlife Service, or has held a master class state and federal falconry permit within the last five years.

This permit may be issued for a period of up to three years.

571—111.6(481A) Wildlife rehabilitation permit. The following classes of wildlife rehabilitation permits may be issued by the department:

111.6(1) An apprentice wildlife rehabilitation permit may be issued to a person serving a one-year internship with and being sponsored by a person possessing a master wildlife rehabilitation permit or to a person serving a two-year internship with and being sponsored by a person possessing a general wildlife rehabilitation permit. Sponsorship information shall be submitted with the apprentice application on a form prescribed by the department.

This permit may be issued for a period of up to two years.

111.6(2) A general wildlife rehabilitation permit may be issued to a person who has served the appropriate apprenticeship; has graduated with a degree in veterinary medicine; or has previously held a rehabilitation permit issued by the department, U.S. Fish and Wildlife Service, or any other state natural resource agency.

A general wildlife rehabilitator may sponsor up to four apprentices at a given time.

This permit may be issued for a period of up to three years.

111.6(3) A master wildlife rehabilitation permit may be issued to a person who has completed five consecutive years of extensive rehabilitation work and has received a recommendation from the local state conservation officer assigned to the person's resident county or who is a licensed veterinarian with specific training and experience in wildlife rehabilitation. The department may issue a master wildlife rehabilitation permit to individuals who have demonstrated special ability, knowledge, training and experience in wildlife rehabilitation.

A master wildlife rehabilitator may sponsor up to six apprentices at a given time.

This permit may be issued for a period of up to three years.

571—111.7(481A) Application qualifications. All applicants for any permit defined herein must possess adequate qualifications and experience and facilities to house and properly confine species held under the permit if applicable. Applicants are subject to the following standards:

Standards/Publications	Association/Society Name
Minimum Standards for Wildlife Rehabilitation, Fourth Edition 2012	International Wildlife Rehabilitation Council (IWRC) National Wildlife Rehabilitators Association (NWRA)
Migratory Bird Permit Memorandum, MBPM-12, December 31, 2024	Fish and Wildlife Service (FWS)
Buhl G. Wildlife in Education: A Guide for the Care and Use of Program Animals. Second. Buhl G, Schlieps J, Smith L, editors. Bloomington, MN: National Wildlife Rehabilitation Association, 2018	NWRA
Animal Welfare Act and Animal Welfare Regulations Blue Book, Animal and Plant Health Inspection Service, July 2023	United States Department of Agriculture (USDA)
Arent, Lori, "Raptors in Captivity: Guidelines for Care and Management," Hancock House, 2007	FWS

For scientific collectors permits, the applicant must certify to following the guidelines set forth by the organization's Institutional Animal Care and Use Committee or the organization overseeing the research.

For education and rehabilitation permits, the applicant and officer will be provided the appropriate Permit Inspection Sheet based on the guidelines set forth by the appropriate governing body and the appropriate governing body's permit resources.

If they are housing animals, wildlife rehabilitation and educational project applicants must provide a completed and signed Consulting Veterinarian Agreement on the form provided by the department from a licensed veterinarian that will provide professional counsel to the applicant. Applicants must list species or groups of species, such as but not limited to rabbits, squirrels, migratory birds, snakes or turtles, for which they will be providing rehabilitation services on the applicants' permit application narrative.

The application narrative for an educational project permit must list the species and number of each species that will be held. Facilities for migratory birds must meet the design and size criteria set forth by the standards listed above.

If an applicant has been found in court to have committed an act of animal cruelty or neglect, the applicant shall not be eligible for a license for at least five years from the date of the conviction or guilty plea.

571—111.8(481A) Evaluation committee. For the purpose of evaluating facilities, standards of care, study design, sample numbers, and impacts to wild populations from applications requested by applicants under this rule, the director may establish an ad hoc committee of persons with expertise in wildlife, rehabilitation, veterinary medicine, research or education. Upon request by the director, the committee shall inspect the facilities, procedures and educational programs and provide the department with appropriate recommendations. The committee may also consider the National Wildlife Rehabilitator's Code of Ethics for its recommendations. The recommendations may be used as a basis for placing certain conditions on a permit or modifying or terminating a permit.

571—111.9(481A) Disposition of animals, parts, eggs or nests. Injured or orphaned animals that cannot be returned to their natural environment shall be transferred to someone with an educational project permit or, after being euthanized by or under the guidance of a licensed veterinarian, handled as follows:

111.9(1) The animals will be transferred to someone with a scientific collector's permit or a wildlife salvage permit after obtaining permission from the department, or

111.9(2) Disposition of carcasses must be in accordance with local ordinances and according to Iowa Code chapter 167.

All threatened and endangered species that have died, that must be euthanized, or that cannot be released shall be referred to the department for further determination of proper disposition.

These rules are intended to implement Iowa Code sections 461A.41, 481A.39, and 481A.65.

ARC 9922C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to pollution restitution and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 113, "Restitution for Pollution Causing Injury to Wild Animals," Iowa Administrative Code, and to adopt a new Chapter 113 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 481A.151.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 456A.23, 481A.2 and 481A.151.

Purpose and Summary

The Iowa Code requires the Department of Natural Resources (Department) to obtain restitution for damages to natural resources caused by water pollution. This restitution serves as funding to remediate the damages and serves as a deterrent to future prohibited activities. Proposed Chapter 113 includes provisions identifying how investigations are to be conducted and how damages are to be assessed, designating restitution amounts for fish and other aquatic life, and providing procedures for how compensation for damages will be obtained. This chapter has been reviewed and edited consistent with Executive Order 10.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

Randall Schultz
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: randy.schultz@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at randy.schultz@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al randy.schultz@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 12 noon to 1 p.m.	Via videoconference
February 4, 2026 12 noon to 1 p.m.	Via videoconference

Persons who wish to attend a conference call should contact Randall Schultz via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a

conference call public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at randy.schultz@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.326.0430 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al randy.schultz@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.326.0430 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 113 and adopt the following **new** chapter in lieu thereof:

CHAPTER 113
RESTITUTION FOR POLLUTION CAUSING INJURY TO WILD ANIMALS

571—113.1(481A) Applicability. These rules apply to persons who cause, by water pollution, the destruction of or injury to wild animals held in trust by the state for the public. These rules relate to the compensation to the state and public for the natural resource damages and are in addition to any other legal recourse for the event or action that caused the destruction or damage.

571—113.2(481A) Definitions.

"AFS" means the 2017 Special Publication 35, "Investigation and Monetary Values of Fish and Freshwater Mollusk Kills," published by the American Fisheries Society.

"Damages" means the costs of restoration, rehabilitation, and replacement of resources or acquisition of equivalent resources as determined in accordance with this chapter; the reasonable and necessary costs of the assessment, to include the cost of performing the assessment and administrative costs and expenses necessary for, and incidental to, the assessment; lost services to the public; and, in the event the damages claim is not resolved within six months after the incident leading to the damages, interest at the current rate published in the Iowa Administrative Bulletin by the department of revenue pursuant to Iowa Code section 421.7. The interest amount shall be computed from the date the amount of the claim is confirmed by a final ruling of the commission in a contested case decision.

"Priority watershed" means a watershed for which:

1. The department of natural resources, in partnership with other state or federal agencies, the agriculture community or nonprofit organizations, creates and implements plans, programs or projects to sustain and enhance watershed and stream functions; and
2. The principal objective is to manage wild animals and their habitats.

"Surface water resources" means the waters of the state, including the sediments suspended in water or lying on the bank, bed, or shoreline. This term does not include groundwater or water or sediments in ponds, lakes, or reservoirs designed for waste treatment under applicable laws regulating waste treatment.

"Wild animals" means fish, wildlife and other biota belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the state of Iowa, the United States, or local government. Fish and wildlife include freshwater aquatic and terrestrial species; game, nongame, and commercial species; and threatened and endangered species. Other biota encompass shellfish and other living organisms not otherwise listed in this definition.

571—113.3(481A) Liability to the state. Persons who cause by water pollution the destruction of or injury to wild animals of the state shall be liable to the state as provided in Iowa Code section 481A.151. These rules establish the methodologies and criteria for evaluating the extent and value of the destruction or injury and establish the methods of compensation. If the person and the department cannot agree to the proper resolution of a particular case, the issues of liability, damage and compensation will be established through contested case proceedings as provided by 571—Chapter 7.

571—113.4(481A) Assessment. When wild animals are destroyed or injured by an identifiable source of water pollution, the degree and value of the losses shall be assessed by collecting, compiling, and analyzing relevant information, statistics, or data through prescribed methodologies to determine damages, as set forth in this rule.

113.4(1) *General.* For species other than fish, the professional judgment of fish and wildlife staff and available literature and guidance normally relied on in the fish and wildlife professions may be used to assess the injuries.

113.4(2) *Fish loss.* Assessment of damages for fish kills shall be in accordance with the following:

a. Normally investigators will follow the methods prescribed by AFS to determine, by species and size, numbers of fish killed.

b. During periods of ice cover, where local conditions prevent using the methods in 113.4(2)*"a,"* or in other appropriate circumstances; for example, when the resources are known to have been diminished by prior incidents, investigators will utilize the best information available to determine, by species and size, numbers of fish killed. Information may include existing or prior data on population levels in the affected water body or a nearby water body with similar characteristics, including any historical fish kill data.

c. The monetary valuation of fish shall be the replacement values as published in AFS for all fish lost, except the following: channel catfish, flathead catfish, blue catfish, northern pike, muskellunge, northern pike/muskellunge hybrid, rainbow trout, brown trout, brook trout, white bass, yellow bass, white bass/striped bass hybrid, largemouth bass, smallmouth bass, spotted bass, crappie, rock bass, bluegill, redear sunfish, warmouth, pumpkinseed, freshwater drum, yellow perch, walleye, sauger and walleye/sauger hybrid. The value of these fish shall be $15 each unless AFS establishes a higher value. Notwithstanding the above, the value of each fish classified by the department as an endangered or threatened species shall be $1,000.

d. The value of lost services to the public shall be the number of fishing trips lost over the period of the resource loss as determined through local creel survey information or through interpolation from the most recent statewide creel survey. Each trip shall be valued at $30.

e. The cost of the investigation shall include:

(1) Salaries plus overhead of staff, including support staff, involved in investigating the fish kill and performing the assessment.

(2) Any meals and lodging of staff while they are in the field conducting the assessment.

(3) Mileage valued at the current rate established pursuant to Iowa Code section 8A.363.

(4) Costs borne by the department associated with containment or cleanup operations.

(5) Any other costs directly associated with the investigation and assessment.

571—113.5(481A) Compensation. The department will extend to the responsible person the opportunity to reach voluntary agreement as to the amount of damages and the compensation method. The method of compensation shall be solely in the discretion of the department. If the person disputes liability or the damage amount, these issues will be resolved through contested case proceedings.

113.5(1) *Direct monetary payment.* Compensation shall normally be by direct monetary payment to the department for projects in priority watersheds selected by the department. To the extent reasonable and practical, the money received will be used to replace, restore or rehabilitate the lost or injured animals. Resource enhancement projects, support of educational programs relating to resource protection or enhancement, or resource acquisition of equal or greater value also may be funded. If practical, such alternatives should provide similar services to the public.

113.5(2) *Indirect monetary payment.* In cases where the destruction of or injury to wild animals is in a selected priority watershed, an equal or greater amount of compensation may be made by monetary payment to another government agency or private nonprofit group in the natural resource field for the same purposes as provided in 113.5(1).

113.5(3) *Direct funding of projects.* With the approval and oversight of the department, the person may be allowed to contract directly for the same purposes as provided in 113.5(1).

These rules are intended to implement Iowa Code sections 456A.23, 481A.2 and 481A.151.

ARC 9967C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rulemaking related to Help Us Stop Hunger program administration and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 116, "Help Us Stop Hunger Program Administration," Iowa Administrative Code, and to adopt a new Chapter 116 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 481A.38 and 483A.1.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 483A.8(1) and 483A.8(3).

Purpose and Summary

Proposed Chapter 116 establishes the procedures for the administration of the Help Us Stop Hunger (HUSH) program. The HUSH program is established in the Iowa Code to encourage hunters, especially during periods of excessive deer populations, to harvest more deer than needed for personal consumption so as to donate those deer to a program to feed Iowans in need.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 23, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on February 2, 2026. Comments should be directed to:

Chris Ensminger
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: chris.ensminger@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at chris.ensminger@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al chris.ensminger@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 28, 2026 1 to 2 p.m.	6200 Park Avenue, Second Floor Des Moines, Iowa
February 2, 2026 1 to 2 p.m.	6200 Park Avenue, Second Floor Des Moines, Iowa

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at chris.ensminger@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.250.6886 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al chris.ensminger@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.250.6886 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 571—Chapter 116 and adopt the following **new** chapter in lieu thereof:

CHAPTER 116
HELP US STOP HUNGER PROGRAM ADMINISTRATION

571—116.1(483A) Purpose. This chapter establishes the procedures for the administration of HUSH.

571—116.2(483A) Definitions.

"Deer" means any wild deer legally taken in Iowa and deer confiscated as legal evidence if the confiscated carcass is considered by a conservation officer to be in good condition for donation.

"Department" means the same as defined in Iowa Code section 483A.1A.

"Distributor" means the Food Bank of Iowa or other venison distribution service provider as shall be designated by future contract with the department.

"Field-dressed" means that the deer has been properly bled and cleaned of its internal organs.

"Food Bank of Iowa" means the private, nonprofit charitable organization incorporated under that name, whose mission is to alleviate hunger and reduce food waste in Iowa.

"HUSH" means the help us stop hunger program.

"Meat processor" means any business that is licensed by the department of agriculture and land stewardship's bureau of meat and poultry inspection, the USDA, or a neighboring state's department that is similar to Iowa's, to process meat for retail customers.

571—116.3(483A) Restrictions. Deer is the only species of wildlife that shall be covered by the HUSH program. The entire deer carcass must be donated, but the hunter may keep the antlers, head and cape.

571—116.4(483A) HUSH council. There is hereby created a HUSH council. Members shall serve without compensation.

116.4(1) *Membership.* The HUSH council shall include the following voting members:

a. The HUSH coordinator, who shall serve as the chairperson;

b. An additional department representative designated by the department's wildlife bureau chief;

c. A representative of the Food Bank of Iowa appointed by its executive director.

116.4(2) *Duties.*

a. To set a fair market price, the council shall consider prices for similar services paid by retail customers in Iowa and nearby states and shall recommend to the department an annual per-deer processing payment to be made to meat processors.

b. The council shall recommend to the department an annual per-deer administrative payment to be made to the Food Bank of Iowa. The Food Bank of Iowa shall provide information to assist in this determination but shall not participate in any vote of the council regarding the recommendation of the annual per-deer administrative payment to the Food Bank of Iowa.

c. The council shall make recommendations to the department to resolve conflicts or disputes in the operation of the HUSH program as brought to it by any person or entity.

d. The council shall adopt standards for participating lockers to meet in terms of their record of violations of rules of the bureau of meat and poultry inspection and the department of natural resources.

e. The council shall advise the department in the administration of HUSH.

116.4(3) *Administration.* The HUSH coordinator shall convene the council as needed to conduct business. A majority vote shall be required for action or decision by the council. The chief of the department's wildlife bureau shall have the right to overrule the council for cause and shall provide the council with justification for the reasons. A quorum to conduct business shall consist of three council members, one of whom shall be the HUSH coordinator.

571—116.5(483A) Duties of the department. During periods of excessive deer populations, the department shall promote the harvest of deer by hunters and the donation of deer at meat processors participating in HUSH. During periods of nonexcessive deer populations, HUSH may continue with less emphasis on promotion to hunters. The department shall enlist as many meat processors as available to

participate in HUSH and shall enter into uniform agreements with them. The department shall contract with the Food Bank of Iowa and pay a per-deer rate for administrative services provided.

571—116.6(483A) Partnerships with other organizations. The department, at its own discretion, may enter into agreements with other organizations for the purpose of expanding the deer donation program. The department may include the offer of matching grants to pay for deer processing to organizations that acquire funding from sources other than the state of Iowa.

These rules are intended to implement Iowa Code chapter 483A.

ARC 9894C

NATURAL RESOURCES DEPARTMENT[561]

Notice of Intended Action

Proposing rulemaking related to public records and fair information practices and providing an opportunity for public comment

The Natural Resources Department (Department) hereby proposes to rescind Chapter 2, "Public Records and Fair Information Practices," Iowa Administrative Code, and to adopt a new Chapter 2 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 17A and section 22.11.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and Executive Order 10.

Purpose and Summary

Chapter 2 establishes the Department's policies and procedures for the maintenance of records. This chapter facilitates public access to open records and provides the procedures for identifying and protecting confidential records. The chapter implements provisions of the Fair Information Practices Act. The Environmental Protection Commission and the Natural Resource Commission have adopted Chapter 2 by reference with a single sentence in 567—Chapter 2 and 571—Chapter 2, respectively.

In accordance with Executive Order 10, the rules have been edited for length and clarity by removing outdated provisions and removing those redundant to statute. The definitions noted in 567—Chapter 2 have been moved to 561—Chapter 2, removing redundancy and allowing for all records provisions to be in the same chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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 for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on January 30, 2026. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: kelli.book@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al kelli.book@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa
January 29, 2026 10 to 11 a.m.	Via videoconference

Persons who wish to attend a conference call should contact Ms. Book via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at a conference call public hearing must submit a request to Ms. Book prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.210.3408 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.210.3408 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

561—2.1(17A,22) Purpose and scope.

2.1(1) This chapter implements Iowa Code section 22.11 by establishing department procedures for the maintenance of records. It also facilitates the department's handling of confidential records and the implementation of the Fair Information Practices Act.

2.1(2) This chapter does not:

a. Require the department to index or retrieve records that contain information about individuals by that person's name or other personal identifier.

b. Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

c. Govern the maintenance, disclosure or notification of or access to records in the possession of the department that are governed by the regulations of another agency.

d. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

e. Make available records compiled in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings will be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations.

561—2.2(17A,22) Definitions. As used in this chapter:

"Confidential record" means a record that is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the department is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7 or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

"Custodian" means the department or a person lawfully delegated authority by its director to act for the department in implementing Iowa Code chapter 22.

"Department" means the department of natural resources.

"Open record" means a record other than a confidential record.

"Personally identifiable information" means information about or pertaining to an individual in a record that identifies the individual and that is contained in a record system.

"Record" in these rules means the whole or a part of a public record as defined in Iowa Code section 22.1.

"Record system" means any group of records under the control of the department from which a record may be retrieved by a personal identifier such as the name of an individual or a number, symbol or other unique retriever assigned to an individual.

561—2.3(17A,22) Requests for access to records.

2.3(1) *Location of record.* A request for access to a record should be directed to the custodian or the particular department office where the record is kept. If the location of the record is not known by the requester, the request should be directed to the Director, Department of Natural Resources, 6200 Park Avenue, Suite 200, Des Moines, Iowa 50321. If a request for access to a record is misdirected, department personnel will promptly forward the request to the appropriate person within the department.

2.3(2) *Office hours.* Records are available during all customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

2.3(3) *Request for access.* Requests for access to records may be made in writing or in person. The office may also accommodate telephone requests where appropriate. Requests will identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests will include the name, address and telephone number of the person requesting the information. A person is not required to give a reason for requesting a record.

2.3(4) *Response to requests.* Access to a record will be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to a record requires time for compliance, the custodian will comply with the request as soon as feasible. Access to a record may be delayed for purposes authorized by the Iowa Code. The custodian will promptly give notice to the requester of the reason for any delay in access to a record and an estimate of the length of that delay. The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under the Iowa Code, that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 561—2.5(17A,22) and other applicable provisions of law.

2.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from department files. Examination and copying of department records will be supervised by the custodian or a designee of the custodian. Records will be protected from damage and disorganization.

2.3(6) *Copying.* A reasonable number of copies of a record may be made in the department's office. If photocopy equipment is not available in the department office where the record is kept, the custodian will permit its examination in that office and will arrange to have copies promptly made elsewhere.

2.3(7) *Fees.*

a. When charged. Anyone making a request for reproduction of the department's records will pay for the services. The fee schedule is available on the department's website, iowadnr.gov. To the extent permitted by applicable provisions of law, the payment of fees may be waived in the case of small requests of five or fewer copies, when the imposition of fees is inequitable, or when a waiver is in the public interest. Charges for examination or copies requested in writing by a person in a capacity as representative of another governmental entity or where copies are provided under provisions of a written department contract may be waived.

b. Supervisory fee. An hourly fee may be charged for actual department expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one-half hour. The custodian will prominently post in department offices the hourly fee to be charged for supervision of records during examination and copying. That hourly fee will not be in excess of the hourly wage of a department clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

c. Search fees. If the request requires research or if the record or records cannot reasonably be readily retrieved by the office, the requester will be advised of this fact. Reasonable search fees may be charged where appropriate. In addition, all costs for retrieval and copying of information stored in electronic storage systems may be charged to the requester.

d. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds $25, the custodian may require a requester to make an advance payment to cover all or part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

561—2.4(17A,22) Confidential records. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order. Unless deemed as a confidential record or

considered as a confidential record by Iowa Code section 22.7, all records are considered public and routinely disclosed without the consent of the subject.

2.4(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order authorizes the custodian to treat the record as a confidential record may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

2.4(2) *Request.* A written request that a record be treated as a confidential record and be withheld from public inspection should be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record. The request should include two copies of the record in question: one copy of the record with all information provided and a second copy of the record with the information being requested confidential deleted from the record.

2.4(3) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

2.4(4) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

2.4(5) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian will notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8 or other applicable provision of law. However, such a record need not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian will notify the requester in writing of the time period allowed to seek injunctive relief or the reason for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, if a court directs the custodian to treat it as a confidential record, to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

2.4(6) *Processing of confidentiality claims.* In order to request a record be held confidential with the department, the party will comply with the following provisions:

a. Applicability/availability. Businesses that provide information to the department in applications, reports or otherwise in recorded form, or from or about which information is obtained and recorded by the department, may request that information not be disclosed to others for reasons of business confidentiality. Until such time as a request for confidentiality is received by the department, all information will be available to the public. If a claim is received after the information itself is received, the department will make such efforts as are administratively practicable to associate the claim with all copies of the previously received information. However, the department cannot ensure that such efforts will be effective in light of the possibility of prior disclosure or dissemination of the information beyond the department's reasonable control.

b. Confidentiality request process. An entity that submits information to the department may assert a confidentiality claim in accordance with the following process:

(1) Attach a cover sheet indicating the entity is seeking the information to be held confidential. The submission will include a letter of substantiation with the information required by paragraph 2.4(6)*"c."*

(2) File two copies of the information: one with all information present and a second copy of the document with the information for which the party wishes to claim confidential treatment deleted from the document.

c. Contents of claim. All claims for confidentiality must be substantiated with the following information in a letter attached to the proposed confidential document:

(1) A statement of all measures the business has taken to protect the confidentiality of the information, and a statement of intent to continue to take such measures;

(2) Practices and policies of other businesses, if known, regarding confidentiality of similar information;

(3) A statement that the information is not, and has not been, reasonably attainable without the consent of the business by other persons other than government bodies by use of legitimate means;

(4) A statement demonstrating that disclosure of the information is likely to cause substantial harm to the business's competitive position;

(5) A reference to any other determinations of confidential status of the information or similar information.

d. Initial action by department. All claims will be reviewed for completeness and applicability of subrule 2.4(8). If the claim does not include the substantiation required by paragraph 2.4(6)*"c,"* or if the claim relates to information within subrule 2.4(8), the business making the claim will be notified by certified mail. If the substantiation or comment regarding the inapplicability of subrule 2.4(8) is not received by the department within ten days of the date on the return receipt, the department will place the information in the public file. Otherwise, all information claimed to be confidential will be treated as such by the department until further notice.

e. Substantive criteria for use in confidentiality determinations. Prior determinations by the courts, the department or other agencies on the information or similar information will be given due consideration and effect. Determinations will hold that business information is entitled to confidential treatment for the benefit of a particular person if:

(1) The business has taken and intends to continue to take reasonable measures to protect the confidentiality of the information;

(2) The information is not readily obtainable by others by legitimate means;

(3) The claim is not unreasonable in view of the nature of the information, the interests and normal practices of the business, and the practices of other businesses;

(4) No statute or rule specifically requires disclosure of the information; and

(5) There is a substantial likelihood that disclosure of the information would cause substantial harm to the competitive position of the business.

f. Determination. The department will transmit its determination regarding a claim for business confidentiality to the claimant by certified mail, notifying the claimant of the opportunity to provide comments within ten days subject to reasonable extension upon written request, and that failure to comment will be construed to indicate agreement with the preliminary determination. If the determination is in response to a request for disclosure, the person requesting the disclosure will be sent a similar notice in the same manner within ten days of the request. If any substantial comments are received, the final decision will be made by the director or designee. If no substantial comments are received, the preliminary determination becomes the final decision.

g. All procedures within this rule will not be considered contested case proceedings as provided in Iowa Code chapter 17A.

2.4(7) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids;

b. Tax records made available to the department;

c. Records that are exempt from disclosure under Iowa Code section 22.7;

d. Minutes of closed meetings of a government body;

e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets;

f. Those portions of the department's staff manuals, instructions or other statements issued that set forth criteria or guidelines to be used by staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the department;

g. Records that constitute attorney work product, attorney-client communications, or are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11; Iowa R.C.P. 122(c); Fed. R. Civ. P. 26(b)(3); and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

h. Any other records made confidential by law.

2.4(8) *Not confidential.* Notwithstanding any other provision, the following information will not be considered confidential by the department:

a. Emission data. For purposes of this subrule, "emission data" means the following, with reference to any source of emission of any substance into the air:

(1) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission that has been emitted by the source (or of any pollutant resulting from any emission by the source) or any combination of the foregoing;

(2) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions that, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source); and

(3) A general description of the location and nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

b. Analytical results of monitoring or public water supply systems;

c. Name and address of any permit applicant; and

d. NPDES permits, applications (including any information required by NPDES application forms) and effluent data. For purposes of this subrule, "effluent data" means the following, with reference to any source of discharge of any pollutant:

(1) Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of any pollutant that has been emitted by the source (or of any pollutant resulting from any discharge from the source) or any combination of the foregoing;

(2) Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of the pollutants that, under an applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source); and

(3) A general description of the location and nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

561—2.5(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 561—2.4(17A,22).

2.5(1) Proof of identity. A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

2.5(2) Requests. The custodian may require that a request to examine and copy a confidential record be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

2.5(3) Notice to subject of record and opportunity to obtain injunction. After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specified period of time during which disclosure will be delayed for that purpose.

2.5(4) Request denied. When the custodian denies a request for access to a confidential record, the custodian will promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian will promptly provide such a notification that is signed by the custodian and that includes:

a. The name and title or position of the custodian responsible for the denial; and

b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

2.5(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian will notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

561—2.6(17A,22) Procedure by which additions, dissents or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any department proceeding. The requester will send the request to review such a record or the written statement of additions, dissents or objections to the custodian or to the attorney general. The request to review a written statement must be dated and signed by the requester, and should include the current address and telephone number of the requester or the requester's representative.

561—2.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, the particular person or class of persons to whom the record may be disclosed and, where applicable, the time period during which the record may be disclosed. The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed may be required to provide proof of identity. Additional requirements may be necessary for special classes of records. Appearance of counsel on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the department to disclose records about that person to the person's attorney.

561—2.8(17A,22) Notice to suppliers of information. When a department form requests a person to supply information about that person, the department will notify the person of the use that will be made of the information, which persons outside the department might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally or by other appropriate means. Notice need not be given in

connection with discovery requests in litigation or administrative proceedings, subpoenas, investigations of possible violations of law or similar demands for information.

561—2.9(17A,22) Disclosures without the consent of the subject.

2.9(1) Open records are routinely disclosed without the consent of the subject.

2.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. The following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 561—2.10(17A,22) or in any notice for a particular record system.

b. To a recipient who has provided the department with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the department specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

561—2.10(17A,22) Routine use.

2.10(1) Defined. "Routine use" means the disclosure of a record without the consent of the subject or subjects for a purpose that is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

2.10(2) To the extent allowed by law, the following uses are considered routine uses of all department records:

a. Disclosure to those officers, employees and agents of the department who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action or regulatory order.

c. Disclosure to the department or officer that this office is advising or representing in the matter in question or to the department of inspections, appeals, and licensing for matters in which it is performing services or functions on behalf of the agency.

d. Transfer of information within the department, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the department is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

561—2.11(17A,22) Consensual disclosure of confidential records.

2.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to department disclosure of confidential records as provided in rule 561—2.7(17A,22).

2.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the department may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

561—2.12(17A,22) Release to subject.

2.12(1) The subject of a confidential record may file a written request to review confidential records. However, the department need not release the following records to the subject:

a. The identity of a person providing information to the department need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. More information can be found in Iowa Code section 22.7(5).

d. As otherwise authorized by law.

2.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the department may take reasonable steps to protect confidential information relating to another subject.

561—2.13(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the department by personal identifier in record systems. Records maintained by the department of natural resources, the environmental protection commission and the natural resource commission are in accordance with guidelines as set forth by the state records commission's file system. An updated index is maintained by the department and is available for public inspection. Records are collected pursuant to authorities contained in Iowa Code Title XI. Records are stored on paper, microfilm, microfiche, and, in some cases, automated data processing systems, such as electronic management systems and department web applications. Department records may include but are not limited to the following.

2.13(1) *Department of natural resources.*

a. Administration, organization, and management.

(1) Organization and management.
(2) Planning and programming.
(3) Administrative reports.
(4) Insurance and bonding.
(5) Departmental emergency planning.
(6) Correspondence and reference materials.
(7) Information and public relations.

b. Budgets, accounting and financial analysis.

(1) Budget information.
(2) Accounting.
(3) Cost accounting.

c. Office services and facilities management.

(1) Communications.
(2) Printing and reproduction.
(3) Records management.
(4) Motor pool operations.
(5) Facilities management.
(6) Engineering and construction.

d. Equipment, supplies, and services.

(1) Procurement.
(2) Property accountability.

e. Legislative and legal.

(1) Department legislative liaison.
(2) Bills, joint resolutions, amendments, messages and reports.
(3) Federal government.
(4) Administrative procedures.
(5) Attorney general opinions and research materials.
(6) Claims against the state.
(7) Lawsuits filed by the state.
(8) 28E agreements.

f. Personnel and payroll.
(1) Employee personnel/payroll files.
(2) Merit rules.
(3) Payroll administration.
(4) Position classification.
(5) Preemployment.
(6) Certification and selection.
(7) Scheduling, assignments, working hours.
(8) Grievances.
(9) Training and education.
(10) Employee benefits and welfare.
(11) Employment relations.
(12) Equal employment opportunity.
(13) Management improvement programs.
(14) Delegation of authority and signature authorization.

g. Conservation and environment.
(1) Water conservation.
(2) Land conservation.
(3) Soil conservation.
(4) Forestry management.
(5) Fish and game conservation.
(6) Recreation.
(7) Environmental technology.
(8) Air quality monitoring.
(9) Water quality monitoring.
(10) Land quality monitoring.
(11) Hazardous material planning.
(12) Hazardous waste management.
(13) Underground storage tanks.
(14) Leaking underground storage tanks.
(15) Radioactive materials.
(16) Environmental—interdisciplinary.

2.13(2) *Natural resource commission.*
a. Tort claims investigations.
b. Numerous licensing files.
c. Lifetime licenses.
d. Boat registrations.
e. Docks, mooring, buoys or raft registrations.
f. Snowmobile registrations.
g. Miscellaneous mailing list (magazine, etc.).
h. Payroll and personnel information system.
i. Fur buyer reports.
j. Fish and game violations.
k. Safety certified students (hunter safety, snowmobile safety, boating safety).

l. Special events applications and permits.
m. Snowmobile accident reports.
n. Boating accident reports.
o. Drowning reports.
p. Timber buyer reports and bonds.
q. Work programs with ISU.
r. Timber management and forestry.
s. State park ranger violation reports.
t. Incident reports.
u. Donations.
v. Real estate acquisition.
w. Encroachments.
x. Campground host program.
y. Law enforcement intelligence network (LEIN) and turn in poachers (TIP).
z. Park leases and concessions.

561—2.14(17A,22) Other groups of records. This rule describes groups of records maintained by the department other than record systems. These records are routinely available to the public. However, the department's files of these records may contain confidential information. In addition, some records may contain information about individuals. Records are stored on paper, microfilm, microfiche, and, in some cases, automated data processing systems.

2.14(1) Rulemaking. Rulemaking records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

2.14(2) Commission records. Agendas, minutes and materials presented to the environmental protection commission and the natural resource commission are available from the office of the director, except these records concerning closed sessions that are confidential under Iowa Code section 21.5. Commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3.

2.14(3) Publications. News releases, annual reports, Iowa Conservationist, Iowa Outdoors, project reports, department newsletters, etc., are available from the department offices for public information. Brochures describing various department programs are available at local offices of the department. Department news releases, project reports, the Conservationist, and newsletters may contain information about individuals, including department staff or members of the commission or committees.

2.14(4) Statistical reports. Periodic reports for various department programs are available from the department offices for public information.

2.14(5) Grants or loans. Records on persons and institutions receiving grants or loans are available through the institutions, also for public information. The records may contain information about employees of a grantee.

2.14(6) Published materials. The department uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

2.14(7) Policy manuals. The department employees' manual, containing the policies and procedures for programs administered by the department, is available in every office of the department. Policy manuals do not contain information about individuals.

2.14(8) All other records that are not exempted from disclosure by law. The department maintains a variety of records that do not generally contain information pertaining to named individuals.

These rules are intended to implement Iowa Code section 22.11.

ARC 9898C

NATURAL RESOURCES DEPARTMENT[561]

Notice of Intended Action

Proposing rulemaking related to declaratory orders and providing an opportunity for public comment

The Natural Resources Department (Department) hereby proposes to rescind Chapter 6, "Declaratory Orders," Iowa Administrative Code, and to adopt a new Chapter 6 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 455A and section 17A.9(2).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and Executive Order 10.

Purpose and Summary

The Iowa Administrative Procedure Act requires an agency to adopt rules describing how it will receive and process declaratory orders. Chapter 6 governs the Department's process for receiving and reviewing declaratory orders. The proposed chapter adopts the Uniform Rules on Agency Procedure contained in the first volume of the Iowa Administrative Code along with Department-specific provisions.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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 for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on Friday, January 30, 2026. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: kelli.book@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al kelli.book@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa
January 29, 2026 10 to 11 a.m.	Via videoconference

Persons who wish to attend the conference call should contact Ms. Book via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Ms. Book prior to the hearing to facilitate an orderly hearing.

Persons who wish to make oral comments at a public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.210.3408 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.210.3408 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 561—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
DECLARATORY ORDERS

The department of natural resources hereby adopts, with the following amendments, the Uniform Rules on Agency Procedure relating to declaratory orders, which are published on the general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

561—6.1(17A) Petition for declaratory order. In lieu of the words "(designate agency)", insert "department of natural resources". In lieu of the words "(designate office)", insert "director's office, department of natural resources". In lieu of the words "(AGENCY NAME)", the heading of the petition should read:

BEFORE THE DEPARTMENT OF NATURAL RESOURCES

561—6.2(17A) Notice of petition. In lieu of "___ days (15 or less)", insert "15 days". In lieu of the words "(designate agency)", insert "department of natural resources".

561—6.3(17A) Intervention.

6.3(1) In lieu of "___ days", insert "20 days".

6.3(2) In lieu of the words "(designate agency)", insert "department of natural resources".

6.3(3) In lieu of the words "(designate office)", insert "director's office, department of natural resources". In lieu of the words "(designate agency)", insert "department". In lieu of the words "(AGENCY NAME)", the heading of the petition should read:

BEFORE THE DEPARTMENT OF NATURAL RESOURCES

561—6.4(17A) Briefs. In lieu of the words "(designate agency)", insert "department".

561—6.5(17A) Inquiries. In lieu of the words "(designate official by full title and address)", insert "Director, Department of Natural Resources, 6200 Park Avenue, Suite 200, Des Moines, Iowa 50321."

561—6.6(17A) Service and filing of petitions and other papers.

6.6(2) *Filing—when required.* In lieu of the words "(specify office and address)", insert "Director, Department of Natural Resources, 6200 Park Avenue, Suite 200, Des Moines, Iowa 50321." In lieu of the words "(agency name)", insert "department of natural resources".

561—6.7(17A) Consideration. In lieu of the words "(designate agency)", insert "department of natural resources". Add the following new paragraphs:

An order, including a refusal to issue an order, issued by the director is final unless the issue is within the rulemaking authority of one of the department's commissions, in which case the order or refusal is final unless appealed to the commission within ten days of receipt by the petitioner or reviewed by the commission on its own motion. On appeal or review, the commission may:

1. Approve the director's ruling, in which case the order becomes the final declaratory order of the department, or
2. Reverse or modify the declaratory order, in which case the modified order becomes the final declaratory order of the department, or
3. Request additional information from the petitioner, or
4. Decline to issue an order, as specified in rule 561—6.9(17A).

The commission's order or refusal to issue an order will be made within a reasonable time and sent by certified mail to the petitioner upon issuance.

561—6.8(17A) Action on petition. In lieu of the words "(designate agency head)", insert "director".

561—6.9(17A) Refusal to issue order. In lieu of the words "(designate agency)", insert "department of natural resources".

561—6.10(17A) Effect of a declaratory order. In lieu of the words "(designate agency)", insert "department of natural resources".

These rules are intended to implement Iowa Code section 17A.9.

ARC 9895C

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]

Notice of Intended Action

Proposing rulemaking related to agency realignment and providing an opportunity for public comment

The Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby proposes to rescind Chapter 1, "General," Chapter 2, "Petitions for Rule Making," Chapter 3, "Declaratory Orders," Chapter 4, "Board Procedure for Rule Making," Chapter 9, "UST Fund Board Authority to Transfer Liabilities to a Third Party (Loss Portfolio Transfers)," Chapter 11, "Claims," Chapter 13, "Community Remediation," Chapter 16, "Waivers," and Chapter 17, "Appeals—Contested Cases," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 455G and section 17A.7(2).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 455G and section 17A.7(2); 2024 Iowa Acts, Senate File 2414; and Executive Order 10.

Purpose and Summary

The rules of the Underground Storage Tank (UST) Fund Board (Board) were intended to govern the Board and regulate the disbursement of moneys allocated to the Board by Iowa Code chapter 455G and other applicable laws. On April 19, 2024, Governor Reynolds signed 2024 Iowa Acts, Senate File 2414, into law, which dissolved the Board. The legislation also transferred the remaining moneys to the Department to disburse consistent with the laws previously governing the Board and capped the moneys available to that amount currently appropriated to the fund. Additionally, Senate File 2414 transferred the jurisdiction of the rules from the Board to the Department.

The rules will continue to provide benefits to stakeholders while funds remain available for disbursal. The Department anticipates the final disbursal of regulated funding ending by December 31, 2026. To provide ample time for the expenditure of funds and to support stakeholders, the Department proposes to rescind the rules in their entirety on December 31, 2027. This delayed rescission will provide stakeholders ample time to request reimbursement for actions, such as tank removals and other funding regulated by the rules. After that date, the Department will rely on the authority of Iowa Code chapter 455B and existing, related agreements to finalize any matters remaining.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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 for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 28, 2026. Comments should be directed to:

Keith Wilken
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: keith.wilken@dnr.iowa.gov

Free Language Access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at USTEO10@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al USTEO10@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows.

January 27, 2026 2 to 3 p.m.	Virtual Meeting (via Google Meet or Zoom) or conference call
January 28, 2026 2 to 3 p.m.	Virtual Meeting (via Google Meet or Zoom) or conference call

Persons who wish to attend a public hearing should contact Keith Wilken at USTEO10@dnr.iowa.gov. A link will be provided prior to the hearing. Persons who wish to make oral comments at a public hearing must submit a request to Keith Wilken prior to the hearing to facilitate an orderly hearing.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: If you need assistance in a language other than English, contact the Department at USTEO10@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.681.0794 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al USTEO10@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.681.0794 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **591—Chapter 1**.

ITEM 2. Rescind and reserve **591—Chapter 2**.

ITEM 3. Rescind and reserve **591—Chapter 3**.

ITEM 4. Rescind and reserve **591—Chapter 4**.

ITEM 5. Rescind and reserve **591—Chapter 9**.

ITEM 6. Rescind and reserve **591—Chapter 11**.

ITEM 7. Rescind and reserve **591—Chapter 13**.

ITEM 8. Rescind and reserve **591—Chapter 16**.

ITEM 9. Rescind and reserve **591—Chapter 17**.

ARC 9890C

PRESERVES, STATE ADVISORY BOARD FOR[575]

Notice of Intended Action

Proposing rulemaking related to agency realignment and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to rescind Chapter 1, "Organization and Operation"; to adopt a new Chapter 1, "State Preserves," and transfer Chapter 1 as 571—Chapter 60; and to rescind Chapter 2, "Management of State Preserves," and Chapter 3, "Public Records and Fair Information Practices," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455A.5(6)"a" and 465C.8.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 465C.

Purpose and Summary

Agency [575] of the Iowa Administrative Code contains chapters regulating State preserves. Preserves are the highest classification of public land and exist to protect significant natural, geological, historical, archaeological, and scenic sites in Iowa. The rules also govern the State Preserves Advisory Board and include provisions for its membership, operation, reporting requirements, and recordkeeping procedures. Recent changes to the Iowa Code eliminated this Board and transferred its authority and duties to the Department of Natural Resources (Department) and the Commission. For this reason, many of the existing provisions in Chapters 1 through 3 are now no longer relevant. This rulemaking proposes to remove those irrelevant provisions and then consolidate the remaining provisions into a single "State Preserves" chapter. This new chapter would then be transferred to the Commission's jurisdiction under 571—Chapter 60. This chapter has been reviewed and edited consistent with Executive Order 10.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 3, 2025. A public hearing was held on the following date(s):

- September 24, 2025

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

This rulemaking is subject to the waiver provisions of 571—Chapter 11. 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 Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 4, 2026. Comments should be directed to:

John Pearson
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: john.pearson@dnr.iowa.gov

Free Language Access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at john.pearson@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al john.pearson@dnr.iowa.gov.

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 10 to 11 a.m.	Virtual Meeting (via Google Meet or Zoom) or conference call
February 4, 2026 3 to 4 p.m.	Virtual Meeting (via Google Meet or Zoom) or conference call

Persons who wish to attend a public hearing or make oral comments at a public hearing should contact John Pearson via email prior to the hearing to receive a conference call number. Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking. Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Free Language Assistance: If you need assistance in a language other than English, contact the Department at john.pearson@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.326.0430 at least seven days before the event.

Servicios gratuitos de asistencia lingüística: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al john.pearson@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.326.0430 al menos siete días antes del evento.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 575—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
STATE PRESERVES

575—1.1(465C) Duties as to state preserves. The natural resource commission is charged with the responsibility of locating, identifying, evaluating, and dedicating areas as state preserves.

575—1.2(465C) Types of preserves. There shall be five major classes of preserves.

1.2(1) *Natural preserves.* These areas contain natural communities; habitats; native flora and fauna; or endangered, threatened, or rare organisms.

1.2(2) *Archaeological preserves.* These areas contain significant deposits left by prehistoric or early historic peoples.

1.2(3) *Historical preserves.* These are sites that contain structures or places that are of significance in studying the tenure of humans in Iowa since the advent of the first Euro-American explorers.

1.2(4) *Geological preserves.* These are areas that contain rare or distinctive landforms, fossils, stratigraphic sections, mineral deposits or examples of mining history; type or reference sections; or other special features or deposits that represent the events and processes of Iowa's earth history.

1.2(5) *Scenic preserves.* These are areas that contain scenic features of aesthetic, scientific, or educational value.

575—1.3(465C) Management provisions.

1.3(1) *Administration and management.* The administrative and management authority for a preserve shall be agreed upon by the commission, the property owner, and the manager.

1.3(2) *Management plan.* For each preserve, an authorized representative of the owner shall prepare a management plan in consultation with department staff. The management plan shall be consistent with the articles of dedication and shall include identification of uses of the preserve that are compatible and incompatible with its dedication as a preserve. The management plan shall be amended periodically, as appropriate, in response to new information. The management plan and amendments shall be submitted to the commission for approval. The department shall keep a copy of the current management plan. A management plan for a new preserve shall be submitted for approval by the commission in conjunction with approval of dedication of the preserve. Management plans for existing preserves shall be prepared and submitted for approval as resources are available.

These rules are intended to implement Iowa Code section 465C.8.

ITEM 2. Transfer **575—Chapter 1** as **571—Chapter 60**.

ITEM 3. Rescind and reserve **575—Chapter 2**.

ITEM 4. Rescind and reserve **575—Chapter 3**.

ARC 9948C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to vital records and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 95, "Vital Records: General Administration," Iowa Administrative Code, and to adopt a new Chapter 95 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 144.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 144.

Purpose and Summary

This proposed chapter describes how the Department will install, maintain, and operate the system of vital statistics throughout the State. No system for the registration of births, deaths, fetal deaths, adoptions, marriages, dissolutions, and annulments will be maintained in the State or any of its political subdivisions other than the one provided for in this chapter.

The proposed chapter underwent a Red Tape Review pursuant to Executive Order 10. As a result, the Department referred definitions back to the appropriate Iowa Code section and eliminated redundant language. The Department also increased some certified copy fees and the distribution that goes to support the Office of the State Medical Examiner.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 26, 2025. A public hearing was held on the following date(s):

- December 16, 2025

Fiscal Impact

The vital records fees collected not only fund the Bureau but also contribute to the State's General Fund. For fiscal year 2025 (through August 11, 2025), the Department collected over $3.7 million and contributed over $1.8 million to the General Fund. Although the Department is increasing the fees for certified copies of birth, death, and marriage certificates from $15 to $20, those fee increases will be directed to the Office of the State Medical Examiner. There is no impact on the portion of fees directed to the State General Fund.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 263 121 894 358 72 Passcode: fR9Nt3sZ
January 27, 2026 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 297 871 013 608 68 Passcode: JD6PN9wF

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 95 and adopt the following **new** chapter in lieu thereof:

CHAPTER 95
VITAL RECORDS: GENERAL ADMINISTRATION

641—95.1(144) Definitions. For the purpose of 641—Chapters 95 through 100, the following definitions apply:

"Administrative costs" means costs for the registration, collection, preservation, modification and certification of records, including but not limited to costs related to copying, regular mailing, searching, staffing, and maintenance of systems.

"Advanced registered nurse practitioner" or *"ARNP"* means the same as defined in Iowa Code section 152.1.

"Age of majority" means the chronological moment when a child legally assumes majority control over the child's own person and actions and decisions, thereby terminating the legal control and legal responsibilities of the child's parents over and for the child. The period of minority extends to the age of 18 years, but every minor attains majority by marriage.

"Amendment" means a change made by the state registrar upon request from an entitled person as described in rule 641—95.8(144) to an obvious error, omission, or transposition of letters in a word of common knowledge one year or more after the event.

"Birth center" means a facility or institution, that is not an ambulatory surgical center or a hospital or in a hospital, in which births are planned to occur following a normal, uncomplicated, low-risk pregnancy.

"Birthing institution" means a private or public hospital licensed pursuant to Iowa Code chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services.

"Burial-transit permit" means the same as described in Iowa Code section 144.32.

"Certificate" or *"record"* means the written or electronic legal document containing the facts of an event.

"Certificate of birth resulting in stillbirth" means the same as described in Iowa Code section 144.31A.

"Certificate of nonviable birth" means a document issued based upon a nonviable birth.

"Certified copy" means an official copy of a registered vital record that is authenticated by the state registrar or county registrar. A certified copy contains a statement certifying the facts are true and accurate as recorded, is printed on security paper, and has authentication seals and signatures. A certified copy excludes all entries indicated as confidential or for statistical information.

"Commemorative certificate" means the same as described in Iowa Code section 144.45A.

"Competent and disinterested person" means an individual of legal age who is acquainted with both applicants who plan to marry.

"Confidential information" means data or information that is on a vital record, is not considered public information, and is restricted as to its release pursuant to Iowa Code chapter 144 or other provision of federal or state law.

"Correction" means a change made by the state registrar upon observation, upon query, or upon request from an entitled person as described in rule 641—95.8(144) to an obvious error, omission, or transposition of letters in a word of common knowledge within one year and prior to the first anniversary of the event.

"County registrar" means the same as described in Iowa Code section 331.601(4). If the office of the county recorder has been abolished, "county registrar" means the office to which the duties are assigned by the county board of supervisors.

"County resident copy" means a properly filed, clearly marked working copy of a decedent's death certificate that is sent to and recorded by the county registrar of the county of the decedent's residence in the event the death occurred outside the county of the decedent's residence.

"Court of competent jurisdiction" means the appropriate court for the type of action. When used to refer to inspection of an original certificate of birth based upon an adoption, "court of competent jurisdiction" means the court in which the adoption was ordered.

"Cremated remains" means the same as defined in Iowa Code section 144.1.

"Cremation" means the same as defined in Iowa Code section 144.1.

"Custody" means guardianship or control of vital records, including both physical possession, referred to as physical custody, and legal responsibility, referred to as legal custody, unless one or the other is specified. The state registrar will not transfer legal custody of vital records to another agency for purposes of granting public access until all the records have been purged of all confidential information.

"Day" means calendar day.

"Dead body" means the same as defined in Iowa Code section 144.1.

"Death" means the condition as defined in Iowa Code section 702.8.

"Declaration of paternity registry" means a registry for a putative father to declare paternity pursuant to Iowa Code section 144.12A. The declaration does not constitute an affidavit of paternity filed pursuant to Iowa Code section 252A.3A.

"Delayed birth record" means the registration of a live birth event occurring in Iowa one or more years after the date of birth that is clearly marked as delayed and shall show on its face the date of the delayed registration.

"Delayed death record" means the registration of a death event occurring in Iowa one or more years after the date of death that is clearly marked as delayed and shall show on its face the date of the delayed registration.

"Delayed marriage record" means the registration of a marriage event occurring in Iowa one or more years after the event that is clearly marked as delayed and shall show on its face the date of the delayed registration.

"Disinterment permit" means a permit that allows the removal of a dead human body or fetus from its original place of burial, entombment, or interment for the purpose of autopsy or reburial.

"Electronic access" means authority given by the state registrar to a county registrar to access electronic vital records through the electronic statewide vital records system for purposes of retrieving information. The state registrar will provide guidelines for electronic access and the retrieval of information from the electronic statewide vital records system.

"Electronic statewide vital records system" means the combined vital records system for registration of birth records, registration of death records, issuance of certified copies of vital records by the state registrar and county registrar, and fee accounting.

"Emancipated minor" means a person younger than 18 years of age who has obtained the age of majority by court order.

"Fetal death" means the same as defined in Iowa Code section 144.1.

"Filing" means the same as defined in Iowa Code section 144.1.

"Final disposition" means the same as defined in Iowa Code section 144.1.

"Foundling" means a living infant of unknown parentage whose place of birth is where the infant is found and whose date of birth shall be determined by approximation.

"Funeral director" means a person licensed in Iowa to practice mortuary science pursuant to Iowa Code chapter 156.

"Gestational surrogate arrangement" or *"surrogate mother arrangement"* means the same as defined in Iowa Code section 710.11.

"Health care provider" means the same as defined in Iowa Code section 144.29A.

"Hospital" means the same as defined in Iowa Code section 135B.1.

"Induced termination of pregnancy" means the same as defined in Iowa Code section 144.29A.

"Institution" means a facility as defined in Iowa Code section 144.1(9), including "hospital" as defined in Iowa Code section 135B.1(3) but not including "birth center" as defined in Iowa Code section 10A.711(3).

"Institutional health facility" means a hospital as defined in Iowa Code section 135B.1, including a facility providing medical or health services that is open 24 hours per day, seven days per week and that is a hospital emergency room or a health care facility as defined in Iowa Code section 135C.1.

"Jurisdiction" means the state or county to which legal authority for the system of vital statistics has been granted by statute.

"Last name" means surname.

"Lineal consanguinity" means the existence of a line of descent in which one person is descended in a direct lineal relationship to another: as between the registrant and the registrant's parent, grandparent, great-grandparent, and so upward, in the direct ascending line; or between the registrant and the registrant's child, grandchild, great-grandchild and so downward in the direct descending line; or any siblings of the registrant.

"Live birth" means the same as defined in Iowa Code section 144.1.

"Marriage license valid date" means the day on which the marriage license becomes valid and on or after which the parties are authorized to marry. When the marriage license valid date is computed, the date of application shall be excluded. The marriage license shall become valid after the expiration of three calendar days after the date of application unless earlier validated by a court of competent jurisdiction.

"Medical certification" means a statement that attests that the medical information reported on the certificate of death or fetal death is accurate to the best of the medical certifier's knowledge.

"Medical certifier" means an Iowa-licensed physician, physician assistant, advanced registered nurse practitioner, or medical examiner who attests that the death event has taken place and who determines the cause and manner of death.

"Medical examiner" means the medical legal officer who makes the determination of the cause of death in nonroutine deaths such as nonnatural, sudden, or unattended deaths or other deaths that affect the public interest.

"Modification" means any change made to a record that has been accepted and registered, such as a correction, an amendment, a change after adoption or paternity determination, or any other change.

"Mutual consent voluntary adoption registry" means a registry that authorizes adult adopted children, adult siblings, and the biological parents of adult adoptees to register to obtain identifying birth information.

"Natural cause of death" means a death due to a disease or the aging process and not due to external causes.

"Newborn safe haven registration" means the registration of the birth of a living infant of unknown parentage who has been abandoned or left at some unknown time after birth in a location other than the place of delivery.

"Non-birthing institution" means a private or public hospital licensed pursuant to Iowa Code chapter 135B that does not have a licensed obstetric unit or is not licensed to provide obstetric services but may provide obstetric services on an emergency basis.

"Non-institution birth" means a live birth that occurs outside of an institution and not en route to an institution.

"Nonnatural cause of death" means the same as defined in Iowa Code section 144.28(1).

"Nonviable birth" means an unintentional, spontaneous fetal demise occurring after demonstration of a doppler-detected heartbeat and prior to the twentieth week of gestation during a pregnancy that has been verified by a health care provider.

"Notification of record search" means the document issued to the applicant when the record requested cannot be located through a search of registered records. The document contains a certification statement, is printed on security paper, and has authentication seals and signatures.

"Officiant" means:

1. A judge of the Iowa supreme court, court of appeals, or district court, including a district associate judge, an associate juvenile judge, or a judicial magistrate, and including a senior judge as defined in Iowa Code section 602.9202(3), or
2. A person ordained or designated as a leader of the person's religious faith.

"Physician" means an individual licensed pursuant to Iowa Code chapter 148.

"Physician assistant" means an individual licensed pursuant to Iowa Code chapter 148C.

"Presumptive death" means a death event presumed to have occurred in Iowa where no human body is found and a court of competent jurisdiction has determined the death has occurred.

"Putative father" means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of the conception or birth of the child or at any time during the period between the conception and birth of the child.

"Record of death" means the compilation of those entries of a death, whether electronic or paper, that are contained in indexed systems that record the death event occurring in Iowa. "Record of death" includes the certificate of death.

"Record of fetal death" means the compilation of those entries of a fetal death, whether electronic or paper, that are contained in indexed systems that record a fetal death event occurring in Iowa. "Record of fetal death" includes the certificate of fetal death.

"Record of foreign-born adoption" means the compilation of those entries of a live birth event for a child born in a foreign country and adopted by an Iowa resident. "Record of foreign-born adoption" includes the certificate of foreign birth and shall not constitute U.S. citizenship.

"Record of live birth" means the compilation of those entries of a live birth event, whether electronic or paper, that are contained in indexed systems that record a live birth event occurring in Iowa. "Record of live birth" includes the certificate of live birth.

"Record of marriage" means the compilation of those entries of a marriage event, whether electronic or paper, that are contained in indexed systems that record a marriage event occurring in Iowa. "Record of marriage" includes the certificate of marriage.

"Registrant" means the person named on the certificate as the person who was born, died, or was married.

"Registration" means the same as defined in Iowa Code section 144.1.

"Report of dissolution or annulment" means the statistical report of dissolution or annulment, whether electronic or paper, excluding all entries indicated as confidential or for statistical information only.

"Report of termination of pregnancy" means the aggregated compilation of the information received by the department on terminations of pregnancies for each information item listed, with the exception of the report tracking number, the health care provider code, and any set of information for which

the number is so small that the confidentiality of any person to whom the information relates may be compromised.

"Research" means the systematic investigation designed primarily to develop or contribute to scientific, medical, public health or psychosocial disciplines and generalized knowledge and not for private gain.

"Sealed" means the removal from inspection of any copy of an original certificate in the custody of the county registrar and the state registrar.

"Security paper" means standardized paper for issuing certified copies of vital record events that meets, at a minimum, national requirements for security features embedded within the paper to deter tampering, counterfeiting, photocopying, or imaging in order to help prevent fraudulent use of the certified copy and prevent identity theft.

"Single parent birth" means any record of live birth for which there is a reference or statement on the certificate or entry that directly indicates "no" regarding "born in wedlock" or "married"; or any record of live birth for which there is reference or statement on the certificate or entry that either parent is "unknown" or "anonymous"; or any certificate or entry that reflects the omission or absence of the name of the father of the child.

"Spontaneous termination of pregnancy" means the same as defined in Iowa Code section 144.29A(7)*"c."*

"Standard birth registration" means a vital record of a live birth event that occurred in Iowa that was submitted and accepted for registration within one year of the event.

"State registrar" means the director of the department or the director's designee.

"Stillbirth" means the same as defined in Iowa Code section 136A.2.

"System of vital statistics" or *"system"* means the same as defined in Iowa Code section 144.1.

"Uncertified copy" means an unofficial copy of a registered vital record that is not printed on security paper and that does not contain any authentication by the issuing jurisdiction. Uncertified copies shall contain an overstamp such as: "Not for Legal Purposes," "Administrative Use Only," "Deceased," "For Genealogical Purposes Only," "Working Copy," or any other overstamp as authorized by the state registrar.

"Vital records" means certificates or reports of birth, death, fetal death, marriage, dissolution, annulment, and related data.

"Vital statistics" means data derived from reports, certificates, and records of live birth, death, fetal death, induced termination of pregnancy, marriage, dissolution of marriage or annulment, and data related thereto.

641—95.2(144) Vital records and statistics. The department will install, maintain, and operate the system of vital statistics throughout the state. No official system for the registration of births, deaths, fetal deaths, adoptions, marriages, dissolutions, and annulments shall be maintained in the state or any of its political subdivisions other than the one provided for in Iowa Code chapter 144, including but not limited to a system maintained by any agency or private entity.

95.2(1) No person shall prepare or issue any certificate that purports to be an original certified copy or a copy of a certificate of birth, death, fetal death, adoption, marriage, dissolution, or annulment except as provided for in Iowa Code chapter 144 and authorized by the state registrar.

95.2(2) The state registrar and the county registrar will not maintain or issue copies of any vital record of an event occurring outside the state registrar's or county registrar's jurisdiction except as provided for in Iowa Code chapter 144 and authorized by the state registrar.

641—95.3(144) Forms—property of department. All forms, certificates and reports pertaining to the registration of vital events are the property of the department and shall be surrendered to the state registrar upon demand. Official designated forms used for the express purpose of creating a vital record event will not be accessible to the general public unless authorized by rule.

95.3(1) The forms supplied or approved for reporting vital events will be used for official purposes as provided for by law, rules and instructions of the state registrar.

95.3(2) No forms, except those furnished or approved by the state registrar, can be used in the reporting of vital events or the making of copies of vital records.

95.3(3) Security paper used to report vital events will be maintained in a secure location accessible only to the state and county registrars and their employees for administrative purposes.

95.3(4) Security paper will be used to issue certified copies of Iowa vital records and will be maintained in a secure location accessible only to the state and county registrars and their employees for administrative purposes.

641—95.4(144) Information by others.

95.4(1) Any person having knowledge of the facts shall furnish information the person possesses regarding any birth, death, fetal death, adoption, marriage, dissolution, or annulment, upon demand of the state registrar.

95.4(2) Every person in charge of an institution, or the person's designee, shall maintain a record of personal particulars and data concerning each person admitted or confined to the institution pursuant to Iowa Code section 144.47. This record shall include information required by the standard certificate of birth, death, and fetal death forms issued under the direction of the state registrar. The record shall be made at the time of admission based on the information provided by such person, but when information cannot be obtained from the person, it shall be obtained from the most knowledgeable relative or person acquainted with the facts. The name and address of the person providing the information shall be a part of the record.

95.4(3) Records maintained under this rule shall be retained for a period of not less than ten years and shall be made available for inspection by the state registrar upon demand.

641—95.5(144) Handling of vital records.

95.5(1) State equipment and state vital records shall not be handled or accessed except by the state registrar, the state registrar's employees, or other authorized personnel for administrative purposes.

95.5(2) The county registrar will provide assistance to the public in accessing vital records designated as public records in the custody of the county registrar.

641—95.6(144) Fees.

95.6(1) *Fees for services provided by state registrar or county registrar.* The following fees will be charged and remitted for the various services provided by the state registrar or the county registrar.

a. The state registrar or county registrar, as applicable, will charge a fee of $20 for a certified copy of a vital record. If, following a search, no record is found and no certified copy is printed, the $20 fee may be retained.

b. The state registrar will charge a fee of $15 to prepare an adoption certificate, amend a certificate, amend a certificate of live birth to reflect a legal change of name, prepare a delayed certificate, process other administrative or legal actions, prepare a noncertified copy of an original certificate of birth pursuant to Iowa Code sections 144.23A and 144.24A, or prepare copies of supporting documents on file in the state registrar's office. No fee will be charged for establishment of paternity.

c. The state registrar will charge a fee of $25 to file a completed application for the mutual consent voluntary adoption registry.

d. The state registrar will charge a fee of $5 to update applicant information maintained in the mutual consent voluntary adoption registry and the declaration of paternity registry.

e. The state registrar will charge a fee of $15 to amend an abstract or other legal documentation in support of the preparation of a new certificate.

f. The state registrar will charge a fee of $35 to issue a commemorative copy of a certificate of birth or a certificate of marriage pursuant to Iowa Code section 144.45A. Fees collected will be deposited in the emergency medical services fund established in Iowa Code section 135.25.

g. The state registrar will charge a fee of $15 for the purpose of issuing an uncertified copy of a certificate of birth resulting in stillbirth pursuant to Iowa Code section 144.31A.

h. The state registrar will charge a fee of $15 for the purpose of issuing a certificate of nonviable birth pursuant to Iowa Code section 144.31B.

95.6(2) *Overpayments.* Any overpayment of $5 or less received by the state registrar for the copying of vital records or for the preparation or amending of a certificate will not be refunded and will be retained by the department.

95.6(3) *Certified copy of modified vital record.* When an individual is in possession of a previously issued certified copy of a vital record and the original record is subsequently modified, the individual may request and receive a certified copy of the modified record without charge if the certified copy prior to modification is relinquished to the registrar's office that issued the certified copy, unless otherwise directed by the state registrar.

95.6(4) *Search of county registrar's records—fee for uncertified copy.* A person who is requesting an uncertified copy of a vital record in the custody of the county registrar shall conduct the search of the county files to locate the record. If a copy is requested, the county registrar may charge a fee pursuant to Iowa Code section 22.3. The fee will be retained by the county.

95.6(5) *Distribution of fees.*

a. All fees collected by the county registrar and the state registrar will be distributed as follows:

(1) For fees collected by a county registrar, the county registrar will retain $4 of each $20 fee collected by that office. The remaining fees will be sent to the state registrar and will be divided as follows:

1. For a birth certificate or a marriage certificate, the state registrar will receive $13, and $3 will be deposited in the general fund of the state, except for the fee collected pursuant to paragraph 95.6(1)*"f."*

2. For a death certificate, the state registrar will receive $1, the office of the state medical examiner will receive $13, and $2 will be deposited in the general fund of the state.

(2) Fees collected by the state registrar will be divided as follows:

1. For a birth certificate or a marriage certificate, the state registrar will retain $14 and $6 will be deposited in the general fund of the state.

2. For a death certificate, the state registrar will retain $4, the office of the state medical examiner will receive $13, and $3 will be deposited in the general fund of the state.

b. All fees retained by the state registrar will be added to the vital records fund established by the department pursuant to Iowa Code section 144.46A.

c. All fees received by the office of the state medical examiner will be added to the operating budget established for the operation of that office.

95.6(6) *Fee for search to verify vital statistics record.* A fee will be charged by the state registrar for each search conducted for the purpose of providing verification of vital statistics data to an agency authorized to receive such data under subrule 95.12(2).

a. The amount of the fee will be determined in an agreement with the department and will be dependent on the nature and scope of the project and the resources needed to obtain the data requested.

b. The state registrar will retain the full amount of all fees collected under this subrule in the vital records fund established pursuant to Iowa Code section 144.46A.

95.6(7) *Fee for researcher access to vital statistics data.* A fee shall be charged to each researcher who is provided access to vital statistics data in accordance with Iowa Code section 144.44 and the required agreement executed with the department. The amount of the fee will be based on the nature and scope of the research project and resources required to obtain the data requested.

a. The state registrar will allocate the fees for copies of birth, marriage, and death certificates provided to researchers pursuant to the distribution of fees set forth in subrule 95.6(5).

b. The state registrar will retain in the vital records fund established pursuant to Iowa Code section 144.46A the full amount of fees collected from researchers for searching files or records to create a data file.

95.6(8) *Service member who died while on active duty—waiver of fee.* The certified copy fee for a birth certificate or a death certificate of a service member, as defined in Iowa Code section 29A.90, who died while on active duty will be waived for a period of one year from the date of death. Application for the certified copy shall be made by an entitled family member as described in rule 641—95.8(144) of the

deceased service member or the entitled family member's legal representative. Documentation shall be submitted at the time of application to substantiate the date of death and active duty status.

95.6(9) *Retention of applications and reports.* An application for a certified copy of a vital record in Iowa will be retained by the county registrar for a minimum of six months from date of issuance of the certified copy. All financial reports for vital records fees will be retained by the county registrar for a minimum of three calendar years.

641—95.7(144) General public access of vital records in the custody of the county registrar. A vital record may be in the custody of the county registrar if the event occurred in that county and the record is not excluded by statute or definition for purposes of confidentiality.

95.7(1) There will be public access and the right to inspect all vital records in the custody of the county registrar after the vital records are purged of confidential information pursuant to rule 641—95.11(144). The county registrar will allow the general public access to the electronic statewide vital records system to search as a public user as a right under Iowa Code chapter 22 for events that occurred in that county.

95.7(2) Information inspected and copied shall not be used to establish an official system for the registration of vital statistics except as authorized by Iowa Code chapter 144.

95.7(3) County registrars may issue uncertified copies of vital records held in the registrars' physical custody or accessible through the electronic statewide vital records system, except those records excluded by statute. Uncertified copies issued by the county registrar will be issued on plain white paper and clearly stamped "not for legal purposes." Security paper provided by the state registrar shall not be used to produce uncertified copies.

95.7(4) For records available in the electronic statewide vital records system, the state registrar will send to the county registrars a list of all records that have been modified. County registrars shall, as directed by the state registrar, remove all forms of any vital record in their physical custody from the county vital records system if the vital record appears on the list of modified records.

95.7(5) For records not available in the electronic statewide vital records system, the state registrar will send a copy of any modified vital record to the county of event and, if the record is a death record, to the county of residence.

641—95.8(144) Direct tangible interest in and entitlement to a vital record. Certified copies of vital records may be issued by the state registrar or county registrar upon written application, payment of the required fee pursuant to paragraph 95.6(1)*"a,"* and demonstration of a verifiable, direct tangible interest and entitlement.

95.8(1) The following persons shall be considered to have a direct tangible interest and entitlement and are authorized to obtain a certified copy of a vital record:

a. The registrant, if the registrant is of legal age, has reached the age of majority, or is an emancipated minor.

b. A member of the registrant's immediate legal family, including:

(1) Current spouse or surviving spouse;

(2) Children;

(3) Mother or father if listed on the registrant's birth certificate;

(4) Sibling, if sibling has reached the age of majority;

(5) Maternal grandparents, or paternal grandparents if the father is listed on the birth certificate; or

(6) Step-parent or step-child if:

1. Legal parent and step-parent are currently married at the time of application; or

2. Step-parent is the surviving spouse of the legal parent and not remarried.

c. The documented legal representative of the registrant or the registrant's immediate legal family, including:

(1) An attorney;

(2) A court-appointed guardian;

(3) A foster parent;

(4) A funeral director, for up to one year following the decedent's date of death; or

(5) A legal executor.

d. Other persons who demonstrate a direct tangible interest and entitlement when it is shown that the certified copy is needed to determine or protect a personal or property interest and the interest is for the benefit of the registrant.

95.8(2) The following persons shall not be deemed to have direct tangible interest and entitlement or be authorized to secure vital records:

a. Biological parents of adopted persons in the absence of a court order from the court of competent jurisdiction;

b. Biological family members of adopted persons;

c. Adopted persons requesting biological family records; or

d. Commercial firms or agencies requesting lists of vital record events, or lists of names, or lists of addresses, or that are not legal representatives requesting records on behalf of entitled individuals.

641—95.9(144) Search and issuance of a certified copy of a vital record. The search and issuance of a certified copy of a vital record shall be requested from the state registrar or county registrar.

95.9(1) Only entitled applicants as described in rule 641—95.8(144) may submit requests for certified copies of vital records.

95.9(2) A person requesting a search and issuance of a certified copy of a vital record shall provide in writing the following:

a. The name of the person or persons whose vital record is to be searched;

b. The purpose of such request;

c. The relationship to the registrant of the person making the request; and

d. The notarized signature and the address of the person making the request.

95.9(3) In addition to a completed written application, the applicant shall provide:

a. A current, legible government-issued photo identification of the applicant making the request or other identification documents acceptable to the state registrar; and

b. Payment of the required fee before the search is conducted.

95.9(4) The state registrar and county registrar will have the authority to mandate additional supporting documents to prove direct tangible interest and entitlement pursuant to rule 641—95.8(144).

95.9(5) If, after the search is conducted, no record is on file and the state registrar or county registrar issues a "notification of record search" on certified paper, the fee for the search will be retained pursuant to paragraph 95.6(1)*"a."*

95.9(6) If a certified copy of a vital record is issued and sent to the applicant using a mail service and the applicant does not receive the certified copy, the state registrar or the county registrar may replace the certified copy without an additional fee using an Affidavit of Non-Receipt. The applicant must contact the issuing registrar within 90 days of the date of request. A minimum of 30 days must have elapsed from the time the certified copy was mailed. The applicant shall read the instructions, complete the Affidavit of Non-Receipt and have the applicant's signature notarized. The original Affidavit of Non-Receipt and a photocopy of the applicant's driver's license must be reviewed by the issuing registrar before the certified copy can be replaced for no additional fee. The state registrar or county registrar may refuse any Affidavit of Non-Receipt when the state registrar or county registrar determines proof of receipt, fraud or misrepresentation. The state registrar will give to the registrant a notice in writing of the state registrar's reason and intention to refuse the Affidavit of Non-Receipt.

95.9(7) If printed from the electronic statewide vital records system by a county registrar, the certified copy of a vital record will be stamped by the issuing county registrar to reflect the county in which the certified copy was issued.

641—95.10(144) Search and issuance for genealogy or family history. The search and issuance of a vital record for genealogy may be requested from the state registrar or county registrar upon written application and payment of the required fee pursuant to paragraph 95.6(1)*"a."*

95.10(1) The state registrar or county registrar may issue certified copies of a vital record for genealogy or family history to an applicant who can satisfactorily demonstrate a line of direct lineal consanguinity and to aunts, uncles, and cousins not past twice removed.

95.10(2) All certified copies issued for genealogy or family history will be clearly marked "for genealogical purposes only."

95.10(3) No certified copy will be issued for genealogy or family history if the registrant is known to be living.

95.10(4) If, after the search is conducted, no record is on file, the state registrar or county registrar will issue a "notification of record search" on certified paper, and the fee for the search will be retained pursuant to paragraph 95.6(1)*"a."*

641—95.11(144) Registrars' responsibility for maintenance of confidentiality.

95.11(1) The state registrar and county registrar will maintain the confidentiality of the following material, records, and information:

a. Entries indicated as confidential or statistical in nature on the face of the record or otherwise confidential by law;

b. Any record that is ordered sealed by the state registrar or pursuant to a court order.

95.11(2) The county registrar will take all necessary steps to ensure that confidential information reflected on vital records has been redacted from general public access. If confidential information is included with accessible information, only accessible information will be made available to the general public for examination.

95.11(3) The county registrar will employ at a minimum all of the following methods to ensure confidentiality:

a. Permanently cover or remove, by appropriate means, confidential information;

b. Promptly process the notice to seal a record as directed by the state registrar; and

c. Seal and not reproduce confidential information when copies of vital records are made.

95.11(4) The county registrar may charge reasonable administrative costs to reflect the expenses for efforts needed to allow general public access, examination and the assurance of confidentiality of this material and information pursuant to the authority of Iowa Code chapter 22.

a. The administrative cost is to be paid by persons who request the services provided by the county registrar, including supervising, copying or providing a suitable place for such work.

b. The county registrar will retain all administrative costs collected to allow general public access, examination, and the assurance of confidentiality of the vital record and information pursuant to the authority of Iowa Code chapter 22.

641—95.12(144) Disclosure of data.

95.12(1) The state registrar may disclose data from the system of vital statistics to federal, state, county or municipal agencies of government that request such data in the conduct of their official duties, subject to conditions the state registrar may impose to ensure that the use of the data is limited to official purposes.

a. The aforementioned agencies shall not provide the certified copy or a copy of the vital record, or release information contained therein, to the person named on the certificate, a member of the person's legal family, or the person's legal representative.

b. Certified copies issued to the aforementioned agencies will be appropriately stamped, for example, "administrative purposes only" or "for veteran affairs purposes only."

95.12(2) Confidential verifications of the facts contained in vital records may be furnished by the state registrar to any federal, state, county or municipal government agency or other entity in the conduct of the agency's or entity's official duties, subject to conditions the state registrar may impose to ensure that the verification is limited to official purposes. Confidential verification of the facts contained in vital records may be furnished by a county registrar to another county office, within the county jurisdiction, in the conduct of the county's official duties, subject to conditions the state and county registrar may impose to ensure that the verification is limited to official purposes.

a. Such confidential verifications will be on forms prescribed and furnished by the state registrar or on forms furnished by the requesting agency or entity and acceptable to the state registrar, or the state registrar may authorize the verification in other ways.

b. The aforementioned agencies and entities shall not provide the original or a copy of the verified certificate, or release information contained therein, to the person named on the certificate, a member of the person's legal family, or the person's legal representative.

95.12(3) The state registrar may permit the use of data from vital statistics for research purposes subject to conditions the state registrar may impose to ensure the use of the data is limited to such research purposes. No data will be furnished from vital statistics for research purposes until the state registrar has prepared in writing the conditions under which the data may be used and has received an agreement signed by a responsible agent of the research organization agreeing to meet and conform to such conditions.

95.12(4) The state registrar may transmit to the county registrar data needed to produce certified copies of vital records pursuant to rule 641—95.8(144).

95.12(5) The state registrar may transmit to the statewide immunization registry information from birth certificates for the sole purpose of identifying those children in need of immunizations. The state registrar may impose conditions to ensure that the use of the information is limited to official purposes.

95.12(6) The state medical examiner or the county medical examiner may request an uncertified copy of a death certificate before the death certificate is accepted and filed at the county registrar's office.

a. The copy will be clearly stamped "administrative purposes only."

b. The death certificate shall be for the sole use of the state medical examiner or county medical examiner and shall not be used as a legal document, be distributed, be copied or be maintained other than to be made a part of the investigatory file.

c. If the state medical examiner or any county medical examiner determines the death does not warrant further investigation, the state medical examiner or county medical examiner shall destroy the uncertified copy of the death certificate.

641—95.13(144) Preparation of certified copies. Certified copies of vital records may be prepared and issued by the state registrar or the county registrar pursuant to rules 641—95.3(144) and 641—95.9(144).

95.13(1) Certified copies of vital records may be made by mechanical, electronic, or other reproductive processes, except for confidential information. Certified copies will be issued using security paper that is prescribed by the state registrar.

95.13(2) When a certified copy is issued, each certification will contain a statement certifying that the facts are the true facts recorded in the issuing office, the date issued, the name of the issuing office, the registrar's signature or an authorized copy thereof, and the seal of the issuing office.

95.13(3) No person shall prepare or issue any certificate that purports to be an original, certified copy, or copy of a certificate of birth, death, fetal death, or marriage.

641—95.14(144) Access to original certificate of birth prior to adoption. Notwithstanding any provision of law to the contrary, an adopted person who was born in this state and whose original certificate of birth was substituted with a new certificate of birth pursuant to Iowa Code section 144.24 based upon the adoption, or an entitled person, may apply for and obtain a noncertified copy of the original certificate of birth of the adopted person who is the subject of the original certificate of birth in accordance with this rule, including with any mandatory redaction of personally identifiable information pursuant to Iowa Code section 144.24A(2).

95.14(1) Entitlement.

a. If an adopted person who is the subject of the original certificate of birth is submitting the application, the adopted person shall be at least 18 years of age at the time the application is filed.

b. If an entitled person is submitting the application, the adopted person who is the subject of the original certificate of birth must be deceased at the time the application is filed.

95.14(2) The adopted person or the entitled person requesting a noncertified copy of the original certificate of birth shall file a written application with the state registrar on a form and in the manner prescribed by the state registrar.

95.14(3) Upon receipt of the written application, proof of identification pursuant to paragraph 95.9(3)*"a,"* and payment of a fee pursuant to paragraph 95.6(1)*"b,"* the state registrar will issue a noncertified copy of the original certificate of birth to the applicant in accordance with this rule, including with any mandatory redaction of personally identifiable information pursuant to Iowa Code section 144.24A(2). At the time of such issuance, the state registrar will also provide to the applicant any contact preference form or medical history form completed and submitted to the state registrar including with any mandatory redaction of personally identifiable information pursuant to Iowa Code section 144.24A(2).

a. A biological parent may file a contact preference form prescribed by the state registrar in accordance with the provisions outlined in Iowa Code section 144.24A(2) and state the biological parent's preference for contact by an adopted person or an entitled person following application for and issuance of the noncertified copy of the original certificate of birth under this rule. The contact preference form will be provided to the biological parent in accordance with Iowa Code section 600A.4. A contact preference form may be completed or updated by the biological parent at any time at the request of the biological parent.

b. A biological parent may file a medical history form prescribed by the state registrar in accordance with the provisions outlined in Iowa Code section 144.24A(3) and provide medical history of the biological parent and any blood relatives. The medical history form will be provided to the biological parent in accordance with Iowa Code section 600A.4. A medical history form may be completed or updated by the biological parent at any time at the request of the biological parent.

c. Upon receipt of a completed contact preference form or medical history form, the state registrar will attach any such completed form to the original certificate of birth.

d. For the purposes of this rule, "entitled person" means the spouse of the adopted person who is deceased or an adult related to the adopted person who is deceased within the second degree of consanguinity.

e. An application may be submitted under this rule by an adopted person or an entitled person to obtain a noncertified copy of an adopted person's original certificate of birth in accordance with this rule, if the adopted person who is the subject of the original certificate of birth was born before January 1, 1971.

f. An application may be submitted under this rule by an adopted person or an entitled person to obtain a noncertified copy of an adopted person's original certificate of birth in accordance with this rule, notwithstanding the date of birth of the adopted person who is the subject of the original certificate of birth prescribed under paragraph 95.14(3)*"b."*

This rule is intended to implement Iowa Code sections 144.24A and 600A.4.

641—95.15(144) Certificate of nonviable birth.

95.15(1) A health care provider who attends or diagnoses a nonviable birth or a hospital at which a nonviable birth occurs shall advise a patient who experiences a nonviable birth that the patient may request a certificate of nonviable birth as provided in this section and, upon request by the patient, shall provide a letter certifying the nonviable birth to the patient on the form prescribed by the state registrar.

95.15(2) The department will issue a certificate of nonviable birth to a patient within 60 days of receipt of a request and certification letter. The request shall be made on the form prescribed by the state registrar.

95.15(3) The certificate of nonviable birth will contain all of the following:

a. The date of the nonviable birth.

b. The name and sex of the baby, if known.

(1) If the name is not furnished by the patient, the department will complete the certificate with the name "baby boy" or "baby girl" and the last name of the patient.

(2) If the sex is unknown, the department will complete the certificate with the name "baby" and the last name of the patient.

c. The name of the patient and, if married, the patient's spouse.

d. The statement: "This certificate is not proof of live birth."

95.15(4) The fees collected will be remitted to the treasurer of state for deposit in the general fund of the state and the vital records fund in accordance with Iowa Code section 144.46A.

95.15(5) A certificate of nonviable birth shall not be filed or registered with the department. The department will not register the nonviable birth associated with a certificate issued under this section or use the nonviable birth in calculating live birth statistics.

95.15(6) A certificate of nonviable birth shall not be used to establish, bring, or support a civil cause of action seeking damages against any person for bodily injury, personal injury, or wrongful death for a nonviable birth.

95.15(7) This rule will only apply to, and a certificate of nonviable birth may be requested and issued for, nonviable births occurring on or after January 1, 2000.

This rule is intended to implement Iowa Code section 144.31B.

641—95.16(144) Cancellation of fraudulent records.

95.16(1) When the state registrar determines that a certificate was registered through fraud or misrepresentation, the state registrar will give to the registrant a notice in writing of the state registrar's intention to cancel the certificate.

95.16(2) The notice of cancellation will give the registrant an opportunity to appear and show cause why the certificate should not be canceled.

a. The notice may be served on the registrant, or, in the case of a minor or incompetent person, on the parent or guardian, by the forwarding of the notice by certified mail to the last-known address on file in the office of the state registrar.

b. The certificate shall not be available for certification unless the registrant, parent or guardian within 30 days after the date of mailing the notice shows cause satisfactory to the state registrar why the certificate should not be canceled.

95.16(3) Upon presentation to the state registrar of a court order stating a marriage certificate was registered through fraud or misrepresentation, the state registrar will remove the record from the vital statistics system. The state registrar will order the county registrar to remove any record related to the marriage.

641—95.17(144) Unlawful acts.

95.17(1) *Serious misdemeanors.* Any person who reports information required under Iowa Code chapter 144 and who commits any of the following acts is guilty of a serious misdemeanor:

a. Willfully and knowingly makes any false statement in a report, record, or certificate required to be filed or in an application for an amendment or willfully and knowingly supplies false information intending that such information be used in the preparation or amendment of any such report, record, or certificate.

b. Without lawful authority and with the intent to deceive, makes, alters, amends, or mutilates any report, record, or certificate required to be filed or a certified copy of such report, record, or certificate.

c. Willfully and knowingly uses or attempts to use or furnish to another for use for any purpose of deception any certificate, record, or report or certified copy thereof.

d. Willfully and knowingly alters, amends, or mutilates any copy, certified copy, record or report.

e. Willfully, with the intent to deceive, uses or attempts to use any certificate of birth or certified copy of a record of birth knowing that such certificate or certified copy was issued based upon a record that is false in whole or in part or that relates to the birth of another person.

f. Willfully and knowingly furnishes a certificate of birth or certified copy of a record of birth with the intention that it be used by a person other than the person to whose birth the record relates.

g. Disinterring a body in violation of Iowa Code section 144.34.

h. Knowingly violates a provision of Iowa Code section 144.29A.

95.17(2) *Simple misdemeanors.* Any person committing any of the following acts is guilty of a simple misdemeanor:

a. Knowingly transports or accepts for transportation, interment, or other disposition a dead body without an accompanying permit as provided in Iowa Code sections 144.32, 144.33, and 144.34.

b. Refuses to provide information required by Iowa Code chapter 144.

c. Willfully violates any of the provisions of Iowa Code chapter 144 or refuses to perform any of the duties imposed upon the person.

641—95.18(144) Enforcement assistance.

95.18(1) The department will report cases of alleged violations to the proper county attorney, with a statement of the facts and circumstances, for such action as is appropriate.

95.18(2) Upon request of the department, the attorney general will assist in the enforcement of the provisions of Iowa Code chapter 144.

These rules are intended to implement Iowa Code chapter 144.

ARC 9947C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to birth registration and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 96, "Birth Registration," Iowa Administrative Code, and to adopt a new Chapter 96 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 144, 233 and 600.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 144.12, 144.13, 144.13A, 144.14, 144.15, 144.17, 144.18, 233.2(2)"c" and 600.15.

Purpose and Summary

This proposed rulemaking was undertaken in accordance with Executive Order 10. The purpose of the proposed chapter is to describe the administration process for birth registration, including filing requirements, registration, birthing locations, and fees. As a result of the Department's review, the Department deleted redundant and obsolete language and updated language to reflect current procedures.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 26, 2025. A public hearing was held on the following date(s):

- December 16, 2025

Fiscal Impact

The vital records fees collected not only fund the Bureau but also contribute to the State's General Fund. For fiscal year 2025 (through August 11, 2025), the Department collected over $3.7 million and contributed over $1.8 million to the General Fund. Although the Department is increasing the fees for certified copies of birth, death, and marriage certificates from $15 to $20, those fee increases will be directed to the Office of the State Medical Examiner. There is no impact on the portion of fees directed to the State General Fund.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 263 121 894 358 72 Passcode: fR9Nt3sZ
January 27, 2026 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 297 871 013 608 68 Passcode: JD6PN9wF

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 96 and adopt the following **new** chapter in lieu thereof:

CHAPTER 96
BIRTH REGISTRATION

641—96.1(144) Definitions. For the purpose of this chapter, the definitions in 641—Chapter 95 apply.

641—96.2(144) Forms—property of department. All forms, certificates and reports pertaining to the registration of vital events are the property of the department and shall be surrendered to the state registrar upon demand.

96.2(1) The forms supplied or approved for reporting birth events will be used for official purposes as provided for by law, rules and instructions of the state registrar.

96.2(2) No forms, except those furnished or approved by the state registrar, shall be used in the reporting of birth events or the making of copies of vital records.

641—96.3(144) Standard birth registration—up to seven days.

96.3(1) A certificate of live birth for each live birth that occurs in this state shall be filed as directed by the state registrar within seven days after the birth.

96.3(2) The person responsible for registering the certificate of live birth pursuant to rules 641—96.5(144) through 641—96.7(144) shall:

a. Utilize the official birth worksheet to report all information and any additional documentation as needed to complete the standard form for a certificate of live birth; and

b. Submit all required fees and reports with the birth registration.

641—96.4(144) Standard birth registration—seven days to one year.

96.4(1) After seven days but within one year, a certificate of live birth for each live birth that occurs in this state shall be filed as directed by the state registrar.

96.4(2) The person responsible for registering the certificate of live birth pursuant to rules 641—96.5(144) and 641—96.6(144) shall:

a. Utilize the official birth worksheet to report all information and any additional documentation as needed to complete the standard form for a certificate of live birth; and

b. Submit all required fees and reports with the birth registration.

641—96.5(144) Birthing institutions.

96.5(1) When a live birth occurs in an institution or en route to an institution, the person in charge of the institution or the person's designated representative, utilizing the official birth worksheet, shall within seven days:

a. Obtain the personal data;

b. Obtain the signature of the mother or her legal spouse or other signature as directed by the state registrar;

c. Provide the medical information required;

d. Certify that the child was born alive at the place, date, and time stated; and

e. File the certificate using the electronic birth registration system or as directed by the state registrar.

96.5(2) The birthing institution shall submit the fee report and remit the fees to the state registrar pursuant to rule 641—96.16(144).

96.5(3) The birthing institution shall maintain the birth worksheet for a minimum of ten years.

96.5(4) Upon demand of the state registrar, the birth worksheet and other information about the birth event shall be made available for inspection by the state registrar.

641—96.6(144) Non-birthing institutions.

96.6(1) Institutions that do not register birth records through the electronic birth registration system shall request instructions from the state registrar.

96.6(2) When a live birth occurs in a non-birthing institution or en route to a non-birthing institution, the person in charge of the institution or the person's designated representative, utilizing the official birth worksheet for birth other than at a delivering hospital, shall within seven days:

a. Obtain the personal data;

b. Obtain the signature of the mother or her legal spouse or other signature as directed by the state registrar;

c. Provide the medical information required;

d. Certify that the child was born alive at the place, date, and time stated; and

e. Contact the state registrar for instructions on how to submit the worksheet and arrange for payment of applicable fees.

641—96.7(144) Non-institution birth.

96.7(1) In case of a non-institution Iowa live birth, the official birth worksheet for birth other than at a delivering hospital shall be completed and filed with the state registrar by one of the following in the indicated order of priority:

a. The physician in attendance at or immediately after the live birth.

b. Any other person, including a certified nurse midwife or any person providing assistance with the birth, in attendance at or immediately after the live birth.

c. The mother or her legal spouse.

d. The person in charge of the premises where the live birth occurred.

96.7(2) An Iowa-licensed certified nurse midwife may preregister with the state registrar by submitting a completed Iowa-Licensed CNM Pre-Registration Application For Home Births and a clear photocopy of that person's current government-issued photo identification.

a. To register a live birth, certified nurse midwives who are preregistered shall submit to the state registrar the following:

(1) A letter of certification that identifies the live birth submitted for registration, supports the facts of the live birth, and contains the original signature of the person responsible for registering the live birth;

(2) The original official birth worksheet for birth other than at a delivering hospital completed and signed pursuant to subrule 96.7(4) or as directed by the state registrar;

(3) Payment of fees, which shall be included with the birth worksheet; and

(4) Other evidence acceptable to the state registrar as requested.

b. It is the responsibility of the individual preregistering to update any information provided in the individual's original registration.

96.7(3) A certified nurse midwife, or any person providing assistance with the birth, who is not preregistered prior to submitting a certificate of live birth for registration shall follow subrules 96.7(1), 96.7(2) and 96.7(4) for all live births the person attends outside a birthing institution.

96.7(4) The official birth worksheet for birth other than at a delivering hospital shall include a notarized signature of the mother or her legal spouse and shall be accompanied by a clear photocopy of that person's current government-issued photo identification. If photo identification is unavailable, other identifying documentation may be acceptable to the state registrar.

641—96.8(144) Gestational surrogate arrangement birth registration. Establishment of a certificate of live birth for a child born of a gestational surrogate arrangement shall conform to the process established pursuant to rule 641—99.15(144).

641—96.9(144) Foundling birth registration.

96.9(1) The person assuming physical custody of a foundling shall, within one business day of finding the infant, contact the state registrar for specific directions and guidance for filing the certificate of live birth.

96.9(2) Foundling registration shall be completed in the standard manner by the state registrar pursuant to Iowa Code section 144.14. Within five days after assuming physical custody of the foundling, the custodian of the foundling shall provide on the official birth worksheet the following minimum birth data and other data required by the state registrar:

a. The date when and the place where the child was found;

b. The sex, color or race, and approximate age of the child;

c. The name and address of the person or institution that has assumed physical custody of the child;

d. The name given to the child by the custodian;

e. The name, title, and license number, if any, of the person acting as the certifier to the facts of the foundling registration;

f. Parentage information, if the parent is known;

g. Any additional supporting information known.

96.9(3) The place where the child was found will be entered as the place of birth, and the date of birth will be determined by approximation. The information provided on the official birth worksheet will constitute the certificate of live birth.

96.9(4) The record will be on file only at the state registrar's office, and all supporting documentation will be placed in a sealed file, which shall be opened only by order of a court of competent jurisdiction or for vital records administrative purposes.

96.9(5) Pursuant to Iowa Code section 144.14, if the child is properly identified after the registration, the certificate of live birth will be reestablished as needed and all records pertaining to the foundling registration will be sealed along with the original supporting documentation that shall be opened only by order of a court of competent jurisdiction or for vital records administrative purposes.

641—96.10(144) Newborn safe haven registration.

96.10(1) Newborn safe haven registration procedures apply when a parent voluntarily relinquishes physical custody of a newborn infant pursuant to Iowa Code section 233.2.

96.10(2) The person assuming physical custody of the living infant pursuant to Iowa Code section 233.2(2)*"a"* shall, within one business day of assuming custody, contact the state registrar for specific directions and guidance for registering the birth.

96.10(3) If the name of the parent is unknown, newborn safe haven registration will be completed in the standard manner by the state registrar pursuant to Iowa Code section 144.14. Within five days after assuming physical custody of the infant, the custodian shall provide on the official birth worksheet the following minimum birth data and other data required by the state registrar:

a. The date when and the place where the child was found;

b. The sex, color or race, and approximate age of the child;

c. The name and address of the person or institution that has assumed physical custody of the child;

d. The name given to the child by the custodian;

e. The name, title, and license number, if any, of the person acting as the certifier to the facts of the newborn safe haven registration;

f. Any additional supporting information known.

96.10(4) If the name of the parent is disclosed to the facility where the newborn was relinquished, the facility shall file the certificate of live birth as required pursuant to Iowa Code sections 144.13 and 233.2(2)*"d."*

96.10(5) Pursuant to Iowa Code section 144.14, if the child is properly identified after the newborn safe haven registration, the birth record will be reestablished as needed and all records pertaining to the newborn safe haven registration will be sealed along with the original supporting documentation that shall be opened only by order of a court of competent jurisdiction or for vital records administrative purposes.

96.10(6) The record will be on file only at the state registrar's office, and all supporting documentation will be placed in a sealed file that shall be opened only by order of a court of competent jurisdiction or for vital records administrative purposes. The confidentiality of the live birth certificate will be maintained pursuant to Iowa Code sections 233.2(2)*"d"* and 144.43.

641—96.11(144) Birth registration following a foreign-born adoption.

96.11(1) A certificate of foreign birth will be established by the state registrar for a child born in a foreign nation upon the state registrar's receipt of a completed Certificate of Adoption Report form from an Iowa court of competent jurisdiction or upon request of the resident adoptive parent or parents and the state registrar's receipt of all of the following documents:

a. The authenticated adoption decree in both the foreign language and the English translation, which shall contain the official signature of the translator, or a certified copy of an adoption decree from an Iowa court of competent jurisdiction;

b. If the decree does not contain information to establish the certificate of foreign birth, the adoptee's authenticated birth certificate in both the foreign language and the English translation, which shall contain the official signature of the translator;

c. Evidence of the adoptee's permanent residence, such as a passport or citizenship papers;

d. A certified copy of the certificate of live birth of each adoptive parent; and

e. A notarized statement that is on letterhead from the licensed adoption agency or certified adoption investigator and that establishes the parent or parents were residents of Iowa at the time the adoption was final in the foreign nation. The statement will not be required if the parent's or parents' Iowa address is shown in the adoption documents.

96.11(2) The certificate of foreign birth shall not constitute U.S. citizenship.

96.11(3) The state registrar will charge the adoptive parent or parents the appropriate fee for the registration of a certificate of foreign birth for a foreign-born child adopted by a parent who resided in Iowa at the time of adoption pursuant to Iowa Code section 144.13A.

96.11(4) Administrative and certified copy fees shall be charged and remitted as provided in rule 641—95.6(144).

96.11(5) The evidence presented will be on file only at the state registrar's office, and all supporting documentation will be placed in a sealed file that shall be opened only by order of a court of competent jurisdiction or for vital records administrative purposes.

641—96.12(144) Birth registration fees. A fee is required for each birth registered pursuant to Iowa Code sections 144.13, 144.13A, 144.15, 144.18, 144.23, 144.25A, and 600.15.

96.12(1) The parents will be charged and the person responsible for filing the certificate of live birth shall remit to the state registrar the $20 fee for the standard registration of a certificate of live birth and the $20 fee for a certified copy of the birth certificate pursuant to Iowa Code section 144.13A.

96.12(2) The individual filing a delayed certificate of live birth will be charged and shall remit to the state registrar the $20 fee for the registration of a delayed certificate of live birth for a registrant 17 years of age or younger pursuant to Iowa Code sections 144.13A, 144.15, and 144.18.

96.12(3) The adoptive parents will be charged and shall remit to the state registrar the $20 fee for the registration of a certificate of foreign birth pursuant to Iowa Code sections 144.13A and 144.25A.

641—96.13(144) Fee collection. If a person responsible for the registration of a certificate of live birth under Iowa Code section 144.13 is not the parent, the person shall collect the fees from the parent and remit the fees to the state registrar.

96.13(1) The person collecting the fee on behalf of the state registrar will not charge an administrative fee for collection of the registration and certified copy fees pursuant to Iowa Code section 144.13A(3).

96.13(2) A person is discharged from the duty to collect and remit the fees when the person has made a good-faith effort to collect the fees from the parent or has established that the fees are to be waived pursuant to Iowa Code section 144.13A(4).

641—96.14(144) Waivers. The registration fee and certified copy fee are waived if the expenses of the birth are reimbursed under the medical assistance program established by Iowa Code chapter 249A or if the parent is indigent and unable to pay the expenses of the birth and no other means of payment is available to the parent.

641—96.15(144) Fee deposit. Birth registration and certified copy fees collected on behalf of the state registrar and forwarded to the state registrar will be remitted to the treasurer of state for deposit in the appropriate state fund.

641—96.16(144) Responsibilities of institutions. Institutions responsible for filing certificates of live birth shall collect both the registration fee and the certified copy fee from the parent.

96.16(1) The institution shall complete the Summary of Fee Report for Birth Registration and Certified Copy form. The institution shall submit the completed form and the total fee amount by check or money order to the state registrar within seven days of the live birth or as directed by the state registrar. All live births shall be reported and indicate for each birth that:

a. The fee was collected for the registration and certified copy;

b. The fee was waived, as applicable, and the reason for waiver; or

c. No fee was collected after a good-faith effort was made.

96.16(2) If a late birth registration fee is received, it shall be noted on the original Summary of Fee Report for Birth Registration and Certified Copy form.

96.16(3) The institution shall maintain copies of the submitted Summary of Fee Report for Birth Registration and Certified Copy form for three state fiscal years.

641—96.17(144) Responsibility for births occurring in non-institutions and non-birthing institutions.

96.17(1) The state registrar will collect the registration and certified copy fees and complete a Summary of Fee Report for Birth Registration and Certified Copy form.

96.17(2) If a late birth registration fee is received, it will be noted on the original Summary of Fee Report for Birth Registration and Certified Copy form.

641—96.18(144) Delayed birth registration—one year or more after event. All Iowa births registered one year or more after the date of the birth shall be prepared on a Delayed Certificate of Live Birth form. The state registrar will require documentary evidence to prove the facts of the birth pursuant to subrule 96.18(2). The delayed birth record will be registered and maintained solely at the state registrar's office.

96.18(1) *Application—certificate form.* A completed Delayed Certificate of Live Birth form shall be signed before a notary and filed with the state registrar by the following applicants in the indicated order of priority:

a. The registrant, if 18 years of age or older, whose birth occurred in Iowa but was not recorded within one year of the birth;

b. The registrant's parent or current legal court-appointed guardian; or

c. If no parent or legal guardian exists, a member of the registrant's family who has direct tangible interest and entitlement and who is competent to affirm to the accuracy of the information.

96.18(2) *Facts to be established.*

a. The applicant shall submit a notification of record search certified by the state registrar that will indicate that no prior certificate of live birth is on file for the person whose delayed birth record is to be filed. The notification of record search will be returned to the applicant and will not be exchanged for a certified copy of delayed certificate of live birth.

b. The applicant shall substantiate the following with documentary evidence:

(1) The full name of the registrant at the time of the birth, except that the delayed certificate may reflect the name established by adoption or legitimation when such evidence is submitted;

(2) The date and place of the birth;

(3) The full name of the mother prior to any marriage as it is listed on her birth certificate;

(4) The full name of the mother at the time of the birth; and

(5) The full name of the mother's legal spouse. However, if the mother was not married at the time of conception or birth or at any time during the period between conception and birth, the name of a second parent shall not be entered on the delayed certificate unless the child has been adopted or legitimated or parentage has been determined by a court of competent jurisdiction.

96.18(3) *Documentary evidence.*

a. To be acceptable for purposes of registration, the name of the registrant and the date and place of birth entered on a Delayed Certificate of Live Birth form shall be supported at a minimum by the following documentary evidence:

(1) Two pieces of dated documentary evidence if the Delayed Certificate of Live Birth form is filed within seven years after the registrant's date of birth; or

(2) Three pieces of dated documentary evidence if the Delayed Certificate of Live Birth form is filed seven years or more after the registrant's date of birth.

b. Each piece of documentary evidence must be from an independent source. Facts of parentage shall be supported by at least one of the documents.

c. Documentary evidence shall be in the form of the original record, a certified copy thereof, or a notarized statement from the custodian of the record or document on the custodian's letterhead.

d. All documentary evidence submitted shall consistently support the facts of birth to be established.

e. All documentary evidence shall have been executed at least five years prior to the date of filing or shall have been established prior to the registrant's seventh birthday.

f. Documents not acceptable to establish a delayed certificate of live birth include but are not limited to:

(1) Baptismal record,

(2) Confirmation record,

(3) Family bible entries,

(4) Hospital commemorative birth certificate,

(5) Crib card,

(6) Cradle roll,

(7) Baby book memento, and

(8) Personal affidavit.

96.18(4) *Abstraction and certification by the state registrar.* The state registrar will abstract on the Delayed Certificate of Live Birth form a description of each document submitted to support the facts of birth. This description will include:

a. The title or description of the document;

b. The name and address of the custodian who has attested to the fact on the original documents in the custodian's custody;

c. The date of the original filing of the document being abstracted; and

d. The information regarding the registrant's birth and parentage.

96.18(5) *Acceptance of documentary evidence for registration.*

a. The state registrar will by signature certify that:

(1) No prior certificate of live birth is on file for the person whose birth is to be recorded;

(2) The evidence has been reviewed and substantiates the alleged facts of the birth; and

(3) The abstract of the evidence appearing on the Delayed Certificate of Live Birth form accurately reflects the nature and content of the documents.

b. All documents submitted in support of the delayed registration of live birth will be returned to the applicant after review, abstraction, and registration.

96.18(6) *Denial of registration.*

a. When the applicant does not submit substantiating evidence or the state registrar finds reason to question the validity or adequacy of the evidence submitted to establish a delayed certificate of live birth, the state registrar will not register the delayed certificate of live birth. The written notice of refusal from the state registrar will include:

(1) The rejected form;

(2) The Delayed Birth Evidence Refusal form; and

(3) Information related to the applicant's right of appeal to the district court pursuant to Iowa Code sections 144.17 and 144.18.

b. The application to establish a delayed certificate of live birth will be dismissed if not actively pursued within six months of the date the notice of refusal was sent to the applicant.

96.18(7) *Duties of the county registrar.* The county registrar may assist the registrant, registrant's parent, or current court-appointed guardian in the completion and notarization of the delayed form,

excluding the portion restricted for state use only. The county registrar may forward the form, documents and fees to the state registrar for final review and possible acceptance.

96.18(8) *Fees.* Administrative and certified copy fees will be charged as provided in rule 641—95.6(144).

These rules are intended to implement Iowa Code sections 144.12, 144.13, 144.13A, 144.14, 144.15, 144.17, 144.18, 233.2(2)*"c"* and 600.15.

ARC 9946C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to death registration and disposition of dead human bodies and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 97, "Death Registration and Disposition of Dead Human Bodies," Iowa Administrative Code, and to adopt a new Chapter 97 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 135, 144, 331 and 633.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 144.

Purpose and Summary

This proposed rulemaking was undertaken in accordance with Executive Order 10. As a result of its review, the Department eliminated redundant and obsolete language. The purpose of the proposed chapter is to facilitate the registration of deaths and the subsequent disposition of dead human bodies, including forms, certificates, permits, and responsibilities of institutions and individuals involved in the process.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 26, 2025. A public hearing was held on the following date(s):

- December 16, 2025

Fiscal Impact

The vital records fees collected not only fund the Bureau but also contribute to the State's General Fund. For fiscal year 2025 (through August 11, 2025), the Department collected over $3.7 million and contributed over $1.8 million to the General Fund. Although the Department is increasing the fees for certified copies of birth, death, and marriage certificates from $15 to $20, those fee increases will be directed to the Office of the State Medical Examiner. There is no impact on the portion of fees directed to the State General Fund.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 263 121 894 358 72 Passcode: fR9Nt3sZ
January 27, 2026 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 297 871 013 608 68 Passcode: JD6PN9wF

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 97 and adopt the following **new** chapter in lieu thereof:

CHAPTER 97
DEATH REGISTRATION AND DISPOSITION OF DEAD HUMAN BODIES

641—97.1(144) Definitions. For the purpose of this chapter, the definitions in 641—Chapter 95 apply.

641—97.2(144) Forms—property of department. All forms, certificates and reports pertaining to the registration of death events are the property of the department and will be surrendered to the state registrar upon demand.

97.2(1) The forms supplied or approved for reporting death events will be used for official purposes as provided for by law, rules and instructions of the state registrar.

97.2(2) No forms, except those furnished or approved by the state registrar, can be used in the reporting of death events or the making of copies of vital records.

641—97.3(144) Standard registration of death—up to one year. Iowa death records submitted for registration within one year from the date of death will be prepared on the standard Certificate of Death form.

97.3(1) The county in which the death occurs or in which the dead human body is found is the county of death.

97.3(2) If the death occurs in a moving conveyance, the county in which the dead human body is first removed from the conveyance is the county of death.

97.3(3) Each person with a duty related to death certificates shall participate in the electronic death record system. A person with a duty related to a death certificate includes but is not limited to a physician as defined in Iowa Code section 135.1, a physician assistant, an advanced registered nurse practitioner, a funeral director and a county recorder.

641—97.4(144) Standard registration of fetal death—up to one year. Iowa fetal death records submitted for registration within one year from the date of fetal death shall be prepared on the standard Certificate of Fetal Death form. A fetal death certificate shall not be filed after one year from the date of the event. A fetal death record shall not be entered into the electronic death record system.

97.4(1) When a fetal death occurs in an institution, the person in charge of the institution or the person's designee, the physician in attendance at or after delivery, or a medical examiner may assist in preparation of the Certificate of Fetal Death form as directed by the state registrar.

97.4(2) In cases in which a fetus has reached the gestation period of 20 completed weeks or more or a weight of 350 grams or more, a Certificate of Fetal Death form shall be:

a. Registered and maintained solely at the state registrar's office; and

b. Filed within three days after delivery and prior to final disposition of the fetus.

97.4(3) The county in which the dead human fetus is found is the county of death. The certificate of fetal death shall be filed within three days after the fetus is found.

97.4(4) If the fetal death occurs in a moving conveyance, the county in which the fetus is first removed from the conveyance is the county of death.

97.4(5) A blank Certificate of Fetal Death form shall be used only by the state registrar or authorized agents.

641—97.5(144) Preparation of the certificate of death or fetal death.

97.5(1) The funeral director or person other than the funeral director who first assumes custody of a dead human body or fetus for the purposes of disposition shall:

a. Obtain the personal data from the next of kin or the best-qualified person or source available;

b. Obtain the medical certification of cause of death from the medical certifier; and

c. Within three days after the death and prior to final disposition of the dead human body, file the completed certificate of death using the electronic statewide vital records system or, within three days after delivery and prior to disposition of the fetus, file the completed certificate of fetal death with the state registrar.

97.5(2) The funeral director or person other than the funeral director who first assumes custody of the dead human body for the purposes of disposition shall prepare the certificate of death using the electronic statewide vital records system.

97.5(3) The funeral director or person other than the funeral director who first assumes custody of the dead fetus for the purposes of disposition shall prepare the certificate of fetal death on the official form and paper issued by the state registrar.

97.5(4) Unless otherwise directed by the state registrar, a certificate of fetal death will be accepted for filing and registration only when:

a. All names are documented in the spaces provided;

b. All items are completed as required;

c. No alterations or erasures are apparent;

d. All signatures are original and genuine and are in dark blue or black ink;

e. The certificate presented for registration is on the approved form and official paper prescribed by the state registrar;

f. Data are consistent with the facts of death; and

g. The form is prepared in conformity with these rules or instructions issued by the state registrar.

641—97.6(144) Medical certification of death. The funeral director shall submit the completed fact of death portion of the certificate of death to the physician, physician assistant, advanced registered nurse practitioner, or medical examiner for the completion of the medical portion.

97.6(1) For a natural cause of death, the physician, physician assistant or advanced registered nurse practitioner in charge of the patient's care for the illness or condition that resulted in death shall complete and sign the medical certification within 72 hours after receipt of the death certificate from the funeral director or individual who initially assumed custody of the body.

97.6(2) If there is a non-natural cause of death, the state medical examiner or county medical examiner shall be notified and shall conduct an investigation.

97.6(3) If the decedent was an infant or child and the cause of death is not known, a medical examiner shall conduct an investigation and an autopsy shall be performed as necessary to exclude a non-natural cause of death.

97.6(4) If upon investigation into a death, the state medical examiner or county medical examiner determines that a preexisting natural disease or condition was the likely cause of death and that the death does not affect the public interest as described in Iowa Code section 331.802(3), the state medical examiner or county medical examiner may elect to defer to the physician, physician assistant or advanced registered nurse practitioner in charge of the patient's preexisting condition the certification of the cause of death.

97.6(5) When an investigation is required by the state medical examiner or county medical examiner, the state medical examiner or county medical examiner shall investigate the cause and manner of death and shall complete and sign the medical certification within 72 hours after determination of the cause and manner of death.

97.6(6) The medical certifier completing the medical certification of cause of death shall attest to the accuracy of the medical certification either by signature or by an electronic process approved by the state registrar.

641—97.7(144) Medical certification of fetal death.

97.7(1) The medical certification for a fetal death shall be completed by the physician in attendance at or after delivery of the fetus within 72 hours after delivery, except when an investigation is required by a medical examiner.

97.7(2) When an investigation by a medical examiner is required, or when a fetal death occurs without medical attendance upon the mother at or after delivery, the medical examiner shall investigate the cause of fetal death and shall complete the medical certification of the fetal death within 72 hours after taking charge of the case.

97.7(3) The physician or medical examiner completing the medical certification of fetal death shall attest to the accuracy either by signature or by an electronic process approved by the state registrar.

641—97.8(144) Medical certifier.

97.8(1) Only an Iowa-licensed physician, physician assistant, advanced registered nurse practitioner, or medical examiner shall certify to the cause and manner of death.

97.8(2) If the medical certifier is unavailable, an alternate Iowa-licensed medical certifier may complete the cause and manner of death when:

a. The alternate medical certifier has access to the medical history of the case;

b. The alternate medical certifier views the deceased at the time of death or after death has occurred; and

c. The death is from natural causes.

97.8(3) In all other cases in which a medical certifier is unavailable, the medical examiner shall prepare the medical certification of cause of death.

97.8(4) The medical certifier who signs the medical certification on a certificate of death shall be entitled to view the death record through the electronic statewide vital records system for up to one year from the date of death.

641—97.9(144) Report of autopsy findings.

97.9(1) In cases in which an autopsy is to be performed, it shall not be necessary to defer the entry of the cause of death pending a full report of microscopic or toxicological studies.

97.9(2) In any case in which the gross findings of an autopsy are inadequate to determine the cause of death, the medical certifier shall mark the cause of death as "pending investigation" on the certificate and sign the certificate. Immediately after the medical data necessary for determining the cause of death have been made known, the medical certifier shall provide to the state registrar a signed statement that identifies the decedent and the cause of death.

97.9(3) In any case in which the autopsy findings significantly change the medical diagnosis of cause of death, the medical certifier shall make a report of the cause of death and submit it to the state registrar as soon as the findings are available. Such report shall be a signed statement that identifies the decedent and the revised cause of death. Such report shall amend the original certificate, and the report shall be maintained in a sealed file.

641—97.10(144) Extension of time. If the medical certifier is unable to complete the medical certification of cause of death or if the funeral director is unable to obtain the personal information about the deceased within the statutory time period, the funeral director shall file the certificate of death or fetal death with all available information.

97.10(1) Such certificate of death or fetal death shall be considered appropriate authority to issue a burial-transit permit.

97.10(2) As soon as possible, the person responsible for completing the information missing from the original certificate shall report the missing information to the state registrar.

641—97.11(144) Removal of a dead human body or fetus.

97.11(1) A person assuming custody of a dead human body shall:

a. Contact the attending physician, physician assistant, or advanced registered nurse practitioner and receive confirmation the death was from natural causes and that the physician, physician assistant, or advanced registered nurse practitioner will assume responsibility for certifying the cause of death; or

b. Contact the medical examiner and receive authorization to remove the dead human body if the case is within the jurisdiction of the medical examiner.

97.11(2) A person assuming custody of a dead human fetus shall:

a. Contact the attending physician and receive confirmation the death was from natural causes and that the physician will assume responsibility for certifying to the cause of fetal death; or

b. Contact the medical examiner and receive authorization to remove the dead human fetus if the case is within the jurisdiction of the medical examiner.

97.11(3) A person other than a funeral director, medical examiner, or emergency medical service provider who assumes custody of a dead human body or fetus shall first contact the state registrar for instructions for registering the certificate of death or fetal death. After review and registration of the certificate of death or fetal death, the state registrar will issue a burial-transit permit pursuant to rule 641—97.12(144) prior to removal of the dead human body or fetus from the place of death.

641—97.12(144) Burial-transit permit. If a person other than a funeral director, medical examiner, or emergency medical service assumes custody of a dead human body or fetus, the person is mandated to secure a burial-transit permit pursuant to rule 641—97.11(144) and Iowa Code section 144.32. Pursuant to Iowa Code chapter 144, an unlicensed employee of the funeral establishment shall be considered an agent of the funeral director.

97.12(1) The burial-transit permit will be issued upon a form prescribed by the state registrar and will state:

a. The name of the decedent;

b. The date and place of death;

c. If the death was from a communicable disease;

d. The name and location of the cemetery, crematory, or other location where final disposition of the remains is to be made;

e. The method of disposition;

f. That a certificate of death or fetal death has been filed; and

g. That permission is granted to inter, remove or otherwise dispose of the dead human body or fetus.

97.12(2) To be valid, a burial-transit permit will not be issued prior to the presentation of the completed and registered certificate of death or certificate of fetal death. The burial-transit permit must be issued by the county medical examiner, a funeral director, or the state registrar. The burial-transit permit shall be obtained prior to the removal of the dead human body or fetus from the place of death and shall accompany the body or fetus to the place of final disposition. The person responsible for obtaining the burial-transit permit shall provide the permit to the person in charge of the place of final disposition.

97.12(3) The person in charge of the place of final disposition shall ensure that all of the requirements of this chapter relative to the burial-transit permit have been complied with before the final disposition of the remains. Such person shall retain the burial-transit permit for a period of one year from the date of the final disposition.

97.12(4) A burial-transit permit will not be issued to a person other than a licensed funeral director if the death or fetal death was caused by a suspected or known "communicable disease" as defined by Iowa Code section 139A.2.

97.12(5) In cases in which a fetus has reached the gestation period of 20 completed weeks or more, or a weight of 350 grams or more, a burial-transit permit will be obtained prior to the final disposition of the fetus.

641—97.13(144) Transportation and disposition of a dead human body or fetus.

97.13(1) A dead human body or fetus shall be transported only after enclosure in a container for transfer that will control odor and prevent leakage of body fluids unless the body or fetus has been embalmed or is being transported by a licensed funeral director, emergency medical service provider or medical examiner. The transport of a dead human body or fetus shall be in a manner that is respectful of the dead, the feelings of relatives, and the sensibilities of the community.

97.13(2) When a dead human body or fetus is transported from the state for final disposition, the burial-transit permit shall accompany the body or fetus. When a dead human body or fetus is brought into the state for final disposition, a burial-transit permit under the law of the state in which the death occurred shall accompany the body or fetus.

97.13(3) If the final disposition of a dead human body or fetus is cremation at a licensed cremation establishment, scattering of cremated remains shall be subject to the local ordinances of the political subdivision and any and all regulations of the cemetery, if applicable, in which the scattering site is located. However, such local ordinances and cemetery regulations shall not allow the scattering of cremated remains upon public property or upon private property without the property owner's consent. In the absence of an applicable local ordinance or cemetery regulation, the scattering of cremated remains shall not be allowed upon any public property or upon private property without the property owner's consent. Cremation shall be considered final disposition by the department, and no further burial-transit permit shall be needed.

97.13(4) If the final disposition of a dead human body or fetus is burial, interment, or entombment, local ordinances of the political subdivision in which the final disposition site is located and any and all regulations of the cemetery, if applicable, shall apply. In the absence of an applicable local ordinance, the depth of the grave at its shallowest point shall be at least three feet from the top of the burial container.

641—97.14(144) Disinterment permits.

97.14(1) A disinterment permit may be issued as follows:

a. Disinterment of a dead human body or fetus, without a court order, shall be allowed for the purpose of autopsy or reburial only and then only if supervised by a funeral director.

b. Disinterment of cremated remains, without a court order, shall be allowed but only if supervised by a funeral director.

c. The state registrar, without a court order, will not issue a permit without the consent of the person authorized to control the decedent's remains under Iowa Code section 144C.5.

d. Disinterment of a dead body or fetus for the purpose of reburial may be allowed by court order only upon a showing of substantial benefit to the public and then only if supervised by a funeral director.

e. Disinterment of a dead body or fetus for the purpose of autopsy by court order shall be allowed only when reasonable cause is shown that someone is criminally or civilly responsible for such death, after hearing, upon reasonable notice prescribed by the court to the person authorized to control the decedent's remains under Iowa Code section 144C.5 and then only if supervised by a funeral director.

f. Disinterment of a dead body or fetus for the purpose of cremation may be allowed by court order if supervised by a funeral director. Subsequent to the disinterment, cremation of the body will only be allowed upon a determination by the state or county medical examiner that the death was due to natural causes.

97.14(2) A permit for disinterment will be issued by the state registrar according to rules adopted pursuant to Iowa Code chapter 17A or when ordered by the district court of the county in which such body is buried. A person authorized to control final disposition of a decedent's remains under Iowa Code section 144C.5 is an interested person and shall be entitled to notice prior to the obtaining of a court order.

97.14(3) Disinterment permits are mandated for any relocation above ground or below ground of remains from the original site of interment. Disinterment permits will be valid for 30 days after the date the permit is signed by the state registrar. Disinterment permits are issued on a form as prescribed by the state registrar with copies to be distributed as follows:

a. One copy filed with the sexton or person in charge of the cemetery in which disinterment is to be made;

b. One copy to be used during transportation of the remains;

c. One copy filed with the sexton or person in charge of the cemetery of reburial; and

d. One copy to be returned to the state registrar by the funeral director within ten days after the date of disinterment.

97.14(4) When removed from the vault for final burial, a dead human body or fetus, properly embalmed and placed in a receiving vault, shall not be considered a disinterment.

97.14(5) The following persons who are competent adults may acquire a disinterment permit without a court order pursuant to Iowa Code sections 144.34 and 144C.5 in the following descending order:

a. A designee, or alternate designee, acting pursuant to the decedent's declaration.

b. The surviving spouse of the decedent, if not legally separated from the decedent, whose whereabouts are reasonably ascertainable.

c. A surviving child of the decedent or, if there is more than one surviving child, a majority of the surviving children whose whereabouts are reasonably ascertainable.

d. The surviving parent or parents of the decedent whose whereabouts are reasonably ascertainable.

e. A surviving grandchild of the decedent or, if there is more than one surviving grandchild, a majority of the surviving grandchildren whose whereabouts are reasonably ascertainable.

f. A surviving sibling of the decedent or, if there is more than one surviving sibling, a majority of the surviving siblings whose whereabouts are reasonably ascertainable.

g. A surviving grandparent of the decedent or, if there is more than one surviving grandparent, a majority of the surviving grandparents whose whereabouts are reasonably ascertainable.

h. A person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession or, if there is more than one such surviving person, a majority of such surviving persons whose whereabouts are reasonably ascertainable.

i. A person who knows the identity of the decedent and who signs an affidavit affirming the identity of the decedent and assuming the right to control final disposition of the decedent's remains and the responsibility to pay any expense associated with such final disposition. A person who affirms the identity of the decedent pursuant to this paragraph is liable for all damages that result, directly or indirectly, from that affirmation.

j. The county medical examiner, if responsible for the decedent's remains.

97.14(6) A funeral director may await a court order before proceeding with disinterment of a decedent's remains if the funeral director is aware of a dispute among:

a. Persons who are members of the same class of persons described in subrule 97.14(5); or

b. Persons who are authorized under subrule 97.14(5) and the executor named in the decedent's will or personal representative appointed by the court.

97.14(7) Due consideration under this rule shall be given to the public health, the preferences of a person authorized to control final disposition of a decedent's remains under Iowa Code section 144C.5, and any court order.

641—97.15(144) Delayed death registration—one year or more after event. Iowa deaths registered one year or more after the date of death shall be prepared on a Delayed Certificate of Death form developed by the state registrar. The state registrar will require documentary evidence to prove the facts of the death pursuant to Iowa Code section 144.16. The delayed certificate of death will be registered and maintained solely at the state registrar's office.

97.15(1) *Application.* Registration of a delayed certificate of death may be requested by the surviving next of kin of the deceased, or the surviving next of kin's legal representative, in the following descending order:

a. Executor of the decedent's estate;

b. Spouse, if not legally separated from the decedent;

c. Child or legal guardian of the child if the child is under the age of majority;

d. Parent;

e. Grandchild or legal guardian of the grandchild if the grandchild is under the age of majority;

f. Sibling;

g. Grandparent; or

h. Funeral director responsible for the disposition of the decedent.

97.15(2) *Facts to be established.*

a. The applicant shall submit a notification of record search certified by the state registrar that will indicate that no prior certificate of death is on file for the person whose delayed death record is to be filed. The notification of record search will be returned to the applicant and will not be exchanged for a certified copy of the delayed certificate of death.

b. The applicant shall substantiate the following with documentary evidence:

(1) The full legal name and sex of the deceased at the time of the death;

(2) The date and place of birth;

(3) The date and time of death;

(4) The place of death, including the type of place and location where the death occurred;

(5) The method and location of the final disposition;

(6) The full name and address of the person responsible for the final disposition;

(7) Cause and manner of death; and

(8) The full name, address, and relationship to the decedent of the person applying to register the delayed certificate of death.

97.15(3) *Documentary evidence.*

a. The application to register the delayed certificate of death shall be supported by a minimum of the following:

(1) An affidavit of the person filing the certificate attesting to the accuracy of the information on the certificate; and

(2) Three dated documents from independent sources that consistently support the information necessary pursuant to subrule 97.15(2). The documents shall be in the form of the original record, a certified copy thereof, or a notarized statement from the custodian of the record or document on the custodian's letterhead. Personal affidavits are not acceptable.

b. The state registrar may require additional documentary evidence to prove the facts of the death event.

97.15(4) *Abstraction and certification by the state registrar.* The state registrar will abstract on the Delayed Certificate of Death form a description of each document submitted to support the facts of death. This description will include:

a. The title or description of the document;

b. The name and address of the custodian who attested to the facts on the original documents in the custodian's custody;

c. The date of the original filing of the document being abstracted; and

d. The information regarding the death for delayed registration.

97.15(5) *Acceptance of documentary evidence for registration.* All documents submitted in support of the delayed registration will be returned to the applicant after review, abstraction, and registration. The state registrar will by signature certify that:

a. No prior certificate of death is on file for the decedent;

b. The evidence has been reviewed and substantiates the facts of death; and

c. The abstract of the evidence appearing on the delayed certificate of death accurately reflects the nature and content of the documents.

97.15(6) *Denial of registration.* In the absence of adequate substantiating evidence or if the state registrar finds reason to question the validity or adequacy of the evidence necessary to establish a delayed certificate of death, the state registrar will not register the delayed record.

a. The written notice of rejection from the state registrar will include:

(1) The Delayed Certificate of Death form stamped "rejected"; and

(2) The Delayed Evidence Refusal form.

b. Applications for a delayed certificate of death that have not been completed within one year from the date of application may be dismissed at the discretion of the state registrar. Upon dismissal, the state registrar will advise the applicant, and all documents submitted in support of such registration will be returned to the applicant.

97.15(7) *Duties of county registrar.* The county registrar may assist the applicant in the completion and notarization of the Delayed Certificate of Death form, excluding the portion restricted for state use only. The county registrar may forward the partially completed Delayed Certificate of Death form, documents and fees to the state registrar for final review and possible acceptance.

97.15(8) *Fees.* Administrative and certified copy fees will be charged as provided in rule 641—95.6(144).

641—97.16(144) Registration of presumptive death.

97.16(1) A petition shall be filed with the district court in the county where the presumptive death occurred and shall be supported with the completed Affidavit of Personal Knowledge of a Missing Person form. The form shall be completed by the surviving next of kin of the deceased, or the surviving next of kin's legal representative, in the following descending order:

a. Spouse, if not legally separated from the decedent;

b. Child or the child's legal guardian if the child is under the age of majority;

c. Parent;

d. Grandchild or the grandchild's legal guardian if the grandchild is under the age of majority;

e. Sibling;

f. Grandparent;

g. Aunt or uncle;

h. Niece or nephew; or

i. A person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent pursuant to Iowa Code sections 633.210 through 633.226.

97.16(2) In addition to the Affidavit of Personal Knowledge of a Missing Person form or in the absence of the next of kin, the petition may be supported by the following:

a. Affidavit by Employer for an Employee Who Was Working at Time of Disappearance form;

b. Affidavit by Government Official for a Government Employee Missing While Involved in Rescue Efforts form; or

c. Affidavit by Reliable Informant of Missing Person form.

97.16(3) The state registrar will provide the affidavit forms and the certificate of presumptive death. The affidavits and the certificate of presumptive death will be registered and maintained solely at the state registrar's office.

97.16(4) Upon presentation of a certified copy of a court order, the state registrar will file a certificate of presumptive death pursuant to Iowa Code sections 633.517 through 633.520. The order from the district court shall only establish the presumptive death record.

97.16(5) In cases under the jurisdiction of the medical examiner, the certified copy of the court order and the completed supporting affidavits listed in subrules 97.16(1) and 97.16(2) shall be delivered to the medical examiner. The medical examiner will complete the certificate of presumptive death and certify to the cause of death.

97.16(6) The certificate of presumptive death will be registered and maintained solely at the state registrar's office.

97.16(7) The certificate of presumptive death will be recorded based on the date of the court order and shall not be registered as a delayed certificate of death.

97.16(8) If the missing person is located and found to be alive, the certificate of presumptive death will be voided and removed from the vital records system of registration. Any issued certified copies shall be surrendered to the state registrar.

641—97.17(144) Release or final disposition of a dead human body or fetus by an institution.

97.17(1) When a dead human body or fetus is released by an institution, the person in charge of the institution shall maintain a record showing:

a. Name of the deceased;

b. Date, time, and place of death;

c. Name, title, and license number of person who pronounced death;

d. Name and address of the medical certifier;

e. Name and address of the person to whom the dead human body or fetus is released; and

f. Date of removal of the dead human body or fetus from the institution.

97.17(2) When a dead human body or fetus is released or final disposition is completed by an institution, the person in charge of the institution shall keep a record showing the date, place, and manner of release or final disposition.

97.17(3) At the direction of the state registrar, the institution shall provide the information listed in subrule 97.17(1) to the funeral director or person acting as such who assumes custody of the dead human body for purposes of final disposition.

97.17(4) Records maintained under this rule will be retained for a period of not less than ten years and will be made available for inspection by the state registrar upon demand.

641—97.18(144) Additional record by funeral director.

97.18(1) In addition to filing any certificate or other form required by Iowa Code chapter 144, a funeral director or other person who removes from the place of death or transports or completes final disposition of a dead human body or fetus shall maintain a record that shall identify the following:

a. Name of the deceased;

b. Date, time, and place of death;
c. Name and address of the person to whom the dead human body or fetus is released;
d. Name of institution or other place of death releasing the dead human body or fetus;
e. Date of removal from the place of death; and
f. Place and method of final disposition of the dead human body or fetus.

97.18(2) Records maintained under this rule shall be retained for a period of not less than ten years at the funeral establishment responsible for disposition and shall be made available for inspection by the state registrar upon demand.

These rules are intended to implement Iowa Code sections 135.11(7), 144.12, 144.16 through 144.18, 144.26 through 144.29, 144.30 through 144.35, 144.47, 144.49 through 144.51, 144C.5, 331.802(3) and 633.517 through 633.520.

ARC 9945C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to marriage registration and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 98, "Marriage Registration," Iowa Administrative Code, and to adopt a new Chapter 98 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 144 and 595.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 144 and 595.

Purpose and Summary

This proposed rulemaking was undertaken in accordance with Executive Order 10. The purpose of this proposed chapter is to describe the administration process for marriage registration, including license application, filing the certificate, recordkeeping, certified copies, and fees. As a result of the review, the Department revised the chapter, removing restrictive terms and making minor wording changes.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 26, 2025. A public hearing was held on the following date(s):

- December 16, 2025

Fiscal Impact

The vital records fees collected not only fund the Bureau but also contribute to the State's General Fund. For fiscal year 2025 (through August 11, 2025), the Department collected over $3.7 million and contributed over $1.8 million to the General Fund. Although the Department is increasing the fees for certified copies of birth, death, and marriage certificates from $15 to $20, those fee increases will be directed to the Office of the State Medical Examiner. There is no impact on the portion of fees directed to the State General Fund.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 263 121 894 358 72 Passcode: fR9Nt3sZ
January 27, 2026 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 297 871 013 608 68 Passcode: JD6PN9wF

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 98 and adopt the following **new** chapter in lieu thereof:

CHAPTER 98
MARRIAGE REGISTRATION

641—98.1(144,595) Definitions. For the purpose of this chapter, the definitions in 641—Chapter 95 apply.

641—98.2(144,595) Forms—property of department. All forms, certificates and reports pertaining to the registration of a marriage are the property of the department and shall be surrendered to the state registrar upon demand.

98.2(1) The forms supplied or approved for reporting a marriage will be used for official purposes as provided for by statute, rules and instructions of the state registrar.

98.2(2) No forms, except those furnished or approved by the state registrar, can be used in the reporting of a marriage or the making of copies of vital records.

641—98.3(144,595) Standard registration of marriage—up to one year. A marriage event that takes place in Iowa shall be prepared on the standard Certificate of Marriage form and submitted for registration within one year from the date of marriage.

98.3(1) Prior to marriage, the applicants shall:

a. Obtain an Application for a License to Marry in Iowa form from the county registrar;

b. Submit to the county registrar the completed application and fee pursuant to Iowa Code section 331.605; and

c. Receive a license to marry in Iowa and a Certificate of Marriage form from the county registrar.

98.3(2) Once the marriage is solemnized, the completed certificate of marriage will be filed with the county registrar where the license to marry was issued. The county registrar will then forward the certificate of marriage to the state registrar for filing.

641—98.4(144,595) Application for a license to marry in Iowa.

98.4(1) The Application for a License to Marry in Iowa form is available from any county registrar. The applicants are the parties to be married.

98.4(2) The application will not be processed until all items on the form, including the affidavit of a competent and disinterested person, have been completed. The affidavit shall be completed and signed in front of a notary public by an individual of legal age who is acquainted with both applicants who plan to marry. A family member may serve as the competent and disinterested person.

98.4(3) Each applicant shall verify the personal information by notarized signature.

98.4(4) If an applicant is 16 or 17 years of age, the Certificate of Consent of Underage Party to Marry form shall be completed in accordance with Iowa Code section 595.2(4) and shall be approved by a judge in the county's judicial district before the application for a marriage license may be accepted by the county registrar. Persons 15 years of age or younger may not marry in Iowa.

98.4(5) The Application for a License to Marry in Iowa form shall be signed in front of a notary public by both parties to be married and their competent and disinterested person. By signature, the applicants and their competent and disinterested person are attesting that the applicants are:

a. Eighteen years of age or older or, if either or both are 16 or 17 years of age, that they have provided a signed Certificate of Consent of Underage Party to Marry form;

b. Competent to enter into a civil contract pursuant to Iowa Code section 595.1A;

c. Not legally married to each other and that neither is legally married to someone else who is living; and

d. Acknowledging that they have provided accurate information on the application form.

98.4(6) An applicant is not required to be a U.S. citizen.

98.4(7) The Application for a License to Marry in Iowa form shall be submitted to the registrar in the county where the application and marriage certificate are to be filed. The marriage license is valid in any county in Iowa.

98.4(8) A fee is due upon the submittal of a completed Application for a License to Marry in Iowa form pursuant to Iowa Code section 331.605(1)*"g."*

98.4(9) At the time of completion of the Application for a License to Marry in Iowa form, the applicants shall indicate the adoption of the legal name to be used after marriage pursuant to Iowa Code section 595.5(1). When the application is filed, the county registrar will enter the legal name on the License to Marry in Iowa form and the original Certificate of Marriage form. Once the application is filed, any changes to the legal name to be adopted shall only be made prior to the marriage by reapplication and repayment of the application fee unless it can be proven that an obvious typographical error was made when the license or the certificate was prepared. An individual shall have only one legal name at any one time pursuant to Iowa Code section 595.5(2).

98.4(10) The original certificate of marriage will not later be modified to reflect a court-ordered legal change of name.

641—98.5(144,595) License to marry.

98.5(1) Upon receipt and acceptance of a completed Application for a License to Marry in Iowa form, the county registrar may issue the license to marry. When the marriage license valid date is computed, the day of application will be excluded. The license will become valid after the expiration of three calendar days after the date of application to marry.

98.5(2) The three-day waiting period may be waived by a district judge in the county's judicial district pursuant to Iowa Code section 595.4. An Application for Waiver of 3-Day Waiting Period form is available from the county registrar. If the waiver is granted, the county registrar will collect the $5 fee for the waiver pursuant to Iowa Code section 595.4.

98.5(3) When a license is issued, the county registrar will provide the applicant the Certificate of Marriage form and provide instructions to ensure the return of a complete and accurate certificate of marriage for filing.

98.5(4) If the license to marry in Iowa is not retrieved from the county registrar within six months from the date of application, the application is void.

98.5(5) The license to marry is proof that proper application to marry in Iowa has been made. The parties to be married shall present the license to the person who will solemnize the marriage pursuant to Iowa Code section 595.10.

641—98.6(144,595) Certificate of marriage.

98.6(1) At the time the license to marry in Iowa is issued, the county registrar will also prepare the original copy of the Certificate of Marriage form. The person solemnizing the marriage shall complete the blank items pertaining to the marriage ceremony and obtain the required signatures.

98.6(2) All participants in the marriage ceremony shall be present at the same time and location within the geographic boundaries of the state of Iowa, including the parties to be married, two witnesses and the officiant. Marriage ceremonies shall not occur by proxy, telephone, or other electronic means.

98.6(3) After the marriage ceremony:

a. The parties married shall sign, at a minimum, their first and last legal name on the Certificate of Marriage form as indicated on the Application for a License to Marry in Iowa form; and

b. Two witnesses present at the ceremony and the officiant shall sign and print their names on the Certificate of Marriage form in the spaces provided. If there is more than one officiant, the signature and name of only one of the officiants shall be on the Certificate of Marriage form.

98.6(4) Photocopies of the certificate of marriage are prohibited prior to registration of the certificate with the county registrar. The officiant shall not affix any kind of seal to the certificate of marriage.

98.6(5) Within 15 days after the marriage ceremony, the officiant who solemnized the marriage shall file for registration the certificate of marriage with the county registrar that issued the marriage license, except as directed pursuant to Iowa Code section 595.16.

98.6(6) Upon registration of the certificate of marriage, the completed Application for a License to Marry in Iowa form becomes part of the record of marriage, including the granted three-day waiver and accepted consent to marriage of a minor, if applicable.

98.6(7) Original certificates of marriage registered by the county registrar shall be forwarded to the state registrar weekly or as directed by the state registrar.

641—98.7(144,595) Delayed registration of marriage—one year or more after date of event. All Iowa marriages registered one year or more after the date of the marriage shall be prepared on the Delayed Certificate of Marriage form. The state registrar will require documentary evidence to establish the facts of the marriage pursuant to Iowa Code section 144.16 and subrule 98.7(2). The delayed marriage record will be registered and maintained solely at the state registrar's office.

98.7(1) *Application.* A completed Delayed Certificate of Marriage form shall be signed before a notary by both parties to the marriage and filed with the state registrar.

98.7(2) *Facts to be established.*

a. The applicant shall submit a notification of record search certified by the state registrar that shall indicate that no prior certificate of marriage is on file for the persons whose delayed marriage record is to be filed. The notification of record search will be returned to the applicant and will not be exchanged for a certified copy of a delayed certificate of marriage.

b. The applicant shall substantiate the following with documentary evidence:

(1) The county in Iowa where the license to marry was issued;

(2) The full name of the registrants before and after the marriage;

(3) The date and place of the marriage in Iowa;

(4) The full names of the registrants' parents;

(5) The full names of the two witnesses present at the marriage ceremony; and

(6) The full name and address of the officiant who performed the marriage ceremony.

98.7(3) *Documentary evidence.*

a. To be acceptable for purposes of registration by the state registrar, the delayed certificate of marriage must be supported by:

(1) All of the following:

1. A copy of the issued license to marry in Iowa or the completed Application for a License to Marry in Iowa form secured from the county registrar in the county where the license to marry was issued;

2. A notarized affidavit from two witnesses to the wedding ceremony attesting to the facts of the marriage; and

3. A certified copy transcribed from the official records where the marriage was performed, including the date and place of such marriage as attested to by the custodian of such records; or

(2) An affidavit of the person who performed the ceremony documenting that there was a marriage and the date and place of such marriage.

b. The state registrar may require additional documentary evidence to prove the facts of the marriage event.

98.7(4) *Abstraction and certification by the state registrar.* The state registrar will abstract on the Delayed Certificate of Marriage form a description of each document submitted to support the facts of the marriage event. This abstract will include:

a. The title, description and signatory from each document presented;

b. The date of the original filing of the document being abstracted; and

c. The facts of the marriage event as established pursuant to paragraph 98.7(2)*"b."*

98.7(5) *Acceptance of documentary evidence for registration.* All documents submitted in support of the delayed registration will be returned to the applicant after review, abstraction, and registration. The state registrar will by signature certify that:

a. No prior certificate of marriage is on file for the registrants;

b. The evidence has been reviewed and substantiates the facts of the marriage event; and

c. The abstract of the evidence appearing on the delayed certificate of marriage accurately reflects the nature and content of the document.

98.7(6) *Denial of registration.* In the absence of adequate substantiating evidence or if the state registrar finds reason to question the validity or adequacy of the evidence required to establish a delayed certificate of marriage, the state registrar will not register the delayed record.

a. The written notice of rejection from the state registrar will include:

(1) The Delayed Certificate of Marriage form stamped "rejected"; and

(2) The Delayed Evidence Refusal form.

b. Applications for delayed certificates that have not been completed within one year from the date of application may be dismissed at the discretion of the state registrar. Upon dismissal, the state registrar will advise the applicant, and all documents submitted in support of such registration will be returned to the applicant. The state registrar will provide information related to the applicant's right of appeal to the district court.

c. If a request to establish a delayed certificate of marriage is rejected under the provisions of Iowa Code section 144.16, a petition may be filed with the district court for an order to establish a delayed certificate of marriage. The petition shall:

(1) Be made on a form prescribed and furnished by the state registrar.

(2) Allege that diligent efforts by the petitioner have failed to obtain the evidence required in accordance with Iowa Code section 144.16.

(3) Allege that the state registrar has refused to establish the delayed certificate of marriage.

(4) Include such other allegations as may be required.

(5) Be accompanied by a statement of the registration official made in accordance with Iowa Code section 144.16 and all documentary evidence that was submitted to the registration official in support of such registration.

(6) Be verified by the petitioner.

98.7(7) *Duties of county registrar.* The county registrar may assist the applicant in the completion and notarization of the delayed form, excluding the portion restricted for state use only. The county registrar may forward the partially completed delayed form, documents and fees to the state registrar for final review and possible acceptance.

98.7(8) *Fees.* Administrative and certified copy fees shall be charged as provided in rule 641—95.6(144).

641—98.8(144,595) Dissolution of marriage or annulment.

98.8(1) The completed Report of Dissolution of Marriage or Annulment form shall be filed with the clerk of district court within one month from the date of the dissolution of marriage or annulment and be prepared on the official paper issued by the state registrar by one of the following means:

a. Use of a typewriter using a dark blue or black ribbon on the standard form of the report;

b. Use of a computer program that is preapproved by the state registrar;

c. Use of an electronic form prescribed by the state registrar; or

d. As directed by the state registrar.

98.8(2) If an attorney or clerk of district court uses a computer software program to generate a Report of Dissolution of Marriage or Annulment form, the form will be reviewed by the state registrar for approval. The state registrar will deny approval if the form does not conform to the standard Report of Dissolution of Marriage or Annulment form as prescribed.

98.8(3) Clerks of district court shall submit reports of dissolution of marriage or annulment to the state registrar weekly or as directed by the state registrar.

These rules are intended to implement Iowa Code sections 144.12, 144.16, 331.605(1)*"f"* and *"g,"* 595.2(4), 595.4, 595.5, 595.10, and 595.16.

ARC 9944C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to vital records modifications and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 99, "Vital Records Modifications," Iowa Administrative Code, and to adopt a new Chapter 99 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 144.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 144.

Purpose and Summary

This proposed rulemaking was undertaken in accordance with Executive Order 10. The purpose of the proposed chapter is to describe the administration process for vital records modifications, including birth, death, and marriage records. As a result of its review, the Department removed restrictive terms, redundant language, and updated language to match current procedure throughout the proposed chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 26, 2025. A public hearing was held on the following date(s):

- December 16, 2025

Fiscal Impact

The vital records fees collected not only fund the Bureau but also contribute to the State's General Fund. For fiscal year 2025 (through August 11, 2025), the Department collected over $3.7 million and contributed over $1.8 million to the General Fund. Although the Department is increasing the fees for certified copies of birth, death, and marriage certificates from $15 to $20, those fee increases will be directed to the Office of the State Medical Examiner. There is no impact on the portion of fees directed to the State General Fund.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 263 121 894 358 72 Passcode: fR9Nt3sZ
January 27, 2026 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 297 871 013 608 68 Passcode: JD6PN9wF

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 99 and adopt the following **new** chapter in lieu thereof:

CHAPTER 99
VITAL RECORDS MODIFICATIONS

641—99.1(144) Definitions. For the purpose of this chapter, the definitions in 641—Chapter 95 apply.

641—99.2(144) Forms—property of department. All forms, certificates and reports pertaining to the registration of vital events are the property of the department and shall be surrendered to the state registrar upon demand.

99.2(1) The forms supplied or approved for reporting vital events will be used for official purposes as provided for by law, rules and instructions of the state registrar.

99.2(2) No forms, except those furnished or approved by the state registrar, can be used in the reporting or modification of vital events or the making of copies of vital records.

641—99.3(144) Forms used in the establishment of new records. The standard certificate form for reporting of live birth, death, fetal death, or marriage in use at the time of the event will be used to prepare a new certificate.

641—99.4(144) Corrections of minor errors in vital record—within one year of event.

99.4(1) Corrections of minor errors may be made by the state registrar within one year and prior to the first anniversary of the date of the event upon observation, upon request of the data provider, upon query, or upon request from an entitled person. Minor errors include obvious errors, omissions, or transpositions of letters in words of common knowledge.

99.4(2) For a certificate of live birth, entitled persons include in the following descending order of priority:

a. Either parent as shown on the child's certificate of live birth; or

b. The legal guardian or agency having legal custody of the child.

99.4(3) For a certificate of death or fetal death other than the medical certification, entitled persons include in the following descending order of priority:

a. The surviving spouse as shown on the certificate of death;

b. A parent as shown on the certificate of death or fetal death;

c. The informant as shown on the certificate; or

d. The data provider in the case of a data entry error.

99.4(4) For a certificate of marriage, entitled persons include:

a. The county registrar that issued the license to marry; or

b. Either of the parties married.

99.4(5) Entitled persons requesting a correction shall submit to the state registrar:

a. A notarized statement and a legible copy of current government-issued photo identification or other identification documents acceptable to the state registrar; and

b. Supporting evidence if requested by the state registrar.

(1) The state registrar will determine a priority of best evidence and may, at the state registrar's discretion, require additional documentary evidence to support the requested correction.

(2) The state registrar will evaluate the evidence submitted in support of any correction, and when there is reason to question the validity or adequacy of the evidence, the state registrar may reject the request for correction and will advise the applicant of the reasons for this action.

99.4(6) Only the state registrar will make corrections on a vital record. The source of information and the date of correction will be documented on the record but will not appear on the certified copy.

99.4(7) There are no administrative fees required to correct a certificate pursuant to this rule.

99.4(8) Certificates corrected pursuant to this rule will not be marked "amended."

99.4(9) Any certified copies of the incorrect certificate shall be surrendered to the state registrar for replacement at no cost pursuant to 641—subrule 95.6(3). Additional certified copies of the corrected certificate may be obtained upon receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar and payment of the fee pursuant to 641—paragraph 95.6(1)*"a."*

99.4(10) The corrected certificate will be on file at the county registrar's office pursuant to rule 641—95.7(144).

641—99.5(144) Amendment of certificate of live birth to add first or middle given name—within one year of event.

99.5(1) The first or middle given name for a child whose birth was reported without a first or middle given name may be amended to add the first or middle given name within one year and prior to the first anniversary of the date of the live birth based upon a completed and notarized Affidavit to Add Child's Given Name form as provided by the department pursuant to Iowa Code section 144.38. The affidavit shall be submitted to the state registrar by entitled persons in the following descending order of priority:

a. The single parent or both parents as shown on the child's certificate of live birth;

b. The mother, in the case of the death or incapacity of the second parent;

c. The second parent if listed on the birth certificate, in the case of the death or incapacity of the mother; or

d. The legal guardian or agency having legal custody of the child.

99.5(2) A first or middle given name may be added to the certificate of live birth once in this manner. Thereafter, a first or middle given name shall be changed only upon submission of a court order for a legal change of name from a court of competent jurisdiction pursuant to Iowa Code chapter 674.

99.5(3) An administrative fee shall be charged and remitted pursuant to 641—paragraph 95.6(1)*"b."*

99.5(4) The original certificate will be marked "amended" and will be endorsed on the certified copy. The date of amendment and a summary description of the evidence submitted in support of the amendment will be made a part of the record.

99.5(5) The certificate will be on file at the county registrar's office pursuant to rule 641—95.7(144).

99.5(6) Any certified copies of the incorrect certificate shall be surrendered for replacement at no cost. Additional certified copies of the amended certificate may be obtained upon the state registrar's receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar, and payment of the fee pursuant to rule 641—95.6(144).

641—99.6(144) Amendment of vital record—one year or more after the event.

99.6(1) Amendments of vital records may be made by the state registrar one year or more after the date of the event upon request from an entitled person or by an order to amend the record by a court of competent jurisdiction. Amendments include the correction of obvious errors, omissions, or transposition of letters in words of common knowledge.

99.6(2) For a certificate of live birth, entitled persons include in the following descending order of priority:

a. The registrant, if the registrant is of legal age, has reached the age of majority or is an emancipated minor;

b. Either parent as shown on the child's certificate of live birth; or

c. The legal guardian or agency having legal custody of the child.

99.6(3) For a certificate of death or fetal death other than the medical certification, entitled persons include:

a. The surviving spouse as shown on the certificate of death;

b. A parent as shown on the certificate of death or fetal death; or

c. The informant as shown on the certificate of death or fetal death.

99.6(4) Amendment of a medical certification of cause of death or fetal death shall be requested solely by the medical certifier listed on the certificate of death or fetal death.

99.6(5) For a certificate of marriage, entitled persons include either of the parties married.

99.6(6) Entitled persons requesting an amendment shall submit the following to the state registrar:

a. A completed and notarized amendment request on the applicable form as follows:

(1) Amendment to Certificate of Live Birth form.

(2) Amendment to Certificate of Death or Fetal Death form.

(3) Amendment to Certificate of Marriage form;

b. A legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar;

c. Certified copies of one or more pieces of documentary evidence supporting the amendment; and

d. The required fees pursuant to rule 641—95.6(144).

99.6(7) The documentary evidence shall have been established at least five years prior to the date of the application or within seven years of the date of the event.

a. The state registrar will determine a priority of best evidence and may, at the state registrar's discretion, require additional documentary evidence to support the requested amendment.

b. The state registrar will evaluate the evidence submitted in support of any amendment, and when there is reason to question the validity or adequacy of the evidence, the state registrar may reject the amendment and will advise the applicant of the reasons for this action and provide information related to the applicant's right of appeal to the district court pursuant to Iowa Code section 144.38.

c. If a request to amend a certificate of birth is rejected under the provisions of Iowa Code section 144.38, a petition may be filed with the district court for an order amending a vital record. The petition shall:

(1) Be made on a form prescribed and furnished by the state registrar.

(2) Allege that diligent efforts by the petitioner have failed to obtain the evidence required in accordance with Iowa Code section 144.38.

(3) Allege the state registrar has refused to amend the certificate of vital record.

(4) Include such other allegations as may be required.

(5) Be accompanied by a statement of the registration official made in accordance with Iowa Code section 144.38 and all documentary evidence that was submitted to the registration official in support of such registration.

(6) Be verified by the petitioner.

99.6(8) An administrative fee will be charged and remitted pursuant to rule 641—95.6(144).

99.6(9) The original certificate will be clearly marked "amended," and the date of the amendment will be endorsed on the certified copy. A summary description of the evidence submitted in support of the amendment will be made a part of the record.

99.6(10) The amended certificate will be on file at the county registrar's office pursuant to rule 641—95.7(144).

99.6(11) Any certified copies of the incorrect certificate shall be surrendered for replacement at no cost. Additional certified copies of the amended certificate may be obtained upon the state registrar's receipt of a notarized application, legible copy of a current government-issued photo identification or

other identification documents acceptable to the state registrar and payment of the fee pursuant to rule 641—95.6(144).

641—99.7(144) Method of amendment of vital records.

99.7(1) Records not on the electronic vital records system will be amended by drawing a single line through the incorrect item and inserting the correct or missing data immediately above or to the side of the item or by completing a blank item. In all cases in which a line must be drawn through an original entry, the line must not obliterate the original entry. The following will be endorsed on or made a part of the record:

a. The word "amended" and the date of the amendment action; and

b. A summary of the evidence submitted in support of the amendment.

99.7(2) Records on the electronic vital records system will be amended by correction of the incorrect item. The following will be endorsed on or made a part of the record:

a. The word "amended" and the date of the amendment action;

b. A statement identifying the amendment; and

c. A summary of the evidence submitted in support of the amendment.

641—99.8(144) Correction or amendment of same item more than once. After a correction or an amendment is made on a vital record, that entry will not be corrected again unless:

99.8(1) It can be proven that an error was made in processing the first correction or amendment; or

99.8(2) A court order is received from a court of competent jurisdiction to correct or amend the item. If a court order for a correction or an amendment is received, an administrative fee will be charged and remitted pursuant to rule 641—95.6(144).

641—99.9(144) Other amendments to certificate of live birth.

99.9(1) The parent's name or both parents' names as reported by the parent or parents on the birth worksheet used to establish the certificate of live birth shall only be amended if the amendment is supported by a certified copy of a vital record or amended by an order from a court of competent jurisdiction.

99.9(2) Certificates of live birth of deceased persons shall only be amended if the amendment is supported by a certified copy of a vital record or amended by an order from a court of competent jurisdiction.

641—99.10(144) Correction or substitution of medical certification of cause of death.

99.10(1) Corrections or substitutions of the medical certification of cause of death shall be requested solely by the medical certifier listed on the certificate of death or fetal death.

a. In the event the medical certifier listed on the certificate of death or fetal death is no longer licensed to practice in the state of Iowa, an authorized medical certifier may request correction or substitution of the medical certification of cause of death.

b. For the purposes of this rule, "authorized medical certifier" means an Iowa-licensed physician, physician assistant, advanced registered nurse practitioner, or medical examiner who has knowledge of and access to the medical records associated with the decedent's care at the time of death.

99.10(2) The medical certifier may correct the medical certification of cause of death within 12 months of the date of death or fetal death. The request shall be submitted to the state registrar with supporting evidence on official letterhead signed and dated by the medical certifier listed on the certificate of death or fetal death or by an authorized medical certifier.

99.10(3) A correction to the medical certification of the cause of death and substitution of a death certificate requested solely by the medical certifier or by an authorized medical certifier after 12 months from the date of death or fetal death shall be made by order of a court of competent jurisdiction and considered an amendment. However, the medical certification of cause of death may be amended at any time upon submission of a report of autopsy or toxicological findings or additional findings by the county or state medical examiner.

99.10(4) No fee will be charged for correction, substitution or amendment made pursuant to this rule.

641—99.11(144) Correction or amendment to a certificate of marriage.

99.11(1) The request to correct a certificate of marriage during the first year may be made by the county registrar who issued the license to marry. The written request shall be submitted to the state registrar with supporting evidence.

99.11(2) The request to correct or amend a certificate of marriage may be made by either of the parties married. The written request shall be submitted to the state registrar with supporting evidence.

99.11(3) An order from a court of competent jurisdiction is required to correct or amend a legal name after marriage.

641—99.12(144) Correction to a report of dissolution of marriage or annulment.

99.12(1) A written notice to correct a report of dissolution of marriage or annulment may be submitted to the state registrar by the clerk of district court maintaining the record from which the original report was prepared. The notice shall state in what manner the report shall be corrected.

99.12(2) Those items appearing on the Report of Dissolution of Marriage or Annulment form that are not a part of the divorce decree may be corrected either by query or upon application of either party to the dissolution of marriage or annulment or the legal representative.

99.12(3) Corrections to the report of dissolution of marriage or annulment will be accepted only within the first year from the date of dissolution of marriage or annulment.

641—99.13(144) Minimum information required to establish a new certificate of live birth.

99.13(1) A request to establish a new certificate of live birth shall be submitted to the state registrar and include, at a minimum, the following information:

a. The full name of the child as stated on the original certificate of live birth;

b. The full name of the child to be listed on the new certificate of live birth;

c. The date and place of birth as stated on the original certificate of live birth;

d. The full name of the parent or parents as listed on the original certificate of live birth; and

e. The full name, place of birth, date of birth, and complete residential address of the parent or parents to be listed on the new certificate of live birth.

99.13(2) The new certificate of live birth will contain the same state file number and registration file date as were assigned to the original certificate of live birth.

99.13(3) The clerk of the court shall, within 30 days of issuance, deliver one certified copy of any adoption decree, any contact preference form or medical history form associated with the certified copy of any adoption decree for the purposes of Iowa Code section 144.24A, and the fee pursuant to rule 641—95.6(144) to the state registrar of vital statistics to prepare a certificate of birth as prescribed in Iowa Code section 144.19.

641—99.14(144) Establishment of new certificate of live birth following adoption.

99.14(1) Upon receipt of a completed Certificate of Adoption Report form or a certified copy of the decree of adoption from a court of competent jurisdiction and the information required pursuant to rule 641—99.13(144), the state registrar will establish a new certificate of live birth for a person who was born in Iowa and has been adopted.

99.14(2) The new certificate of live birth will not be marked "amended."

99.14(3) When a new certificate of live birth is established, the actual date and place of birth will be shown on the certificate.

99.14(4) The county registrar and state registrar will seal the original certificate of live birth. The state registrar will place the original certificate of live birth and all related adoption information in a sealed file, and the file shall not be opened and inspected except by the state registrar for administrative purposes or upon an order from a court of competent jurisdiction pursuant to Iowa Code section 144.24 or as provided in Iowa Code section 144.24A.

99.14(5) In accordance with Iowa Code section 144.23A, an adopted person may apply to the state registrar to have the adopted person's original certificate of birth prior to adoption reestablished to include the name of an omitted biological parent.

99.14(6) The new certificate of live birth after adoption shall not be on file at the county registrar's office.

99.14(7) The state registrar will reveal the date of the adoption and the name and address of the court that issued the adoption decree upon the receipt of a completed, notarized Revelation of County of Adoption form from an adult adopted person, a biological parent, an adoptive parent, or the legal representative of the adult adopted person, the biological parent, or the adoptive parent pursuant to Iowa Code section 144.24.

99.14(8) Administrative and certified copy fees will be charged and remitted pursuant to rule 641—95.6(144).

641—99.15(144) Establishment of new certificate of live birth following a birth by gestational surrogate arrangement.

99.15(1) All live births shall be considered the product of the woman who delivered the live infant and shall be filed in the standard manner, with that woman named as the birth mother on the original record submitted for registration.

99.15(2) For the purpose of filing for registration the record of a live birth by a gestational surrogate, the institution's or non-institution's person responsible for filing the certificate of live birth shall:

a. Notify the state registrar of the birth of a child pursuant to a gestational surrogate arrangement;

b. Follow directives for completion of the official birth worksheet;

c. Submit the birth record for registration based on the birth mother's information; and

d. Notify the state registrar when the birth record has been submitted for registration.

99.15(3) In addition, the institution's or non-institution's person responsible for filing the record for registration shall:

a. Provide the prenatal and medical data on the medical portion of the birth worksheet pertinent to the pregnancy and the birth mother's prenatal care;

b. Waive all birth registration and copy fees as collected on behalf of the state registrar;

c. Indicate on the registration that the birth mother does not have custody of the infant;

d. Assist in advising the intended parents of the procedures required to file the original birth record for registration and to reestablish the record to reflect the intended parents' information; and

e. Advise the birth mother to complete the mother's portion of the birth worksheet and to mark "no" for the social security card for the child.

99.15(4) Two intended parents—both intended parents are biological parents to the child. If the intended mother is the egg donor and the intended father is the sperm donor to the child being carried by the gestational surrogate:

a. After the birth of the child, the intended parents shall petition a court of competent jurisdiction to establish legal paternity and maternity of the child.

b. The court shall enter an order requiring the state registrar to reestablish the certificate of live birth naming the intended mother and father as the legal mother and father and requiring the state registrar to seal the original birth certificate and all related documentation.

c. The court order shall:

(1) Identify the child's full name as stated on the original certificate of live birth;

(2) State the child's date of birth and place of birth;

(3) Identify the full names of the birth mother and her legal spouse, if married;

(4) Disestablish the birth mother and her legal spouse, if married, as the legal parents of the child; and

(5) Identify the intended parents' full names prior to any marriage, full current legal names, dates of birth, birthplaces, social security numbers, and full current residential address, including county.

d. The intended parents or their legal representative shall:

(1) Submit a certified copy of the court order to the state registrar;

(2) Remit administrative and certified copy fees pursuant to rule 641—95.6(144); and

(3) Include a notarized written request with mailing instructions for the certified copy of the certificate of live birth.

99.15(5) Two intended parents—intended mother is biological mother to the child; her legal spouse is not a biological parent. If the intended mother is the egg donor but her legal spouse is not the sperm donor, the intended mother shall petition a court of competent jurisdiction after the birth of the child to establish legal maternity.

a. The court shall enter an order requiring the state registrar to reestablish the certificate of live birth naming the intended mother as the legal mother and shall require the state registrar to seal the original certificate of live birth and all related documents.

b. The court order establishing legal maternity shall:

(1) Identify the child's full name as stated on the original certificate of live birth;

(2) State the child's date of birth and place of birth;

(3) Identify the full names of the birth mother and her legal spouse, if married;

(4) Disestablish the birth mother and her legal spouse, if married, as the legal parents of the child; and

(5) Identify the intended mother's full name prior to any marriage, full current name, date of birth, birthplace, social security number, and full current residential address, including county.

c. The intended mother or her legal representative shall:

(1) Submit a certified copy of the court order to the state registrar;

(2) Remit administrative and certified copy fees pursuant to rule 641—95.6(144); and

(3) Include a notarized written request with mailing instructions for the certified copy of the certificate of live birth.

99.15(6) Two intended parents—intended father is biological father to the child; his legal spouse is not a biological parent.

a. If the surrogate birth mother is unmarried and the intended father is the sperm donor, the unmarried surrogate birth mother and the intended father may complete a Voluntary Paternity Affidavit form after the child's birth to place the intended father's name and information on the certificate of live birth.

b. If the surrogate birth mother is married and the intended father is the sperm donor, the married surrogate birth mother and the intended father shall by court order disestablish the surrogate birth mother's legal spouse as the legal parent and may complete a Voluntary Paternity Affidavit form pursuant to Iowa Code section 144.13.

c. The court order that disestablishes the married surrogate birth mother's legal spouse and the completed Voluntary Paternity Affidavit form shall be submitted to the state registrar.

d. If a certified copy of the certificate of live birth is requested, a notarized written request shall also be submitted to the state registrar with the certified copy fee and mailing instructions.

e. There is no administrative fee to process the completed Voluntary Paternity Affidavit form.

f. Adoption laws shall be followed to reestablish the certificate of live birth by establishing the nonbiological parent on the certificate of live birth pursuant to Iowa Code chapter 600.

99.15(7) Two intended parents—neither biological parent to the child. If the intended parents are neither the egg donor nor sperm donor, adoption laws shall be followed to reestablish the certificate of live birth by disestablishing the birth mother and her legal spouse, if any, and establishing the nonbiological parents on the certificate of live birth pursuant to Iowa Code chapter 600.

99.15(8) One female intended parent—biological mother to the child. If the intended mother is the egg donor to the child being carried by the gestational surrogate:

a. After the birth of the child, the intended mother shall petition a court of competent jurisdiction to establish legal maternity of the child.

b. The court shall enter an order requiring the state registrar to reestablish the certificate of live birth naming the intended mother as the legal mother and requiring the state registrar to seal the original certificate of live birth and all related documentation.

c. The court order shall:

(1) Identify the child's full name as stated on the original certificate of live birth;

(2) State the child's date of birth and place of birth;

(3) Identify the full names of the birth mother and her legal spouse, if married;

(4) Disestablish the birth mother and her legal spouse, if married, as the legal parents of the child; and

(5) Identify the intended parent's full name prior to any marriage, full current legal name, date of birth, birthplace, social security number, and full current residential address, including county.

d. The intended parent or her legal representative shall:

(1) Submit a certified copy of the court order to the state registrar;

(2) Remit administrative and certified copy fees pursuant to rule 641—95.6(144); and

(3) Include a notarized written request with mailing instructions for the certified copy of the certificate of live birth.

99.15(9) One male intended parent—biological father to the child.

a. If the surrogate birth mother is unmarried and the intended father is the sperm donor, the unmarried surrogate birth mother and the intended father may complete a Voluntary Paternity Affidavit form after the child's birth to place the intended father's name and information on the certificate of live birth.

b. If the surrogate birth mother is married and the intended father is the sperm donor, the married surrogate birth mother and the intended father shall by court order disestablish the surrogate birth mother's legal spouse as the legal parent and may complete a Voluntary Paternity Affidavit form pursuant to Iowa Code section 144.13.

c. The court order that disestablishes the married surrogate birth mother's legal spouse and the completed Voluntary Paternity Affidavit form shall be submitted to the state registrar.

d. If a certified copy of the certificate of live birth is requested, a notarized written request shall also be submitted to the state registrar with the certified copy fee and mailing instructions.

e. There is no administrative fee to process the completed Voluntary Paternity Affidavit form.

f. If the intended father has been established as the legal father pursuant to paragraph 99.15(9)*"a"* or *"b"* and the surrogate birth mother and the intended father wish to remove the surrogate birth mother as the legal mother from the certificate of live birth, the parties shall seek a court order. The court order disestablishing legal maternity shall:

(1) Identify the child's full name as stated on the original certificate of live birth;

(2) State the child's date of birth and place of birth;

(3) Identify the full name of the birth mother; and

(4) Disestablish the birth mother as the legal parent of the child.

g. The intended parent or his legal representative shall:

(1) Submit a certified copy of the court order to the state registrar;

(2) Remit administrative and certified copy fees pursuant to rule 641—95.6(144); and

(3) Include a notarized written request with mailing instructions for the certified copy of the certificate of live birth.

99.15(10) One intended parent—not biological parent to the child. If the intended parent is neither the egg donor nor sperm donor, adoption laws shall be followed to reestablish the certificate of live birth by disestablishing the birth mother and her legal spouse, if any, and establishing the nonbiological parent on the certificate of live birth pursuant to Iowa Code chapter 600.

99.15(11) The state registrar will seal the original certificate of live birth. The state registrar will place the original certificate of live birth and all related documents in a sealed file, and the file shall not be opened and inspected except by the state registrar for administrative purposes or upon an order from a court of competent jurisdiction pursuant to Iowa Code section 144.24.

99.15(12) The new certificate of live birth will not be marked "amended."

99.15(13) The new certificate of live birth will not be on file at the county registrar's office pursuant to rule 641—95.7(144).

99.15(14) A certified copy fee and an administrative fee to replace a parent's information on a certificate of live birth will be charged and remitted pursuant to rule 641—95.6(144).

641—99.16(144) Certificate of live birth following voluntary paternity affidavit.

99.16(1) If the birth mother was legally married at the time of conception or birth or at any time during the period between conception and birth, the name of her spouse shall be entered on the certificate of live birth as a parent pursuant to Iowa Code section 144.13.

99.16(2) If the birth mother was not legally married at the time of conception or birth or at any time during the period between conception and birth, the birth mother and the alleged biological father may:

a. Complete a Voluntary Paternity Affidavit form after the birth of the child; and

b. Submit the completed form to the state registrar.

99.16(3) If the birth mother was legally married at the time of conception or birth or at any time during the period between conception and birth, and her legal spouse is not the biological father, the birth mother and the alleged biological father may:

a. Complete a Voluntary Paternity Affidavit form after the birth of the child;

b. Obtain a court order that disestablishes her legal spouse as a parent; and

c. Submit the completed form and a certified copy of the court order to the state registrar.

99.16(4) If the birth mother and the biological father of an Iowa-born child subsequently marry each other after a voluntary affidavit of paternity has been processed, the parents may submit a second completed Voluntary Paternity Affidavit form with a certified copy of the parents' certificate of marriage to establish a new certificate changing the child's last name to that of the father.

99.16(5) If another man is shown as the father on the original certificate of live birth, a new certificate of live birth may be established only when a determination of paternity is made by a court of competent jurisdiction.

99.16(6) There is no age limitation and no fee for filing a completed Voluntary Paternity Affidavit form.

99.16(7) The county registrar and the state registrar will seal the original certificate of live birth. The state registrar will place the original certificate of live birth and all related documents in a sealed file, and the file will not be opened and inspected except by the state registrar for administrative purposes or upon an order from a court of competent jurisdiction pursuant to Iowa Code section 144.24.

99.16(8) A copy of the completed and processed Voluntary Paternity Affidavit form may be acquired by either parent or either parent's legal representative upon notarized application and payment of the fee pursuant to rule 641—95.6(144). The notarized application shall include, at a minimum, the following items:

a. The child's full name;

b. The child's date and place of birth;

c. The mother's full name prior to any marriage; and

d. The full name and mailing address of the applicant.

99.16(9) The new certificate of live birth will not be marked "amended."

99.16(10) The new certificate of live birth will be on file at the county registrar's office pursuant to rule 641—95.7(144).

99.16(11) The birth mother and the biological father shall surrender any incorrect certified copies of the child's certificate of live birth for replacement at no cost. Additional certified copies of the new certificate of live birth shall be acquired upon receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar and payment of the fee pursuant to rule 641—95.6(144).

641—99.17(144) Certificate of live birth following court determination of paternity.

99.17(1) If the birth mother was married at the time of conception or birth or at any time during the period between conception and birth, the name of her spouse will be entered on the certificate of live birth as a parent unless paternity has been determined otherwise by a court of competent jurisdiction pursuant to Iowa Code section 144.13.

99.17(2) Upon receipt of a certified copy of the court determination of paternity order from a court of competent jurisdiction or the completed Abstract from Court Determination of Paternity form, the state registrar will establish a new certificate of live birth to be filed in place of the original certificate of live birth.

99.17(3) The new certificate of live birth will list the name of the child as stated in the court determination of paternity order.

99.17(4) Child support services may not change the child's name.

99.17(5) After a court determination of paternity has been completed, the parents as listed on the court order may submit a completed Voluntary Paternity Affidavit form to change the child's last name to that of the established father.

99.17(6) The county registrar and the state registrar will seal the original certificate of live birth. The state registrar will place the original certificate of live birth and all related documents in a sealed file, and the file will not be opened and inspected except by the state registrar for administrative purposes or upon an order from a court of competent jurisdiction pursuant to Iowa Code section 144.24.

99.17(7) The new certificate of live birth will not be marked "amended."

99.17(8) The new certificate of live birth will be on file at the county registrar's office pursuant to rule 641—95.7(144).

99.17(9) There are no administrative fees required to establish a new certificate of live birth following a court determination of paternity.

99.17(10) Any incorrect certified copy of the child's certificate of live birth shall be surrendered for replacement at no cost. Additional certified copies of the new certificate of live birth shall be acquired upon receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar and payment of the fee pursuant to rule 641—95.6(144).

641—99.18(144) Certificate of live birth following rescission of paternity affidavit or disestablishment of paternity.

99.18(1) An application to rescind a voluntary paternity affidavit shall be made on the Rescission of Paternity Affidavit form by either the birth mother or the putative father who originally completed and signed the Voluntary Paternity Affidavit form pursuant to Iowa Code section 252A.3A.

a. The completed Rescission of Paternity Affidavit form shall be notarized and received by the state registrar within the earlier of either 60 days from the latest notarized parental signature on the original Voluntary Paternity Affidavit form or entry of a court order regarding the child by child support services pursuant to Iowa Code section 252A.3A.

b. Acceptance of the completed Rescission of Paternity Affidavit form shall remove the alleged biological father's information from the certificate of live birth and rescind the voluntary paternity affidavit.

c. The child's last name shall revert to the last name as it was listed on the certificate of live birth prior to the voluntary paternity affidavit.

d. The state registrar will send a written notice of the rescission to the last-known address of the signatory of the voluntary paternity affidavit who did not sign the Rescission of Paternity Affidavit form.

e. After the completed Rescission of Paternity Affidavit form has been accepted and processed, the state registrar will not accept any subsequent Voluntary Paternity Affidavit forms signed by the same mother and putative father relating to the same child pursuant to Iowa Code section 252A.3A.

99.18(2) Upon receipt of a court-ordered disestablishment of paternity, which shall include court-ordered language directing the state registrar to add or remove the father from the certificate of live birth, the father's information will be removed from the certificate of live birth. The child's last name shall revert to the last name as it was listed on the certificate of live birth prior to the establishment of paternity.

99.18(3) An administrative fee will be charged and remitted pursuant to rule 641—95.6(144).

99.18(4) The county registrar and the state registrar will seal the original certificate of live birth. The state registrar will place the rescission of paternity information in the same sealed file as the original

certificate of live birth and all previous related documents. The file will not be opened and inspected except by the state registrar for administrative purposes or upon an order from a court of competent jurisdiction pursuant to Iowa Code section 144.24.

99.18(5) The new certificate of live birth will not be marked "amended."

99.18(6) The new certificate of live birth will be on file at the county registrar's office pursuant to rule 641—95.7(144).

99.18(7) Any incorrect certified copies of the child's certificate of live birth shall be surrendered for replacement at no cost. Additional certified copies of the new certificate of live birth shall be acquired upon receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar and payment of the fee pursuant to rule 641—95.6(144).

641—99.19(144) Certificate of live birth following court-ordered change of name.

99.19(1) For a court-ordered name change, a certified copy of an order from a court of competent jurisdiction pursuant to Iowa Code chapter 674 or an Abstract to Change Registrant's Legal Name form completed by the clerk of district court changing the name shall be submitted to the state registrar.

99.19(2) Only the person named on the record, parent or parents if the registrant is a minor child, legal guardian, or legal representative may request a court-ordered change of name.

99.19(3) The court order or abstract shall contain:

a. The registrant's full name as it appears on the original certificate of live birth;

b. The registrant's date and place of birth;

c. The mother's full maiden name and father's full name as it appears on the original certificate of live birth;

d. The registrant's full new name; and

e. The certification of the clerk of district court.

99.19(4) The certified copy of a certificate of live birth after a legal change of name will be clearly marked "legal change of name" and note the following:

a. The registrant's full name as shown on the original certificate;

b. Any previous legal name changes;

c. The registrant's full new name according to the court order;

d. The date the legal change of name order was granted; and

e. The name of the court that ordered the name change pursuant to Iowa Code chapter 674.

99.19(5) A parent cannot be added to the certificate of live birth with a court-ordered change of name.

99.19(6) The county registrar and the state registrar will seal the original certificate of live birth. The state registrar will place the original certificate of live birth and all related documents in a sealed file, and the file will not be opened and inspected except by the state registrar for administrative purposes or upon an order from a court of competent jurisdiction pursuant to Iowa Code section 144.24.

99.19(7) After the court-ordered change of name, the certificate of live birth will not be on file at the county registrar's office pursuant to rule 641—95.7(144).

99.19(8) An administrative fee will be charged and remitted pursuant to rule 641—95.6(144).

99.19(9) Any incorrect certified copies of the certificate of live birth shall be surrendered for replacement at no cost. Additional certified copies of the new certificate shall be acquired upon receipt of a notarized application, legible copy of a current government-issued photo identification or other identification documents acceptable to the state registrar and payment of the fee pursuant to rule 641—95.6(144).

641—99.20(144) Disestablishment of parentage.

99.20(1) To disestablish parentage of a mother, father, or both on a certificate of live birth, the court will submit an abstract from court determination to disestablish parentage to the state registrar.

99.20(2) Upon receipt of a court-ordered abstract from court determination to disestablish parentage, which shall include court-ordered language directing the state registrar to remove the parent

or parents from the certificate of live birth, the parent's or parents' information will be removed from the certificate of live birth.

99.20(3) The state registrar will prepare a new certificate of live birth to be filed in place of the original birth certificate.

99.20(4) The new birth certificate will bear the name of the child after the judgment and disestablish the parent's or parents' information as determined by the court.

These rules are intended to implement Iowa Code sections 144.19 through 144.21, 144.23, 144.24, 144.25A, 144.38 through 144.41, 252A.3A, 600.15, 600.16A, 674.2, 674.7 and 674.9.

ARC 9943C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to vital records registries and reports and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 100, "Vital Records Registries and Reports," Iowa Administrative Code, and to adopt a new Chapter 100 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 144, 146B and 252A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 144, 146B and 252A.

Purpose and Summary

This proposed rulemaking was undertaken in accordance with Executive Order 10. The purpose of this proposed chapter is to describe the administration process for vital records and reports, including installing, maintaining, and operating of the statewide vital statistics system, as well as forms and certificates, confidentiality and access, and registries and reporting requirements.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 26, 2025. A public hearing was held on the following date(s):

- December 16, 2025

Fiscal Impact

The vital records fees collected not only fund the Bureau but also contribute to the State's General Fund. For fiscal year 2025 (through August 11, 2025), the Department collected over $3.7 million and contributed over $1.8 million to the General Fund. Although the Department is increasing the fees for certified copies of birth, death, and marriage certificates from $15 to $20, those fee increases will be directed to the Office of the State Medical Examiner. There is no impact on the portion of fees directed to the State General Fund.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 263 121 894 358 72 Passcode: fR9Nt3sZ
January 27, 2026 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 297 871 013 608 68 Passcode: JD6PN9wF

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 100 and adopt the following **new** chapter in lieu thereof:

CHAPTER 100
VITAL RECORDS REGISTRIES AND REPORTS

641—100.1(144) Definitions. For the purpose of this chapter, the definitions in 641—Chapter 95 shall apply. In addition, the following definitions shall apply solely to this chapter:

"Abortion" means the same as defined in Iowa Code section 146B.1.

"Adult," when used in reference to the mutual consent voluntary adoption registry, means an individual who has reached the age of 18 years at the time application is made.

"Aggregate form" means the same as defined in Iowa Code section 144.29A.

"Attempt to perform an abortion" means the same as defined in Iowa Code section 146B.1.

"Child," when used in reference to the declaration of paternity registry, means a person under 18 years of age for whom paternity has not been established.

"Court" means the juvenile court when used in reference to the declaration of paternity registry.

"Father" means the male, biological parent of a child when used in reference to the declaration of paternity registry.

"Fertilization" means the same as defined in Iowa Code section 146B.1.

"Health care provider" means the same as defined in Iowa Code section 144.29A.

"Inducing a termination of pregnancy" means the same as defined in Iowa Code section 144.29A. "Inducing a termination of pregnancy" includes abortion.

"Major bodily function" means the same as defined in Iowa Code section 146B.1.

"Medical emergency" means the same as defined in Iowa Code section 146B.1.

"Medical facility" means the same as defined in Iowa Code section 146B.1.

"Perform," "performed," or *"performing"* means the same as defined in Iowa Code section 146B.1.

"Physician" means a person licensed under Iowa Code chapter 148.

"Postfertilization age" means the same as defined in Iowa Code section 146B.1.

"Probable postfertilization age" means the same as defined in Iowa Code section 146B.1.

"Registry" means the declaration of paternity registry or the mutual consent voluntary adoption registry.

"Sibling" means one of two or more persons who are born of the same parents or, sometimes, who have at least one parent in common. "Sibling" also means brother or sister when used in reference to the mutual consent voluntary adoption registry.

"Spontaneous termination of pregnancy" means the same as defined in Iowa Code section 144.29A.

"Unborn child" means the same as defined in Iowa Code section 146B.1.

641—100.2(144) Forms—property of department. All forms, certificates and reports pertaining to the registration of vital events are the property of the department and shall be surrendered to the state registrar upon demand.

100.2(1) The forms supplied or approved for reporting vital events will be used for official purposes as provided for by law, rules and instructions of the state registrar.

100.2(2) No forms, except those furnished or approved by the state registrar, will be used in the reporting of vital events or the making of copies of vital records.

641—100.3(144) Declaration of paternity registry established. Pursuant to Iowa Code section 144.12A, there is established in the department a registry for the declaration of paternity of a putative father who wishes to register prior to the birth of a child and no later than the date of the filing of the petition for termination of parental rights.

100.3(1) The putative father who files a Declaration of Paternity Registry form with the state registrar shall provide the following:

a. Registrant's name, current address, social security number, and notarized signature and date signed;

b. The name, last-known address, and social security number, if known, of the mother of the child; and

c. The name of the child, if known, and the date and location of the birth of the child, if known.

100.3(2) The putative father who files the Declaration of Paternity Registry form shall be responsible to notify the state registrar in writing of any change in address.

100.3(3) The state registrar will forward a copy of the declaration of paternity to the mother as notification the person has registered, if the mother's name and address have been provided.

100.3(4) There will be no fee required to file the declaration of paternity.

100.3(5) A fee as established pursuant to rule 641—95.6(144) will be charged and remitted for conducting a search of the registry. The fee will be retained for the search.

100.3(6) Upon written request and remittance of the required fee, the department will conduct a search of the registry. Written requests may be submitted by only:

a. The biological mother of the child;

b. A court;

c. Child support services for an action to establish paternity or support; or

d. The attorney of any party to an adoption, termination of parental rights, or establishment of paternity or support action.

100.3(7) If a declaration of paternity is on file, the department will provide the name, address, and social security number of a registrant to the following:

a. The biological mother of the child;

b. A court;

c. Child support services for an action to establish paternity or support; or

d. The attorney of any party to an adoption, termination of parental rights, or establishment of paternity or support action.

100.3(8) If no declaration of paternity is on file, a written statement to that effect will be provided to the person making the inquiry.

100.3(9) Information from the declaration of paternity registry will not be released to any person other than those listed in subrule 100.3(6) and will be considered a confidential record as to any other person, except upon order of the court.

100.3(10) Information provided to the registry may be revoked by the registrant by the submission of a written statement, signed and acknowledged by the registrant before a notary public.

a. The statement shall include a declaration that to the best of the registrant's knowledge:

(1) The registrant is not the father of the named child; or

(2) The paternity of the true father has been established.

b. Revocation will nullify the registration, and the information provided by the registrant will be expunged.

c. Revocation is effective only following the birth of the child.

100.3(11) The Declaration of Paternity Registry form is available from the state registrar of vital records or the county registrar.

100.3(12) The declaration of paternity registry does not constitute an affidavit of paternity filed pursuant to Iowa Code section 252A.3A. Declarations filed will be maintained in a registry separate and distinct from the affidavit of paternity registry.

100.3(13) A declaration of paternity filed with the registry may be used as evidence of paternity in an action to establish paternity or to determine a support obligation with respect to the putative father.

100.3(14) Failure or refusal to file a declaration of paternity shall not be used as evidence to avoid a legally established obligation of financial support for a child.

641—100.4(144) Mutual consent voluntary adoption registry established. There is established in the department a mutual consent voluntary adoption registry. Adult adopted children, adult siblings, and the biological parents of adult adoptees may register with the mutual consent voluntary adoption registry to obtain identifying birth information.

100.4(1) All identifying information maintained in the registry is confidential.

100.4(2) All requests shall be completed on the Mutual Consent Voluntary Adoption Registry Application form available from the state registrar of vital records or the county registrar.

100.4(3) Pursuant to rule 641—95.6(144), a fee will be charged and remitted for the filing of a completed application for the registry, and a fee will be charged and remitted for updating applicant information maintained in the registry.

100.4(4) The state registrar will reveal the identity of the biological parent to the adult adopted child or reveal the identity of the adult adopted child to the biological parent if the conditions of Iowa Code section 144.43A(2) are met.

100.4(5) The state registrar will reveal the identity of the adult adopted child to an adult sibling or will reveal the identity of an adult sibling to the adult adopted child if the conditions of Iowa Code section 144.43A(4) are met.

100.4(6) A person who has filed a request or provided consent may withdraw the consent at any time prior to the release of any information by submitting a written withdrawal of consent statement with the state registrar.

100.4(7) The adult adoptee, adult sibling, and biological parent completing an application shall be responsible for updating the contact information.

100.4(8) The state registrar will verify the address information and provide written notice to the parties.

641—100.5(144) Statistical report of termination of pregnancy report. A health care provider who initially identifies and diagnoses a spontaneous termination of pregnancy or who induces a termination of pregnancy shall file with the department a Statistical Report of Termination of Pregnancy form for each termination.

100.5(1) The health care provider shall make a good-faith effort to obtain all the information outlined in Iowa Code section 144.29A(1) that is available with respect to each termination, as well as whether the termination was spontaneous or induced.

100.5(2) In addition, a physician who performs or attempts to perform an abortion shall report to the department all of the following:

a. If a determination of probable postfertilization age of the unborn child was made, the probable postfertilization age determined and the method and basis of the determination.

b. If a determination of probable postfertilization age of the unborn child was not made, the basis of the determination that a medical emergency existed.

c. If the probable postfertilization age of the unborn child was determined to be 20 or more weeks:

(1) The basis of the determination of a medical emergency, or

(2) The basis of the determination that the abortion was necessary to preserve the life of an unborn child.

d. The method used for the abortion.

(1) In the case of an abortion performed when the probable postfertilization age was determined to be 20 or more weeks, whether the method of abortion used was one that, in the physician's reasonable medical judgment, provided the best opportunity for an unborn child to survive, or

(2) If such a method was not used, the basis of the determination that termination of the human pregnancy in that manner would pose a greater risk than would any other available method of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function.

100.5(3) The health care provider who identifies a spontaneous termination or performs an induced termination shall prepare the report on the standard form and forward to the state registrar on or before the tenth day of each calendar month all records for the preceding month. Reports may be sent by mail to the state registrar. Termination reports shall be submitted within 30 days of the date of the occurrence.

100.5(4) The department will provide the forms, or the provider may use the master copy of the form provided by the department to make copies for reporting.

100.5(5) The information will be collected, reproduced, released, and disclosed in a manner that meets the requirements of Iowa Code section 144.29A(2).

100.5(6) The department may share information with federal public health officials as outlined in Iowa Code section 144.29A(2).

100.5(7) By June 30, annually, the department will publish a demographic summary of the statistics for the previous calendar year pursuant to Iowa Code section 144.29A(2).

The department will establish and use a methodology to provide a statistically verifiable basis for any determination of the aggregate form at which information may be released pursuant to Iowa Code section 144.29A(2)*"c."* The methodology will consider both the counts of the events for each item of information and the population that could be represented.

100.5(8) A health care provider shall assign a report tracking number pursuant to Iowa Code section 144.29A(5). The report tracking number shall be maintained by the provider for a period of six months after the end of the calendar year.

100.5(9) For reporting of spontaneous terminations of pregnancy, a health care provider who practices within a hospital, clinic, or other health facility may file the required reporting forms with the department or may authorize one staff person to fulfill the reporting requirements. For reporting of induced terminations of pregnancy, the physician performing the termination shall file the required reporting forms with the department.

100.5(10) Reporting penalties.

a. A physician who fails to submit a report in accordance with Iowa Code section 146B.2 and these rules by the end of 30 days following the due date shall be subject to a late fee of $500 for each additional 30-day period or portion of a 30-day period the report is overdue. The fee will be collected by the department.

b. A physician required to report in accordance with Iowa Code section 146B.2 who has not submitted a report or who has submitted only an incomplete report more than one year following the due date may, in an action brought by the board of medicine in the manner in which actions are brought to enforce Iowa Code chapter 148, be directed by a court of competent jurisdiction to submit a complete report within a time period stated by court order or be subject to contempt of court.

c. A physician who intentionally or recklessly falsifies a report required under Iowa Code section 146B.2 is subject to a civil penalty of $100. The civil penalty will be collected by the department pursuant to Iowa Code chapter 17A.

100.5(11) Any person who knowingly violates a provision of these rules is guilty of a serious misdemeanor pursuant to Iowa Code section 144.52.

These rules are intended to implement Iowa Code sections 144.29A, 144.43A, 144.52, 146B.2 and 252A.3A.

ARC 9942C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to state medical examiner and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 126, "State Medical Examiner," Iowa Administrative Code, and to adopt a new Chapter 126 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 331.802, 331.805 and 691.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 331.802, 331.805 and 691.6.

Purpose and Summary

This proposed chapter underwent a review as a part of the Red Tape Review process laid out in Executive Order 10. As a result of this review, restrictive terms were removed, areas that were duplicative were combined or eliminated, and editorial updates were made to reflect current policies and procedures.

This proposed chapter provides the foundation for the primary funding source that supports the work of the State Medical Examiner's Office. Costs of autopsies and related services and expenses are the responsibility of the county of appointment. As part of the Department's review, the Department is

proposing to increase the amount of the autopsy fee by $200 and 2 percent annually thereafter to account for annual adjustments for salaries of pathologists and increasing costs associated with performing autopsies.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 26, 2025. A public hearing was held on the following date(s):

- December 16, 2025

Fiscal Impact

This proposed chapter sets the amount of fees for service that can be collected by the State Medical Examiner's Office. This includes fees related to autopsies, the cost of requesting autopsy reports, court preparation time, tissue recovery, and cremation permit fees. The Department is increasing the amount of the autopsy fee by $200 and 2 percent annually thereafter to account for annual adjustment costs for salaries of pathologists and increasing costs associated with performing autopsies.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 263 121 894 358 72 Passcode: fR9Nt3sZ
January 27, 2026 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 297 871 013 608 68 Passcode: JD6PN9wF

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 126 and adopt the following **new** chapter in lieu thereof:

CHAPTER 126
STATE MEDICAL EXAMINER

641—126.1(144,331,691) Definitions.

"Autopsy" means the external and internal postmortem examination of a deceased person.

"County of appointment" means the county that requests a medical examiner to conduct an investigation, perform or order an autopsy, or prepare a report or reports in a death investigation case. The request may be authorized by the county attorney or the county medical examiner. The county of appointment shall be the county in which the death occurred.

641—126.2(691) Fees for autopsies and related services and reimbursement for related expenses. Autopsies performed by the state medical examiner are provided on a fee-for-service basis. Costs of autopsies and related services and expenses are the responsibility of the county of appointment. The county of residence of the deceased shall reimburse the county of appointment.

126.2(1) *Fee schedule.* The following fees apply as specified in this subrule.

a. The following fees apply to autopsies conducted by the state medical examiner:

Autopsy; a.	$2,100*
	Pursuant to 126.2(1)"a"*(2), this amount will increase annually by 2 percent beginning July 1, 2027.
Copies of reports.	$20

(1) EXCEPTIONS: A copy of the autopsy report is automatically sent to the county medical examiner and to the county attorney without fee. A single copy of an autopsy report may be provided to the immediate next of kin of the deceased without fee. Copies of autopsy reports may be provided to public officials and physicians of record for official purposes without fee.

(2) Beginning with the fiscal year starting July 1, 2027, the amount of the autopsy fee will increase annually by 2 percent each July 1.

b. The following fee is for time spent reviewing case materials, preparing for deposition or court, testifying in deposition or court, and travel time.

State, deputy, or associate medical examiner(s) time for all court cases	$450 per hour with a one-hour minimum

c. A cremation permit fee of $75 will be assessed for each permit investigated and authorized by the state medical examiner's office.

126.2(2) *Expense reimbursement.* Other laboratory services associated with an autopsy, which include but are not limited to photography, toxicology, radiology, microbiology, and morgue fees, will be billed by the department to the county of appointment. Moneys collected pursuant to this subrule will be paid by the department to the laboratory or other entity providing the service.

126.2(3) *State medical examiner acting as county medical examiner.* When the state medical examiner acts in the capacity of county medical examiner, the state medical examiner receives from the

county of appointment a fee of $100 per hour, with a one-hour minimum, for each report prepared plus the state medical examiner's actual expenses. Counties should not depend on the state medical examiner for full-time coverage.

641—126.3(691) Fees for tissue recovery. When the tissue recovery room located within the office of the state medical examiner is utilized by an authorized tissue recovery agency, a fee of $400 per case will be assessed. The tissue recovery agency is responsible for this fee, payable to the office of the state medical examiner.

These rules are intended to implement Iowa Code section 691.6.

ARC 9892C

SECRETARY OF STATE[721]

Notice of Intended Action

Proposing rulemaking related to temporary certification application and providing an opportunity for public comment

The Secretary of State hereby proposes to amend Chapter 22, "Voting Systems and Electronic Poll Books," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 49.29.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 49.29.

Purpose and Summary

This proposed rulemaking would provide a temporary certification application for vendors offering electronic poll books until a complete certification process is adopted.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 12, 2025. A public hearing was held on the following date(s):

- December 2, 2025

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 Secretary of State for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Secretary of State no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Emma Overschmidt
Office of the Secretary of State
Lucas State Office Building
321 East 12th Street, First Floor
Des Moines, Iowa 50319
Email: emma.overschmidt@sos.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 30, 2026	Via videoconference
10 to 11 a.m.	meet.google.com/acs-tohh-mmc

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Secretary of State and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Amend rule 721—22.600(47) as follows:

721—22.600(47) Revolving loan fund. The purpose of this rule is to establish an e-poll book and polling place modernization panel to review applications submitted to the state commissioner for distribution of moneys from the revolving loan fund ~~created by 2017 Iowa Acts, House File 516, section 37, to be codified at~~ created in Iowa Code section 47.11.

22.600(1) Definitions.

"E-poll book" is as defined in rule 721—22.1(52).

"Vendor," for purposes of this rule, means a person or representative of a person developing, offering, or supporting an e-poll book.

22.600(2) In order to ensure that the public funds in this rule are used responsibly and efficiently, this rule creates a panel consisting of designees of the state commissioner of elections, the state auditor, and the director of the department of management. Attendance by two of the three members constitutes a quorum. The panel shall conform to the party ~~and gender~~ balance requirements of Iowa Code ~~sections 69.16 and 69.16A~~ section 4A.12.

22.600(3) The state commissioner shall convene the panel whenever necessary to review loan applications received from county commissioners requesting moneys from the fund.

22.600(4) The state commissioner may convene the panel to review proposed expenditures for updating technology standards for elections. If the state commissioner determines that there is an urgent need that an expenditure of moneys from the fund be used to update technology standards, the state commissioner may spend the moneys without convening the panel. In such instance, the state commissioner shall report that expenditure at the next meeting of the panel.

22.600(5) The panel shall create guidelines for loaning moneys from the fund to county commissioners for the updating of polling place technology. The guidelines shall be published on the

state commissioner's website. The panel shall not approve funding for the purchase of e-pollbooks that are not certified by the state commissioner pursuant to Iowa Code section 49.29 unless the e-pollbook's certification has been waived by the state commissioner.

22.600(6) Before distributing or loaning funds, the panel shall consider the published guidelines, but may take additional factors into consideration. The panel shall not waive any information technology security standards~~, but may waive other requirements~~. A majority vote of the panel members present is sufficient to approve funding.

22.600(7) Before any funds from the revolving loan fund are provided for the acquisition of e-poll books, the e-poll book system shall conform to the security requirements within this chapter.

This rule is intended to implement ~~2017 Iowa Acts, House File 516, section 37~~ Iowa Code section 47.11.

ITEM 2. Amend rule 721—22.601(47) as follows:

721—22.601(47) Operational ~~features~~ requirements of e-poll books.

22.601(1) *Definitions.*

"E-poll book" is as defined in rule 721—22.1(52).

"Vendor," for purposes of this rule, means a person or representative of a person developing, offering, or supporting an e-poll book.

22.601(2) *Operational ~~features~~ requirements.* When assessing applications for funding from the revolving loan fund established by ~~2017 Iowa Acts, House File 516, section 37~~ Iowa Code section 49.11, as implemented in rule 721—22.600(47), the e-poll book and polling place modernization panel shall consider whether the e-poll book sought includes the operational features described in this subrule. ~~Commissioners using only county funds for the purchase of e-poll book systems are not subject to the operational features described below, but are subject to all of the security requirements set forth in rule 721—22.602(47).~~ The panel shall consider:

a. Whether the e-poll book is able to accept a secure data file that imports voter registration data into the e-poll book application from the statewide voter registration system. This requirement may not be waived by the panel.

b. Whether the e-poll book is able to securely export data files that can be imported into the statewide voter registration system, including a file to update the voter activity portion of the statewide voter registration system.

c. Whether the e-poll book is able to scan the barcodes of driver's licenses, DOT-issued nonoperator identification cards, and the voter identification card issued pursuant to ~~2017 Iowa Acts, House File 516, section 18, to be codified at~~ Iowa Code section 48A.10A.

d. Whether the e-poll book is able to verify the voter against the felon database.

e. Whether the e-poll book is able to process, record, and export the complete range of possible voter registration updates available to voters under Iowa law. The state commissioner shall maintain a form that lists the possible updates that are required by this subrule.

f. Whether the e-poll book is able to complete and print the following forms:

(1) State of Iowa Official Voter Registration Form.

(2) Election Day Voter Registration Form, including Voter's Oath and Attester's Oath, if applicable.

(3) Provisional Ballot Form, including the State of Iowa Official Voter Registration Form and Statement to Person Casting a Provisional Ballot.

(4) Challenger's Statement.

(5) Affidavit of Voter Requesting Assistance.

~~**22.601(3)** *Certification.* A vendor providing an e-poll book platform in this state shall certify in writing to the state commissioner that the requirements of subrule 22.601(2) are met. If any of the requirements are not met, the vendor shall note the exceptions conspicuously.~~

This rule is intended to implement ~~2017 Iowa Acts, House File 516, section 37~~ Iowa Code section 47.11.

ITEM 3. Amend rule 721—22.602(47) as follows:

721—22.602(47) Security ~~features~~ requirements of e-poll books. All e-poll book systems in use in this state, including those funded by county moneys, shall conform to the following security standards.

22.602(1) *Definitions.*

"E-poll book" is as defined in rule 721—22.1(47).

"Secure," for purposes of this rule, means "encryption" as defined by Iowa Code section 715C.1(5).

"Vendor," for purposes of this rule, means a person or representative of a person developing, offering, or supporting an e-poll book.

22.602(2) *Encryption of data at rest.* The e-poll book system shall ensure that all voter data is encrypted at rest. "Encrypted at rest" includes encryption of the whole hard drive, database, application data deemed confidential, and removable media. The data encryption keys shall be stored separately from the e-poll book hardware and software.

22.602(3) *Encryption of data in transit.* The e-poll book system shall ensure that all voter data is encrypted in transit via secure transfer protocols.

22.602(4) *Security updates.* The commissioner shall ensure that the computer maintains the most recent security updates available for the computer's operating system. The vendor shall ensure that the e-poll book software remains compatible with all security updates issued for the computer's operating system. An e-poll book system in use in Iowa shall not be installed on an operating system that is no longer supported by the developer.

22.602(5) *Authentication.* Every e-poll book system shall require authentication to the operating system and to the e-poll book application separately through a minimum of a username-password combination. A commissioner shall use a unique username-password combination for each precinct.

22.602(6) *Decommissioning.* At the time of decommissioning, the hard drive from the computer shall be destroyed by the owner of the hardware. This shall occur before the commissioner or vendor resells, gifts, repurposes, or otherwise disposes of the equipment. A record of the destruction shall be kept by the owner.

22.602(7) *Notification.* A vendor upon offering a new e-poll book platform, or upon making a change to the security ~~features~~ requirements of an existing e-poll book, shall notify the state commissioner of the ~~encryption and authentication standards utilized~~ changes in sufficient detail for the state commissioner to determine whether reasonable security features are in place to protect the e-poll book and related data.

This rule is intended to implement ~~2017 Iowa Acts, House File 516, section 37~~ Iowa Code sections 47.11 and 49.29.

ITEM 4. Adopt the following **new** rule 721—22.603(47):

721—22.603(47) Certification of e-poll books. All e-poll book systems in use in this state, including those funded by county moneys, shall conform to the following certification procedure.

22.603(1) *Definitions.*

"E-poll book" means the same as defined in rule 721—22.1(47).

"Vendor," for purposes of this rule, means a person or representative of a person developing, offering, or supporting an e-poll book.

22.603(2) *Temporary certification application.*

a. A vendor providing or wanting to provide an e-poll book platform in this state may apply for certification on the form prescribed by the state commissioner. The vendor shall certify in writing to the state commissioner that the requirements of rules 721—22.601(47) and 721—22.602(47) are met. If any of the requirements are not met, the vendor shall note the exceptions conspicuously.

b. A vendor operating in this state on or after [the effective date of this rule] shall apply as provided above. Applications received for e-poll book versions currently operating in the state may be approved.

c. Upon adoption of the rule for permanent certification application, all vendors will need to reapply for certification within the time permitted by that rule to continue offering their products in the state.

This rule is intended to implement Iowa Code section 49.29.

ARC 9882C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to logo signing and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 118, "Logo Signing," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 306C.11.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 306C.

Purpose and Summary

This proposed rulemaking removes gender identity from the list in the applicable rule for which compliance is required concerning business eligibility for participation in the logo signing program. This rulemaking implements 2025 Iowa Acts, Senate File 418 (Senate File 418), which removes gender identity from the list of protected classes in Iowa Code chapter 216.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025. A public hearing was held on the following date(s):

- November 4, 2025

The Department received no comments.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 9 to 9:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 957 506 440#
January 28, 2026 2:30 to 3 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 829 586 165#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 118.4(1) as follows:

118.4(1) The business is open to the general public; does not restrict entrance based on age; and conforms to all applicable laws concerning discrimination based on age, race, creed, color, sex, sexual orientation, ~~gender identity,~~ national origin, religion, and disability.

ARC 9881C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to tourist-oriented directional signing and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 119, "Tourist-Oriented Directional Signing," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 321.252.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 321.252.

Purpose and Summary

This proposed rulemaking removes gender identity from the list in the applicable rule for which compliance is required concerning business eligibility for participation in the Tourist-Oriented Directional Sign (TODS) program. This rulemaking implements 2025 Iowa Acts, Senate File 418 (Senate File 418), which removes gender identity from the list of protected classes in Iowa Code chapter 216.

After public comment, this proposed rulemaking also removes the requirement that "CLOSED" panels be placed on the TODS signs during the off-season when the destination is not open to the public or when the hours of operation are below the minimum threshold for qualifying purposes.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025. A public hearing was held on the following date(s):

- November 4, 2025

The Department received a comment from business owner Nicole Claeys of Red Granite Farms that the program requirements should be more accommodating for seasonal businesses. This could take the form of lowering the minimum hours of operation (currently set at 20 hours per week) or not requiring the placement of "CLOSED" panels over signs when businesses may still be open but operating under the minimum threshold. Some seasonal businesses, such as produce stands, have varied hours depending upon the growing season and availability of fresh produce. If the sign displays "CLOSED," most motorists will assume that means the business is closed. The Department has received similar comments in the past regarding the use of the "CLOSED" panels for businesses that have off-season limited hours or special openings for a weekend.

Before addressing the use of the "CLOSED" panels, the Department will address the issue of lowering the minimum hours of operation for qualification purposes. The current standard of 20 hours per week was reduced from 40 hours per week in early 2020, after a multiagency committee arrived at a consensus in a December 17, 2019, meeting arranged by the Department. Further reductions do not seem warranted if the tourists are to have any chance of finding it open.

That said, the Department does acknowledge that the use of "CLOSED" panels has been a consistent cause of tension over the years between the Department and seasonal businesses that are sporadically open in the off-season. Furthermore, the installation and removal of the "CLOSED" panels requires frequent work orders for field staff, and the enforcement of the regulation requires monitoring of business operating times.

The Department proposes now to eliminate subrule 119.5(4), no longer requiring the use of "CLOSED" panels for seasonal businesses. This decision is supported by the fact that many tourists use social media or websites to check operating hours, and, if not, the current minimum operating hours of 20 hours per week already build in a certain degree of chance on finding the destination open.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way

Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 9:30 to 10 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 818 779 133#
January 28, 2026 3 to 3:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 709 663 284#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 119.3(1) as follows:

119.3(1) The destination is open to the general public for a minimum of four days per week and 20 hours per week, year-round or during the normal season for the destination. These hours are exclusive of any hours of operation that are by appointment, reservation or membership. The hours are conspicuously posted on the premises except for destinations that are open 24 hours per day.

ITEM 2. Amend subrule 119.3(9) as follows:

119.3(9) The destination complies with all applicable laws concerning public accommodations without regard to age, race, creed, color, sex, sexual orientation, ~~gender identity,~~ national origin, religion or disability.

ITEM 3. Amend subrule 119.5(1) as follows:

119.5(1) *Installation and maintenance of tourist-oriented directional signs.* ~~Except as provided in subrule 119.5(4), the~~ The department will fabricate and perform the installation, maintenance, removal and replacement of tourist-oriented directional signs that are located within the right-of-way.

a. and *b.* No change.

ITEM 4. Rescind and reserve subrule **119.5(4)**.

ITEM 5. Amend **761—Chapter 119**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 321.252 ~~as amended by 2024 Iowa Acts, Senate File 2385, section 317~~.

ARC 9879C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to lighting and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 136, "Lighting," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Executive Order 10.

Purpose and Summary

The Department proposes to permanently rescind Chapter 136 and instead publish guidance in an operational manual that covers the requirements and procedures for entities to request the installation of lighting at the intersection of a side road or entrance with a primary road. The manual will be available on the Department's website.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 1, 2025. A public hearing was held on the following date(s):

- October 22, 2025

The Department received no comments.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 11 to 11:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 410 927 475#
January 28, 2026 1:30 to 2 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 101 252 062#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **761—Chapter 136**.

ARC 9878C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to traffic signals and beacons on primary roads and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 140, "Traffic Signals and Beacons on Primary Roads," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 321.252.

Purpose and Summary

The Department proposes to permanently rescind Chapter 140 and instead publish guidance in an operational manual that covers the procedure and responsibilities for entities to request the installation of traffic signals and beacons on a primary road. The manual will be available on the Department's website.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025. A public hearing was held on the following date(s):

- November 6, 2025

The Department received no comments.

Fiscal Impact

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

Jobs Impact

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

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 10:30 to 11 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 808 514 461#
January 28, 2026 2 to 2:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 215 166 06#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **761—Chapter 140**.

ARC 9877C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to speed zoning on primary highways and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 142, "Speed Zoning on Primary Highways," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 321.285 and 321.290.

Purpose and Summary

The Department proposes to permanently rescind Chapter 142 and instead publish guidance in an operational manual that covers the procedure for entities to request changes to posted speed limits on primary highways. The manual will be available on the Department's website.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025. A public hearing was held on the following date(s):

- November 6, 2025

The Department received no comments.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 10 to 10:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 516 456 128#
January 28, 2026 2:30 to 3 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 234 474 985#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **761—Chapter 142**.

ARC 9875C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to traffic signal synchronization and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 143, "Traffic Signal Synchronization," and to adopt a new Chapter 143, "Traffic Signal Coordination," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 364.24.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 364.24.

Purpose and Summary

This proposed chapter lays out requirements regarding the installation and coordination of traffic signals.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025. A public hearing was held on the following date(s):

- November 6, 2025

The Department received no comments.

Fiscal Impact

This proposed rulemaking has no fiscal impact to the State of Iowa. Local public agencies bear the costs of installing and maintaining traffic signal coordination equipment and services.

Jobs Impact

This proposed rulemaking maintains an already established requirement that certain traffic signal installations within a city be operated in a coordinated manner.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 9:30 to 10 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 951 108 212#
January 28, 2026 3:30 to 4 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 651 491 547#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 143 and adopt the following **new** chapter in lieu thereof:

CHAPTER 143
TRAFFIC SIGNAL COORDINATION

761—143.1(364) Definitions.

"Arterial street" means any U.S. or state numbered route, controlled access highway, or other major street or highway designated by the city within its respective jurisdiction as a part of a major arterial system of streets or highways.

"Coordination" means the establishment of a timing relationship between adjacent traffic signals.

"Traffic signal" means any permanently installed, electrically powered traffic control device by which traffic is alternately directed to stop and to proceed.

"Traffic signal system" means two or more traffic signals operating in a coordinated manner.

761—143.2(364) Applicability. This chapter applies to all cities with more than three traffic signals within the corporate limits.

761—143.3(364) Conditions.

143.3(1) Unless a traffic engineering study documents that it is not practical, traffic signals within one-half mile of each other along an arterial street or in a network of intersecting arterial streets shall be operated as a traffic signal system.

143.3(2) Traffic signal timing and operational plans are to be developed by the application of traffic engineering principles to provide maximum traffic flow efficiencies and safety for all users.

143.3(3) All traffic signal installations and operations are to comply with the department's traffic control device manual.

761—143.4(364) Contact information. Information regarding this chapter is available from: Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. Additional information and guidance may be found at www.iowadot.gov/consultants-contractors/traffic-safety/document-resource-library/traffic-safety-manual.

These rules are intended to implement Iowa Code section 364.24.

ARC 9880C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to improvements and maintenance on primary road extensions and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 150, "Improvements and Maintenance on Primary Road Extensions," Iowa Administrative Code, and to adopt a new Chapter 150 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 306A and 318 and sections 17A.9A, 307.12(1)"j," 309.1, 313.4, 313.5, 313.21 through 313.24, 313.27, 313.36, 314.5, 314.6, 318.1, 321E.3 and 362.2.

Purpose and Summary

The Department proposes to rescind and repromulgate Chapter 150. This chapter defines responsibilities, requirements, and procedures for construction and maintenance on primary road extensions within cities and responsibilities for facilities commonly impacted by these activities, including traffic signals, lighting, bridges, intersection paint markings, signs, and rights-of-way. This proposed chapter was reorganized to improve readability and includes several clarifications to the definitions and maintenance responsibilities outlined in the chapter. Responsibilities for previously unmentioned features, including bike lanes, bridge graffiti removal, and roundabout center islands, were added.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 1, 2025. A public hearing was held on the following date(s):

- October 21, 2025

The Department received no comments.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 27, 2026 9 to 9:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 717 571 85#
January 27, 2026 2 to 2:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 676 783 674#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 150 and adopt the following **new** chapter in lieu thereof:

PRIMARY ROAD EXTENSIONS

CHAPTER 150
IMPROVEMENTS AND MAINTENANCE ON PRIMARY ROAD EXTENSIONS

761—150.1(306,306A,307,318,362) General.

150.1(1) *Information.* Information regarding this chapter is available from the Maintenance Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone 515.239.1547.

150.1(2) *Definitions.*

"Access control limits" means the area where the department has acquired access rights in accordance with 761—Chapter 112.

"City" means a municipal corporation as defined in Iowa Code section 362.2.

"Curbed cross section" means a roadway with outside raised paved edges or rims (commonly called "curbs") used for storm water drainage. Raised medians or inside curbs alone are not sufficient to constitute a curbed cross section.

"Encroachment" means an item that is supported or located on the highway right-of-way or that overhangs into the airspace of the highway right-of-way.

"Freeway" means a fully controlled access primary highway. The rights of ingress and egress from abutting properties have been legally eliminated by the department. Permanent access to the freeway is allowed only at interchange locations. For the purpose of this chapter, a freeway is generally five or more miles in length.

"MUTCD" means the "Manual on Uniform Traffic Control Devices" as adopted in 761—Chapter 130.

"Nonfreeway primary highway" means a primary highway that is not a freeway.

"Obstruction" means the same as defined in Iowa Code section 318.1.

"Right-of-way" means the land for any public road, street or highway, including the entire area between the property lines.

"Urban-state traffic engineering program" or *"U-STEP"* refers to a department program that is intended for use by any Iowa city in order to solve traffic operations and safety problems on primary roads in Iowa cities as documented on the department's "Grants and Programs" website at www.iowadot.gov/transportation-development/grant-programs/grant-program-list.

"Utility" means the same as defined in Iowa Code section 306A.13.

This rule is intended to implement Iowa Code sections 306.2, 306.3, 306A.13, 307.12(1)*"j,"* 318.1 and 362.2.

761—150.2(306,306A,307,313,314) Improvements and maintenance on extensions of freeways.

150.2(1) *Construction.* Except as otherwise provided, the department shall be responsible for all right-of-way and construction costs associated with the construction of freeway extensions.

a. The city shall be responsible for providing, without cost to the department, all necessary rights-of-way that involve dedicated streets or alleys.

b. The city may be responsible for providing, without cost to the department, all necessary rights-of-way that involve other city-owned lands, except parklands, subject to the condition that the department may reimburse the city for the functional replacement value of improved property and advanced purchases negotiated by the city for project purposes.

c. Outside the access control limits, the department shall be responsible for the costs of construction of longitudinal and outlet storm sewers made necessary by highway construction in the proportion that the street right-of-way of the primary road extension bears to the total drainage area to be served by the proposed sewers. The city shall be responsible for the remaining portion of storm sewer costs not paid for by the department.

d. The department shall be responsible for all storm sewer-related costs within the access control limits.

150.2(2) *Maintenance.* The department shall enter into an agreement with a city regarding the maintenance of primary roads within the corporate city limits. This is intended to include corporate line roads, when appropriate. Unless otherwise mutually agreed to and specified in the agreement, the maintenance of freeway extensions within the corporate city limits, including corporate line roads, shall be as follows:

a. The department shall be responsible for all maintenance costs on the through roadway, the on and off ramps, and the roadside features from right-of-way line to right-of-way line.

b. Where city streets cross the freeway, the department shall be responsible for:

(1) Roadside maintenance within the freeway right-of-way.

(2) Surface drainage of the freeway right-of-way.

(3) Traffic signs and pavement markings required for freeway operation.

(4) Guardrail at piers and guardrail at bridge approaches.

(5) Expansion relief joints in approach pavement and approach panel leveling and maintenance.

(6) All maintenance of bridges, including deck repair, structural repair, berm slope protection, painting, and inspection, except as noted in paragraph 150.2(2)*"c."*

(7) Graffiti removal on bridges and abutments within the freeway right-of-way.

c. Where city streets cross the freeway, the city shall be responsible for:

(1) All roadside maintenance outside the freeway right-of-way.

(2) All pavement, subgrade and shoulder maintenance on the cross street except expansion relief joints and bridge approach panel leveling or repair.

(3) All traffic lane markings on the cross street.

(4) Snow removal on the cross street, including bridges over the freeway and through ramp terminals.

(5) Cleaning and sweeping bridge decks on streets crossing over the freeway.

d. The city shall be responsible for maintenance and repair of pedestrian overpasses and underpasses, including snow removal, painting, lighting and structural repairs.

e. Should local service roads or streets be constructed as a part of a project, upon completion they shall become a part of the city street system. The department shall not be responsible for the maintenance of these roads or streets and corresponding drainage structures.

150.2(3) *Lighting.*

a. The department shall be responsible for:

(1) The cost of installation of lighting on the main-traveled-way lanes and the on and off ramps, including the terminals with cross streets when the department determines that lighting is required under established warrants.

(2) The energy and maintenance costs of lighting on the main-traveled-way lanes.

(3) The energy and maintenance costs of lighting through interchange areas and ramps at interchanges between freeways that do not provide service to local streets.

(4) The energy and maintenance costs of lighting in interchange areas at interchanges between freeways and primary roads that are on corporate lines.

(5) At interchanges with city cross streets, the energy and maintenance costs of lighting on the main-traveled-way lanes, on and off ramps, ramp terminals, and, when the department determines full interchange lighting is required, the cross street between the outermost ramp terminals.

b. The department shall not be responsible for:

(1) The installation, energy and maintenance costs of any lighting on cross streets in advance of interchanges and between the outermost ramp terminals at interchanges where the department determines partial interchange lighting or no lighting is required.

(2) The installation, energy and maintenance costs of any lighting on pedestrian overpasses, pedestrian underpasses, bicycle overpasses or bicycle underpasses. The city may elect to provide lighting at its own expense.

c. Warrants for the lighting of freeways shall be according to the 2018 "AASHTO Roadway Lighting Design Guide." The AASHTO publication may be ordered from the website www.transportation.org. The publication may be inspected at the department's maintenance bureau.

This rule is intended to implement Iowa Code sections 306.4, 306.42, 307.12(1)*"j,"* 313.4, 313.5, 313.21 through 313.24, 313.27, 313.36, 314.5 and 314.6 and chapter 306A.

761—150.3(306,306A,307,309,313,314,321E) Improvements and maintenance on extensions of nonfreeway primary highways.

150.3(1) *Construction.*

a. The department shall be responsible for all right-of-way and construction costs to construct nonfreeway primary highway extensions to the minimum design criteria as established by the department. Construction improvement costs beyond minimum design criteria shall be the responsibility of the city, as specified in the project agreement. Minimum design criteria shall be in accordance with "A Policy on Geometric Design of Highways and Streets, 2018" (Seventh Edition AASHTO Green Book). The AASHTO publication may be ordered from the website www.transportation.org. The publication may be inspected at the department's maintenance bureau.

b. The city shall be responsible for providing, without cost to the department, all necessary rights-of-way that involve dedicated streets or alleys.

c. The city may be responsible for providing, without cost to the department, all necessary rights-of-way that involve other city-owned lands, except parklands, subject to the condition that the department may reimburse the city for the functional replacement value of improved property and advanced purchases negotiated by the city for project purposes.

d. The city shall take all necessary legal action to discontinue and prohibit any past or present use of project rights-of-way for private purposes. The city shall prevent any future encroachment or obstruction within the limits of project rights-of-way.

e. The department shall be responsible for the costs of construction of longitudinal and outlet storm sewers made necessary by highway construction and construction of local service roads developed as a part of the construction or reconstruction of the through traffic lanes in the proportion that the right-of-way of the primary road extension bears to the total drainage area to be served by the proposed sewers. The city shall be responsible for the remaining portion of storm sewer costs not paid for by the department.

f. Unless otherwise mutually agreed to and specified in the project agreement, the department shall be responsible for the cost of acquiring rights-of-way and construction of local service roads developed as a part of the construction or reconstruction of the through traffic lanes.

150.3(2) *Maintenance.* The department shall enter into an agreement with a city regarding the maintenance of primary roads within the corporate city limits. This is intended to include corporate line roads, when appropriate. Unless otherwise mutually agreed to and specified in the agreement, the maintenance of nonfreeway primary highway extensions within the corporate city limits, including corporate line roads, shall be as follows:

a. On primary roads constructed with a curbed cross section, the department shall be responsible for:

(1) Maintenance and repairs to pavement and subgrade from face of curb to face of curb exclusive of parking lanes, culverts, intakes, manholes, public or private utilities, sanitary sewers and storm sewers.

(2) Primary road signing for moving traffic as set out in subrule 150.4(1), pavement markings for traffic lanes, guardrail and stop signs at intersecting streets.

(3) Surface drainage only, within the limits of pavement maintenance.

(4) Plowing of snow from the traffic lanes of pavement and bridges and treatment of traffic lanes with abrasives and chemicals.

(5) Inspection, painting and structural maintenance of bridges as defined in Iowa Code section 309.1.

b. On primary roads constructed with a rural cross section (no curb), the department shall be responsible for all maintenance, except tree removal, sidewalks, retaining walls and repairs due to utility construction and maintenance, which shall be the city's responsibility.

c. On primary roads constructed with a curbed cross section, the city shall be responsible for:

(1) Maintenance and repairs to pavement in parking and bicycle lanes, intersections beyond the limits of department pavement maintenance, curbs used to contain drainage, and repairs to all pavement due to utility construction, maintenance and repair.

(2) Painting of parking stalls, stop lines and crosswalks, and the installation and maintenance of flashing lights. Pavement markings shall conform to the MUTCD.

(3) Maintenance of all storm sewers, manholes, intakes, catch basins and culverts used for collection and disposal of surface drainage.

(4) Removal of snow windrowed by departmental plowing operations, removal of snow and ice from all areas outside the traffic lanes, loading or hauling of snow which the city considers necessary and removal of snow and ice from sidewalks on bridges used for pedestrian traffic.

(5) Maintenance of sidewalks, retaining walls and all areas between curb and right-of-way line.

(6) Cleaning, sweeping and washing of streets.

(7) Maintenance and repair of pedestrian or bicycle overpasses and underpasses, including snow removal, painting and structural repairs.

(8) Roundabout center islands.

d. The city shall comply with the access control policy of the department as adopted in 761—Chapter 112 and obtain prior approval from the department for any changes to existing entrances or for the construction of new entrances.

e. Drainage district assessments levied against the primary road within the corporate limits of the city shall be shared equally by the department and the city.

f. Should local service roads or streets be constructed as a part of a project, upon completion they shall become a part of the city street system. The department shall not be responsible for the maintenance of these roads or streets and corresponding drainage structures.

150.3(3) *Lighting.*

a. The department shall not be responsible for the installation, energy, and maintenance costs of lighting on extensions of nonfreeway primary highways. The city may elect to provide lighting at its own expense. However:

(1) For cities with a population of 5,000 or fewer, the department may elect to install interchange or intersection lighting and to be responsible for or to participate in the energy and maintenance costs of this lighting.

(2) On a new construction project that results in a predominately fully controlled access highway, but incorporates some nonfreeway segments, the department may elect to participate in the installation of lighting at conflict points if the city agrees to be responsible for the energy and maintenance costs of this lighting.

b. At corporate line primary road junctions, the lighting shall be installed where necessary by the department in accordance with department warrants. The department shall be responsible for the installation costs. Unless otherwise agreed, the energy and maintenance costs shall be shared by the city and department in proportion to the number of luminaires in each jurisdiction as established by the

corporate line. When and if the corporate line is extended to include any part of the lighting installation or a greater proportion of luminaires, the proportionate costs for maintenance and energy shall be redetermined on the basis of the number of luminaires in each jurisdiction as established by the new location of the corporate line.

This rule is intended to implement Iowa Code sections 306.4, 306.42, 307.12(1)*"j,"* 309.1, 313.5, 313.21 through 313.24, 313.27, 313.36, 314.5, 314.6 and 321E.3 and chapter 306A.

761—150.4(306,306A,307,313,314,318) General requirements for primary road extensions.

150.4(1) *Signing.*

a. The department shall be responsible for permanent traffic control signing on primary road extensions.

b. The department shall not be responsible for construction and maintenance work zone signing unless the work is being done by the department.

c. The department shall not be responsible for street name signs, any regulatory parking signs that denote special regulations as may be determined by the city in cooperation with the department, and those signs that regulate parking as to time, hours and days of the week.

d. The department shall not be responsible for signs facing traffic on primary road extensions that regulate traffic movements on city cross streets (one-way traffic).

e. "Business District" signs on primary road extensions may be permitted upon application by the city to the department.

f. All signing within the right-of-way shall conform to the MUTCD.

150.4(2) *Encroachments and obstructions.*

a. The city shall remove any existing obstructions within the highway right-of-way and prevent any future obstructions from occurring within the highway right-of-way in a manner consistent with Iowa Code chapter 318.

b. The city shall remove any existing encroachments and prevent any future encroachments from occurring within the highway right-of-way, except those authorized or permitted by the highway authority. Under no circumstances shall an overhanging sign or awning be allowed within two feet of the inside edge of the curb (also known as the face of the curb, which is that part of the curb that is next to traffic) or within two feet of the edge of the pavement in the absence of a curb. Any encroachments authorized or permitted by the highway authority shall be in accordance with Iowa Code chapter 318.

150.4(3) *Pedestrian, equestrian, and bicycle routes (sidewalks).*

a. The department shall remove and replace portions of existing routes as required by construction.

b. The department will consider the impacts to pedestrian accommodation at all stages of the project development process and encourage pedestrian accommodation efforts when pedestrian accommodation is impacted by highway construction. The cost of pedestrian accommodation made at the time of the highway improvement may be considered an additional roadway construction cost. Providing pedestrian accommodation independent of a highway construction project may be considered with construction funding obtained from local jurisdictions or other federal and non-road use tax state sources.

c. If a project is initiated by the department, the department shall fund 100 percent of all curb ramps, turning spaces, transitions, sidewalks, curb drops and pedestrian signals within the right-of-way of primary road extensions to meet the requirements of the Americans with Disabilities Act of 1990 (ADA) as amended by the ADA Amendments Act of 2008 (PL 110–325), codified at 42 U.S.C. 12101 et seq., if such improvements are in the project.

d. If a project is initiated by a local jurisdiction, the department may participate by funding 55 percent of the cost of constructing curb ramps, turning spaces, transitions, sidewalks, curb drops and pedestrian signals on existing sidewalks within the right-of-way of primary road extensions to meet the requirements of the Americans with Disabilities Act if such improvements are in the project. However, departmental participation shall not exceed $250,000 per year for any one local jurisdiction and $5 million per year in total.

150.4(4) *Overpasses and underpasses for pedestrian, equestrian, and bicycle routes.*

a. During initial construction of freeways and other relocated primary road extensions and when user-volumes and topographic conditions warrant the construction of a separation, the cost shall be shared between the department and the city on the basis of the current U-STEP cost apportionment.

b. The department may participate in a city-initiated separation that is not included in the department's "Five-Year Iowa Transportation Improvement Program."

150.4(5) *Utility relocation and removal.*

a. The city shall relocate or cause to be relocated, without cost to the department, all city-owned utilities necessary for construction when these utilities are within the existing street or alley right-of-way. The department shall reimburse the owner of a utility that is located on private right-of-way for the costs of relocation or removal, including the costs of installation in a new location.

b. The city shall comply with the utility accommodation policy of the department as adopted in 761—Chapter 115.

150.4(6) *Project concept statements and predesign project agreements for proposed construction projects.*

a. As early as possible after an urban project is included in the department's "Five-Year Iowa Transportation Improvement Program," a concept statement for the project shall be developed and shall be reviewed with the officials of the city prior to the public hearing.

b. During the design process, a predesign project agreement may be submitted to city officials for their approval. It shall include all the following:

(1) A preliminary description of the project.

(2) The general concepts of the project.

(3) Responsibilities for right-of-way acquisition, storm sewer costs and utility adjustment costs.

(4) The parking and access control restrictions to be applied to the project.

(5) Financial participation above minimum standards.

150.4(7) *Preconstruction project agreements for proposed construction projects.*

a. The department shall maintain a close liaison with the city during the development of the project plan so that all parties will be fully informed of the details involved in the proposed improvement.

b. When the plan is sufficiently complete to provide typical cross sections, plan and profile drawings and incidental details, the department shall submit a preconstruction project agreement, which shall include known design data, to city officials for their approval. Terms for reimbursement to the state and local financial participation shall be stated in this agreement.

c. Modifications to this agreement necessitated by design changes encountered during construction shall be made by an extra work order agreed to in writing by the city, the contractor, and the department.

150.4(8) *Traffic signals.*

a. All traffic signal installations shall meet the standards and warrants established in the MUTCD.

b. When replacing pavement or adding lanes, the department may, by agreement, install or replace warranted traffic signals (including pedestrian-only signals) at no cost to the city.

c. When new or upgraded traffic signals (including pedestrian-only signals) are part of a pavement maintenance or stand-alone traffic signal project, the department may, by agreement, participate in installation costs with its maximum share limited to that based on the current U-STEP cost-sharing policy. The city is responsible for preparing plans, awarding the contract, supervising installation, and covering the remaining costs.

d. Signal modifications to coordinate with other city systems (outside the primary road extension system) are the city's full financial responsibility.

e. The department will not fund signals intended solely for commercial use or signalization of primary road stub routes ending within the city.

f. The department does not assume ownership or responsibility for any energy or maintenance costs for traffic signals.

g. Signal phasing, initial and future, as well as timing and coordination between intersections shall be coordinated between the department and the city.

150.4(9) *Overdimensional and overweight vehicles.* The city shall comply with all current statutes, rules and regulations pertaining to overdimensional and overweight vehicles using primary roads when issuing special permits for overdimensional and overweight vehicles.

This rule is intended to implement Iowa Code sections 306.4, 307.12(1)*"j,"* 313.21 through 313.24, 313.27, 313.36, 314.5 and 314.6 and chapters 306A and 318.

761—150.5(17A,307) Special circumstances.

150.5(1) *Waivers.* The director of transportation or the director's designee may, in response to a written petition, waive provisions of this chapter in accordance with 761—Chapter 11. The written petition must contain the information as required in 761—subrule 11.5(2) and shall be submitted to the Rules Administrator, Office of the Director, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by email to the rules administrator's email address listed on the department's website at www.iowadot.gov/administrativerules.

150.5(2) *Waivers involving interstate highways.* The director shall not waive these rules if the request involves the interstate highway system, including its ramps, without the approval of the Federal Highway Administration.

This rule is intended to implement Iowa Code sections 17A.9A and 307.12(1)*"j."*

ARC 9876C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to traffic safety improvement program and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 164, "Traffic Safety Improvement Program," Iowa Administrative Code, and to adopt a new Chapter 164 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 307.12(1)"j" and 312.2(11).

Purpose and Summary

The purpose of the Traffic and Safety Improvement Program is to provide funding for traffic safety improvements or studies on public roads under county, city or State jurisdiction. This proposed chapter establishes necessary regulation for effectively administering the program and defining eligibility requirements.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 1, 2025. A public hearing was held on the following date(s):

- October 21, 2025

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. The proposed changes are made with guidance created for Executive Order 10.

Jobs Impact

This proposed rulemaking is not creating, removing or changing jobs.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 10:30 to 11 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 680 942 736#
January 28, 2026 2 to 2:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 780 521 66#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 164 and adopt the following **new** chapter in lieu thereof:

CHAPTER 164
TRAFFIC SAFETY IMPROVEMENT PROGRAM

761—164.1(307,312) General.

164.1(1) *Definitions.*

"Commission" means the state transportation commission.

"Jurisdiction" means the department, a county, a city or any other public agency having responsibility for and control over a road or street.

"Other public agency" means any board, commission or agency having jurisdiction and control over roads and streets in any state park, state institution, and other state land road system.

"State park, state institution, and other state land road system" means the same as defined in Iowa Code section 306.3(10).

"Traffic safety improvement program" means the funding program created for traffic safety improvement projects pursuant to Iowa Code section 312.2(11).

164.1(2) *Information and forms.* Information, instructions and application forms may be obtained from the Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone 515.239.1557; or on the department's website at www.iowadot.gov/consultants-contractors/traffic-safety/programs/traffic-safety-improvement-program-tsip.

761—164.2(307,312) Program administration.

164.2(1) *Purpose.* The traffic safety improvement program provides funding for traffic safety improvements or studies on public roads under county, city or state jurisdiction.

164.2(2) *Local participation.* The department will administer the traffic safety improvement program as a statewide program and will coordinate local participation in review and evaluation of applications for funding.

164.2(3) *Funding.*

a. The traffic and safety bureau will review all applications and availability of funds in order to make funding recommendations to the commission. The commission may choose to fund all or part of a project or limit funding to specific work items. Funding may also be made dependent upon adherence to a time schedule or fulfillment of specified conditions.

b. The commission need not commit all funds available during a fiscal year. Funds not committed by the commission will be retained for subsequent programming cycles. Awarded funds not used within a specified period or remaining after project closure will be retained for subsequent programming cycles.

c. The maximum traffic safety improvement program funding for a site-specific improvement will not exceed $500,000. Total funding allotted for the traffic control device category will not exceed $750,000 annually. Total funding allotted for the studies and outreach category will not exceed $750,000 annually. All project costs exceeding the commitment of traffic safety improvement program funds shall be the responsibility of the applicant.

761—164.3(307,312) Eligibility.

164.3(1) *Applicant eligibility.* Any jurisdiction in the state of Iowa is eligible to apply for traffic safety improvement program funding. Applicants are to designate one jurisdiction as the principal contact for a project involving multiple jurisdictions.

164.3(2) *Project eligibility.* Projects located on a public roadway within the state of Iowa are eligible for funding. Projects located on a private road or for a private purpose are not eligible.

761—164.4(307,312) Project costs.

164.4(1) *Eligible project costs.*

a. Site-specific improvements category. Activities considered eligible for funding are those integral to the safety aspects of the project. Eligible activities include but are not limited to the following:

(1) Road modernization, upgrading or reconstruction.
(2) Intersection improvements.
(3) Right-of-way purchases.
(4) Drainage and erosion control measures.
(5) Traffic control devices.
(6) Traffic barriers and other roadside safety devices.
(7) Removal of trees and other fixed objects.

b. Traffic control devices category. The cost of materials purchased for initial installation of traffic control devices or replacement of obsolete traffic control devices is considered eligible for funding.

Devices shall comply with the applicable warrants in the "Manual on Uniform Traffic Control Devices" (MUTCD) as adopted in rule 761—130.1(321).

c. *Studies and outreach category.* Activities considered eligible for funding include but are not limited to the following:

(1) Research addressing statewide traffic safety concerns.

(2) Studies addressing traffic safety concerns at specific locations.

(3) Initiatives emphasizing or improving traffic safety techniques or policies.

164.4(2) *Ineligible project costs.*

a. Any and all costs incurred prior to commission approval of funding for a project are ineligible.

b. Activities and costs not eligible for traffic safety improvement program funding within the site-specific improvements category include but are not limited to:

(1) Routine maintenance of a road, street, bridge, culvert or traffic control device.

(2) Contract administration costs.

(3) Design and construction engineering and inspection.

(4) Utility construction, reconstruction or adjustment, except as an integral part of a project.

(5) Sidewalks, shared-use paths, or railroad-highway crossings, except as an integral part of a project.

(6) Maintenance or energy costs for traffic control devices or lighting.

(7) Expenditures for items not related to the roadway.

c. Activities and costs not eligible for traffic safety improvement program funding within the traffic control devices category include but are not limited to:

(1) Maintenance or energy costs.

(2) Installation costs.

761—164.5(307,312) Applications. Applications address funding needs in one of three categories: site-specific improvements, traffic control devices, or studies and outreach. Application procedures for each funding category are distinct.

164.5(1) *Site-specific improvements category.* Applications in the site-specific improvements category shall be submitted electronically on forms provided on the department's website. Required information includes:

a. The applicant's name, mailing address, telephone number, and a designated contact person.

b. A preliminary project concept statement, including a location map and a sketch plan. Concepts are to be developed using engineering principles and are to include details to generate project cost estimates.

c. Justification for the proposed construction project. Justification may be based on a location's crash history, a location's crash risk, or recommendations from a traffic study.

d. Data showing the anticipated effect of the project on traffic safety. Data shall include crash history based on the department's current crash analysis software and the anticipated crash reduction as a result of the project.

e. An itemized cost estimate for the project including a list of the sources and amounts of supplementary funds for the project. Safety-related work items and quantities shall be listed separately.

f. A time schedule for the project.

g. The jurisdiction's official endorsement, where applicable, of the project and written assurance that the improved site will be adequately maintained for a specified period of time.

164.5(2) *Traffic control devices category.* Applications in the traffic control devices category shall be submitted electronically on forms provided on the department's website. Required information includes:

a. The applicant's name, mailing address, telephone number, and a designated contact person.

b. A list of the number and types of devices requested, and whether each is for initial placement or a replacement.

c. Justification for the requested devices, including compliance with the applicable warrants in the MUTCD as adopted in rule 761—130.1(321).

d. A cost estimate.

e. A time schedule for installation.

f. The jurisdiction's official endorsement of the traffic control device project and written assurance that the traffic control device will be adequately maintained for a specified period of time.

164.5(3) *Studies and outreach category.* Applications in the studies and outreach category shall be submitted electronically on forms provided on the department's website. Required information includes:

a. The applicant's name, mailing address, telephone number and a designated contact person.

b. A description of the proposed subject matter and the goals or expected results of the effort.

c. A cost estimate.

d. A time schedule.

761—164.6(307,312) Processing the application.

164.6(1) *Submission.*

a. The jurisdiction shall submit the complete application electronically to the traffic and safety bureau. An application may be submitted at any time.

b. Complete applications received before August 16 of each year will be evaluated for funding in the following state fiscal year.

c. An unfunded application may be resubmitted for consideration during a subsequent funding cycle.

d. An application may be withdrawn at any time.

164.6(2) *Approval of projects.* Department staff will prepare, with input from local officials, a proposed program of projects for each funding category and submit the programs to the commission for approval. The criterion for determining funding priorities in each category is the demonstrated relationship of the project to traffic safety.

761—164.7(307,312) Project agreement.

164.7(1) After the commission has approved funding, a project agreement shall be negotiated and executed between the department and the jurisdiction. The agreement shall specify the following:

a. Conditions for project funding, which may include such items as the responsibility for planning, design, right-of-way, contracting, construction, materials inspection, documentation and the criteria for each.

b. The funding level for the eligible work items.

164.7(2) The department will reimburse the jurisdiction for actual eligible project costs not to exceed the amounts authorized by the project agreement.

These rules are intended to implement Iowa Code sections 307.12(1)*"j"* and 312.2(11).

ARC 9883C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to sanctions and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 615, "Sanctions," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 321.210.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 321.210.

Purpose and Summary

The purpose of this proposed rulemaking is to comply with 2025 Iowa Acts, Senate File 22, section 7. This legislation, which implements Iowa's hands-free driving law, now includes convictions under Iowa Code section 321.276 in the determination of whether a driver's license suspension will be issued.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025. A public hearing was held on the following date(s):

- November 4, 2025

The Department received no comments.

Fiscal Impact

There is no fiscal impact to the State beyond what is required by the underlying statute, which authorizes the Department to impose driver's license sanctions for certain convictions, including violations of Iowa Code section 321.276.

Jobs Impact

There is no impact on jobs as a result of this proposed rulemaking that were not already required as a result of the underlying statutes.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 10 to 10:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 587 705 335#
January 28, 2026 2 to 2:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 522 267 334#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Amend rule 761—615.5(321) as follows:

761—615.5(321) Suspension of a habitually reckless or negligent driver.

615.5(1) No change.

615.5(2) In this rule, speeding violations specified in Iowa Code section 321.210(2)*"d"* ~~and violations under Iowa Code section 321.276~~ are not included.

This rule is intended to implement Iowa Code section 321.210.

ITEM 2. Amend rule 761—615.6(321) as follows:

761—615.6(321) Suspension of a habitual violator.

615.6(1) and **615.6(2)** No change.

615.6(3) In this rule, speeding violations specified in Iowa Code section 321.210(2)*"d"* ~~and violations under Iowa Code section 321.276~~ are not included.

This rule is intended to implement Iowa Code section 321.210.

ARC 9874C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to items of general application for railroads and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind new Chapter 800, "Items of General Application for Railroads," Iowa Administrative Code, and to adopt a new Chapter 800 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)"j," 327D.201 and 327G.24.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 307.12(1)"j," 307.26, 327C.38, 327C.41, 327C.42, 327D.201, 327F.31 and 327G.24.

Purpose and Summary

This proposed chapter is intended to comply with Iowa Code chapters 327D and 327G, governing operations of railroads. These proposed rules implement annual reporting standards consistent with the Surface Transportation Board requirements, adopt by reference with dates certain federal laws addressing the removal of railroad tracks after abandonment or discontinuance and the process to review and approve a local jurisdiction's train speed ordinance and reference the procedure for acquisition

or use of railroad right-of-way proposed for abandonment or trail use per 16 U.S.C. 1247(d). These proposed updates will bring uniformity and consistency to the industry.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 1, 2025. A public hearing was held on the following date(s):

- October 29, 2025

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. The proposed chapter is in accordance with Executive Order 10, and the affected CFR parts and United States Code adopted by the Department are updated to reflect a current date certain. The CFR updates will bring uniformity and consistency to the industry.

Jobs Impact

This rulemaking has no jobs impact to the State of Iowa. The proposed chapter is in accordance with Executive Order 10, and the affected CFR parts and United States Code adopted by the Department are updated to reflect a current date certain.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 10:30 to 11 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 797 604 269#
January 28, 2026 1:30 to 2 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 961 247 11#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 800 and adopt the following **new** chapter in lieu thereof:

RAILROADS

CHAPTER 800
ITEMS OF GENERAL APPLICATION FOR RAILROADS

761—800.1(327C,327D,327F,327G) General.

800.1(1) *Definitions.*

"Crossing" means the point where the railroad tracks and highway meet at the same location.

"Railroad" means persons who own rail facilities or who are responsible for the rail facilities' operation and maintenance.

800.1(2) *Contact information.* Questions concerning this chapter may be directed to the Modal Transportation Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

800.1(3) *Federal citations.*

a. The department adopts the following portions of the Code of Federal Regulations, which are referenced throughout this chapter:

(1) 49 CFR Part 1152 (October 1, 2024).

(2) 49 CFR Part 1241 (October 1, 2024).

(3) 49 U.S.C. 20106 (August 3, 2007).

b. Copies of the federal code or regulations cited in this chapter are available from the state law library or online at www.govinfo.gov.

This rule is intended to implement Iowa Code sections 327C.38, 327C.41, 327C.42, 327D.201, 327F.31 and 327G.24.

761—800.2(307,327C,327D) Accounts. All railroads operating in Iowa, except those whose accounts are regulated by the Surface Transportation Board, are to maintain accounts using the generally accepted accounting principles of the financial standards accounting board. The accrual method of accounting is to be used.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 327C.42, and 327D.201.

761—800.3(327C,327D) Annual reports.

800.3(1) A railroad company submitting an annual report to the Surface Transportation Board under 49 CFR Part 1241 is to submit a copy of this report to the department on or before April 1 following the close of the calendar year. The "State Statistics" report includes: annual data on additions and deletions of mileage within the state; mileage operated within the state at the end of the year; railway operating revenues earned within the state; statistics on rail line operations within the state, including locomotive unit-miles, car-miles and ton-miles; revenue freight carried within the state by commodity class; and a freight density map showing gross ton-miles for the railroad company's system within the state.

800.3(2) A railroad company not required to submit an annual report to the Surface Transportation Board under 49 CFR Part 1241 is to submit an annual report to the department electronically on or before April 1 following the close of the calendar year.

This rule is intended to implement Iowa Code sections 327C.38, 327C.41, and 327D.201.

761—800.4(307,327F) Train speed ordinances. An ordinance or resolution adopted by a political subdivision that relates to the speed of a train in an area within the jurisdiction of the political subdivision is subject to department approval according to the following procedure:

800.4(1) The political subdivision is to submit the ordinance/resolution to the department supported by information or reasons that justify its approval by the department.

800.4(2) The department will notify the affected railroads.

800.4(3) The political subdivision and the affected railroads will have 30 days in which to submit position papers to the department before the department issues an order approving or disapproving the ordinance/resolution.

800.4(4) The department will issue an order approving or disapproving the ordinance/resolution in accordance with the following:

a. The department may approve the proposed ordinance/resolution only if the proposal satisfies the requirements of 49 U.S.C. 20106.

b. Generally, the department does not consider highway-railroad grade crossings or rail lines located near schools, residences, or commercial activities to be local safety hazards that can be remedied by train speed restrictions.

c. In making its decision, the department may also consider the following factors:

(1) Traffic density and speed.
(2) Accident frequency.
(3) Causes of accidents.
(4) Obstructions to visibility.
(5) Traffic controls at crossings.
(6) Population density.
(7) Resulting burden on the rail transportation system.
(8) Resulting benefit to residents of the political subdivision.

800.4(5) The department will mail notice of its order approving or disapproving the ordinance/resolution by certified mail, return receipt requested, to the political subdivision and the affected railroads.

800.4(6) If the department issues an order approving the ordinance/resolution, it will go into effect 25 days after the notice is mailed unless the order is contested pursuant to subrule 800.4(7).

800.4(7) Within 20 days after the notice is mailed, the political subdivision or an affected railroad may submit to the department a written statement contesting the department's order approving or disapproving the ordinance/resolution.

a. If the order is contested, 761—Chapter 13 applies.

b. If an order approving an ordinance/resolution is contested, the order shall be stayed pending the outcome of the contested case.

800.4(8) A submission to the department under this rule will be deemed timely submitted if it is delivered or postmarked within the time period specified.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 307.26 and 327F.31 and 2001 Iowa Op. Att'y Gen. #01-5-2.

761—800.5(327G) Removal of tracks from crossings.

800.5(1) 49 CFR Part 1152 contains the regulations governing the abandonment and discontinuance of railroad lines and rail transportation under 49 U.S.C. 10903 et seq. This part also contains the regulations and procedures for the acquisition or use of railroad rights-of-way proposed for abandonment for interim trail use and rail banking pursuant to 16 U.S.C. 1247(d).

800.5(2) A railroad corporation or its successor in interest having received authority to remove its tracks from a rail line pursuant to abandonment or interim trail use under 49 CFR Part 1152 is to, at the same time it removes its tracks from the railroad rights-of-way, remove its tracks from the crossings of highways, streets and alleys along the rail line and restore the surface of these crossings. A crossing is to be restored in a manner specified by the agency having jurisdiction over the highway, street or alley at the crossing.

800.5(3) If a railroad corporation or its successor in interest fails to remove its tracks from and restore the surface of a crossing as specified in subrule 800.5(2), then the agency having jurisdiction over the highway, street or alley at the crossing may, at the expense of the railroad corporation or its successor in interest, remove the tracks and restore the surface 120 days after the tracks adjacent to the crossing have been removed.

This rule is intended to implement Iowa Code section 327G.24.

ARC 9873C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to railroad safety standards and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 810, "Railroad Safety Standards," Iowa Administrative Code, and to adopt a new Chapter 810 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 307.12(1)"j," 327F.38 and 327F.39.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 307.12(1)"j," 307.26, 321.449A, 327C.4, 327F.38 and 327F.39.

Purpose and Summary

This proposed chapter is intended to comply with Iowa Code sections 321.449A, 327C.4, 327F.38 and 327F.39, governing safety standards for railroad tracks and employee conditions. These proposed rules adopt by reference, with dates certain, the Federal Railroad Administrations' federal regulation (49 CFR Part 213) and the Federal Motor Carrier Safety Administration's regulation (49 CFR Section 393.77). These federal regulations address track safety standards and heater equipment requirements in motor vehicles used to transport railroad workers. This proposed chapter establishes guidance regarding the availability of first aid and medical treatment for railroad employees and sets expectations for track inspection credentials. Additionally, this proposed chapter implements procedures for addressing violations of heating equipment requirements in vehicles used to transport railroad workers and rest periods for drivers transporting railroad workers. These proposed rules create consistency and uniformity of standard safety measures.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 1, 2025. A public hearing was held on the following date(s):

- October 29, 2025

The Department received no comments.

Fiscal Impact

This proposed rulemaking has no fiscal impact to the State of Iowa. This proposed chapter is in accordance with Executive Order 10, and the affected CFR parts and United States Code adopted by the Department are updated to reflect a current date certain. The CFR updates will bring uniformity and consistency to the industry.

Jobs Impact

This proposed rulemaking has no jobs impact to the State of Iowa. The proposed chapter is in accordance with Executive Order 10, and the affected CFR parts and United States Code adopted by the Department are updated to reflect a current date certain.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 10 to 10:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 121 553 953#
January 28, 2026 2:30 to 3 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 822 775 496#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 810 and adopt the following **new** chapter in lieu thereof:

CHAPTER 810
RAILROAD SAFETY STANDARDS

761—810.1(307,327C,327F) General.

810.1(1) *Federal citations.*

a. The department adopts the following portions of the Code of Federal Regulations concerning railroad track safety standards and heaters in vehicles.

(1) 49 CFR Part 213 (July 1, 2025).

(2) 49 CFR Section 393.77 (October 1, 2024).

b. Copies of the federal regulations are available from the state law library or online at www.govinfo.gov.

810.1(2) *Track inspection credentials.* Authorized department employees must be admitted to any railroad property to conduct safety inspections of the track and track structures and must present state identification cards upon request.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 307.26(5), 327C.4 and 327F.39.

761—810.2(307,321,327F) Railroad safety standards.

810.2(1) *First aid and medical treatment for railroad employees.*

a. Railroad employees who are injured in the course of employment are to have reasonable and adequate access to first aid or medical treatment. A railroad or railroad employee shall not:

(1) Deny, delay or interfere with first aid or medical treatment for any railroad employee who is injured in the course of employment.

(2) Discipline or threaten to discipline any railroad employee for requesting first aid or medical treatment when the employee is injured in the course of employment.

b. All railroads operating in the state must make reasonable efforts to have emergency first-aid kits available at locations where railroad employees perform their employment duties.

c. Nothing in this rule is to be construed to force a railroad or railroad employee to perform first aid or medical care.

810.2(2) *Heating system and driver rest period.*

a. Heater. Pursuant to Iowa Code section 327F.39(4), a motor vehicle used to transport railroad workers shall comply with the safety standards established in 49 CFR Section 393.77.

b. Driver rest period. A railroad worker transportation company and railroad worker transportation company driver are to comply with the rest period conditions of Iowa Code sections 321.449A and 327F.39(5).

c. Report procedure.

(1) A person is to report an alleged violation of paragraph 810.2(2)*"a"* or *"b"* in writing to the responsible railroad company at its corporate headquarters.

(2) If within 30 days the railroad company does not respond or if the response is unsatisfactory, the person may report the alleged violation to the department at the following address: Modal Transportation Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

(3) The report is to include the date, time, weather conditions and all facts pertinent to the alleged violation; the name and contact information of the driver employed by the railroad worker transportation company; or the railroad worker transportation company alleged to have had a driver violate the provisions of the Iowa Code (if applicable). The report is to also include a copy of the railroad's response or, if the railroad failed to respond, proof of the date the report was submitted to the railroad.

(4) The director of the modal transportation bureau or the director's designee may request additional information from the person submitting the report, the railroad worker transportation company or the railroad.

(5) The director of the modal transportation bureau or the director's designee, which may include peace officers within the commercial motor vehicle unit of the department of public safety, may investigate the alleged violation.

(6) The director of the modal transportation bureau or the director's designee will issue a decision within 60 days of receipt of the report or 60 days after receipt of the requested additional information. The decision may include any order as necessary to enforce Iowa Code section 327F.39 as set forth in Iowa Code section 327F.39(6).

(7) The department will notify the person and the railroad of the decision.

(8) The decision is final agency action.

This rule is intended to implement Iowa Code sections 307.12(1)*"j,"* 307.26, 321.449A, 327F.38 and 327F.39.

ARC 9884C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to close-clearance warning signs along railroad tracks and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 813, "Close-Clearance Warning Signs Along Railroad Tracks," Iowa Administrative Code, and to adopt a new Chapter 813 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 327F.13.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 327F.13.

Purpose and Summary

This chapter complies with Iowa Code section 327F.13 concerning close-clearance warning signs. These proposed rules define the criteria of a "close clearance," identify what type of obstructions warrant the placement of a warning sign and concern enforcement and reimbursement of close-clearance signing. If obstacles are unable to be removed and meet the close-clearance criteria, a railroad operator must place signage near the close clearance to notify railroad employees riding the side of a train of the safety concern.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 1, 2025. A public hearing was held on the following date(s):

- October 30, 2025

The Department received no comments.

Fiscal Impact

There is no fiscal impact beyond what is required by statute.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 8:30 to 9 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 615 417 443#
January 28, 2026 1 to 1:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 703 065 947#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 813 and adopt the following **new** chapter in lieu thereof:

CHAPTER 813
CLOSE-CLEARANCE WARNING SIGNS ALONG RAILROAD TRACKS

761—813.1(327F) General.

813.1(1) *Applicability.*

a. This chapter implements Iowa Code section 327F.13.

b. This chapter applies to railroad companies as well as industries, agricultural cooperatives or other entities that are owners of a railroad track, and this chapter applies to individuals who are owners of a railroad track.

813.1(2) *Contact information.* Information regarding this chapter is available from the Modal Transportation Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by telephone, 515.239.1140.

813.1(3) *Definitions.*

"Close clearance" means a permanent or temporary situation where an obstruction near a railroad track physically impedes a person who is lawfully riding the side of a train from clearing the obstruction.

"Obstruction" means a building, machinery (other than equipment designed for operation on a railroad track when actually located on a railroad track), tree, brush or other object.

"Owner" means the railroad company, industry, agricultural cooperative, other entity or individual that holds a fee simple title, easement, leasehold, contract to purchase, license or other legal or equitable interest or right in the railroad track and is in primary possession and control of the railroad track.

"Tangent track" means a track segment without any curves.

761—813.2(327F) Close-clearance dimensions. Close clearance for a tangent track is a location along the railroad track where there is an obstruction that falls within the following dimensions: starting at the centerline of track at top of rail and extending 5 feet both sides horizontally and level therewith, thence upward vertically 15 inches, thence upward diagonally to a point 4 feet above top of rail and 8 feet laterally from centerline of track, thence vertically to a point 20 feet above top of rail, thence diagonally to a point 6 feet from centerline of track and 22 feet above top of rail, thence horizontally to centerline of track. Vertical clearance is to be 18 feet above top of rail at the entrance to and inside buildings. On curved track, clearances on each side of the track centerline are to be increased 1½ inches per degree of curvature (Figure 1).

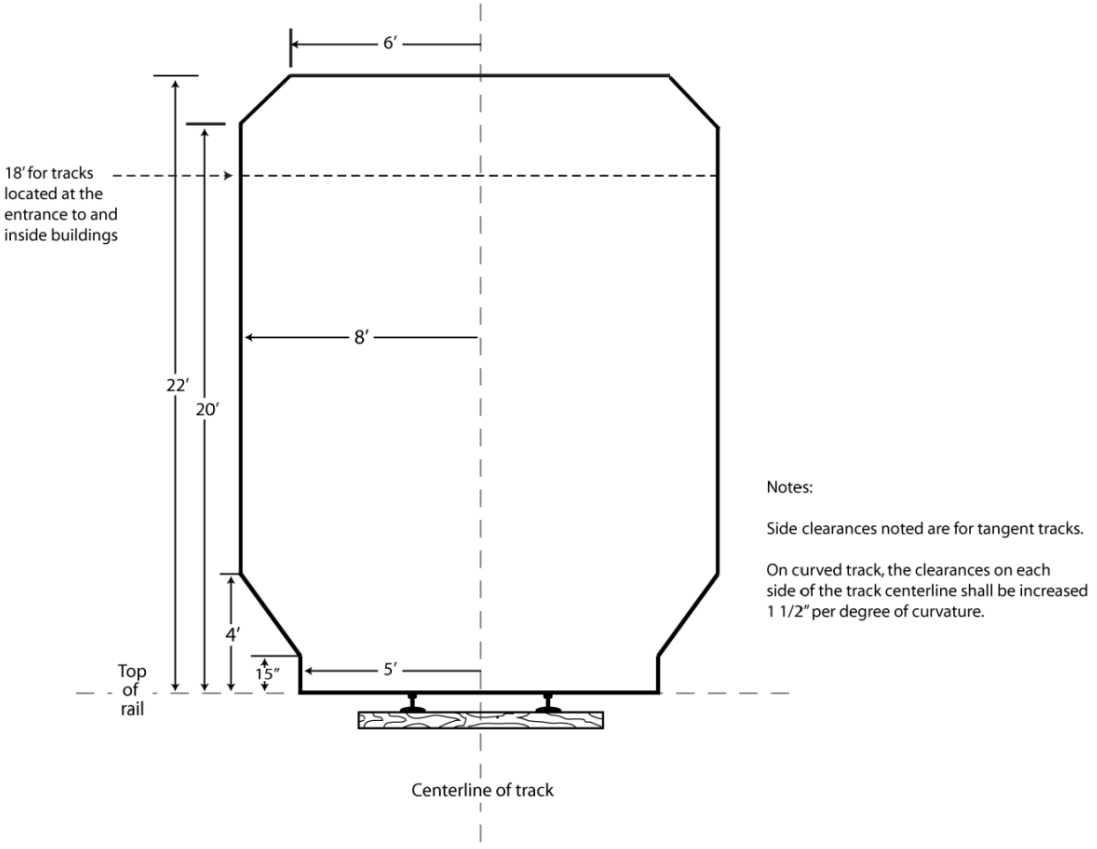


Figure 1

761—813.3(327F) Signing standards.

813.3(1) A close-clearance warning sign or signs are necessary at all locations where there is close clearance. It is the responsibility of the owner to ensure that all close-clearance locations have warning signs in accordance with this chapter and Iowa Code section 327F.13.

813.3(2) If an obstruction creating a close-clearance situation is a temporary or nonpermanent obstruction, in lieu of signage, the owner may remove the obstruction or remove the track from service until the obstruction is removed.

813.3(3) A close-clearance warning sign is to comply with the following:

a. Include the words "no clearance." The letters must be black on a white reflective background and be a minimum of three inches high.

b. Be a vertical sign not less than 42 inches in height and 4 inches in width.

c. Be placed at least one foot off the ground or on the obstruction and within three feet of the close-clearance location or on the obstruction. Signs are to be located on both sides of the obstruction so as to be visible from both directions.

d. Not be within eight feet of the centerline of the tracks.

813.3(4) In the event that the placement of the close-clearance warning sign according to paragraph 813.3(3)*"c"* or *"d"* does not provide adequate notice for a person who is lawfully riding the side of a train to prepare for the close clearance (such as a curve or other sight obstruction), an additional sign reading "no clearance ahead" is to be placed in a location that provides adequate notice to the person who is lawfully riding the side of the train so that the person may prepare for the close clearance. Depending on the particular environment that makes an additional no clearance ahead sign necessary, a no clearance ahead sign may be needed on one or on both sides of the obstruction so as to be visible from both directions.

813.3(5) In the event that the physical environment prevents the placement of a warning sign in accordance with paragraph 813.3(3)*"c"* or *"d,"* the sign is to be placed in a highly visible location that is clearly indicative of the point of close clearance. An alternative size and shape of sign may be used if there is no location available where a standard size and shape sign may be used. Any alternative sign must clearly be identifiable as an indicator of the close-clearance situation.

813.3(6) In limited situations where multiple instances of insufficient clearance occur within a confined area or over a distance, and where posting of multiple warning signs could on its own be a safety hazard, or where multiple signs would create a confusing environment, making it difficult to discern the areas that lack clearance, a sign reading "no clearance ahead" may be posted in lieu of multiple signs.

813.3(7) A line or other marker is to be maintained at a distance of eight feet from the centerline of the track on all platforms, excluding passenger platforms, to indicate the space along the edge of such platform that is to be kept clear of merchandise, material or other articles that could create a temporary close-clearance situation.

761—813.4(327F) Enforcement.

813.4(1) If the owner is provided written notice by an employee, a person working on or near the tracks or a railroad inspector that a location is in need of a close-clearance warning sign, the owner is to investigate and, if warranted, ensure the placement of a warning sign or signs within 30 calendar days of notification. If a close-clearance warning sign is not warranted, the owner is to inform the person who provided notice, in writing within 30 calendar days, that a sign is not warranted and explain why the location does not need a close-clearance warning sign.

813.4(2) If the owner fails to respond to a written notice by an employee or another person working on or near the tracks or if the employee or other person disagrees with the owner's determination that a warning sign is not warranted, the employee or other person may notify the department. The department will investigate and make a determination if the location warrants the placement of a close-clearance warning sign.

a. If the department determines a close-clearance warning sign is warranted, the department will notify the owner in writing. The owner shall have 14 calendar days from the date of the notification to install the proper warning sign. Failure to install the close-clearance warning sign is evidence that the owner is in violation of Iowa Code section 327F.13.

b. The owner, an employee or a person working on or near the tracks may contest the determination. If the determination is contested, 761—Chapter 13 applies.

761—813.5(327F) Reimbursement.

813.5(1) The owner may request reimbursement from the department for up to $100 per sign for the cost and installation of the close clearance or no clearance ahead warning sign.

813.5(2) To be reimbursed, the owner is to complete Form 291303, "Close-Clearance Warning Sign Certification." The form is available on the department's website at www.iowadot.gov or from the modal transportation bureau.

813.5(3) The owner is to submit the form to the modal transportation bureau and certify that the warning sign complies with the obligations in rule 761—813.3(327F) and provide proof of purchase.

813.5(4) The department may inspect, at any time, the sign installation to confirm that the warning sign meets the minimum obligations.

These rules are intended to implement Iowa Code section 327F.13.

ARC 9872C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to coordination of public transit services and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 910, "Coordination of Public Transit Services," Iowa Administrative Code, and to adopt a new Chapter 910 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 324A.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 325A.1, 324A.4 and 324A.5.

Purpose and Summary

Proposed Chapter 910 describes the purpose, leadership, staffing, and duties of the statewide Transportation Coordination Advisory Council and the certification process for complying with the transportation coordination mandate in Iowa Code chapter 324A. The changes made to this chapter include removing unnecessarily restrictive terms, correcting the timing of Transportation Coordination Advisory Council meetings, and editorial changes for brevity and readability.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025. A public hearing was held on the following date(s):

- November 7, 2025

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. This rulemaking explains how agencies receiving funds for transportation for the public should coordinate with the local public transit provider.

Jobs Impact

This rulemaking explains how recipients of public funding for transportation for the public can comply with the mandate to coordinate public transportation services in the State. This rulemaking details the forms to fill out, timeline for compliance, and role of the Transportation Coordination Advisory Committee. No jobs are impacted by this rulemaking.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 10 to 10:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 540 716 867#
January 28, 2026 2 to 2:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 492 215 555#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 910 and adopt the following **new** chapter in lieu thereof:

CHAPTER 910
COORDINATION OF PUBLIC TRANSIT SERVICES

761—910.1(324A) Definitions. For purposes of this chapter, the following definitions apply in addition to the definitions in Iowa Code section 324A.1:

"Council" means the statewide transportation coordination advisory council formed in rule 761—910.3(324A).

"Emergency transportation" means transportation provided when life, health or safety is in danger, such as ambulance or law enforcement transportation.

"Incidental transportation" means the provision of transit rides when existing public transportation services cannot meet demand.

"Provider" means any recipient of direct or indirect, state, federal or local funds, including a public transit system, that provides or contracts for public transit services.

"Public school transportation" means passenger transportation provided by or for a legally organized Iowa public school district for school district purposes.

"Public transit service" means any publicly funded passenger transportation for the general public or for specific client groups not including exclusive public school transportation, emergency transportation or incidental transportation or transportation provided by the department of health and human services or department of corrections on the grounds of the following institutions:

State training school, Eldora;
Cherokee mental health institute;
Independence mental health institute;
Woodward resource center;
Civil commitment unit for sexual offenders, Cherokee;
Iowa veterans home, Marshalltown;
Iowa state penitentiary, Fort Madison;
Anamosa state penitentiary;
Iowa correctional institution for women, Mitchellville;
Mount Pleasant correctional facility;
Newton correctional facility;
Iowa medical and classification center, Coralville;
North central correctional facility, Rockwell City;
Fort Dodge correctional facility;
Clarinda correctional facility.

This rule is intended to implement Iowa Code section 324A.1.

761—910.2(17A) Information and location. Forms or information about the coordination of public transit services are available from the Modal Transportation Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone 515.233.7870 or on the department's website at iowadot.gov/modes-travel/transit.

This rule is intended to implement Iowa Code section 17A.3.

761—910.3(324A) Statewide transportation coordination advisory council.

910.3(1) *Purpose.* An advisory council will be formed by the department to assist with implementation of the compliance reviews required by statute. The council will assist in the review of information concerning the transportation operations of providers and advise the department as to whether the provider should be found to be in compliance with the transportation coordination mandate of Iowa Code chapter 324A.

910.3(2) *Advisory council.*

a. Membership. Membership in the council shall at minimum include one representative from the department of health and human services and one from the department. Other state, federal and private agencies funding local transportation services may also be granted membership.

b. Chairperson. The director of transportation or the director's representative shall serve as chairperson of the council.

c. Staff. Staff support for council activities will be provided by the department.

d. Meetings. Meetings will be held at least once each quarter and may be held more frequently if necessary to enable the council to expeditiously discharge its duties.

910.3(3) *Duties.* The council shall:

a. Review and make recommendations to the member agencies concerning guidelines and criteria for the review process operated by the council.

b. Provide the department with written recommendations for findings of compliance or noncompliance with the transportation coordination mandate of Iowa Code chapter 324A for individual providers based upon review of each provider's request for certification.

c. Upon request of a member agency, review all transportation components of funding applications or plans submitted by a recipient of the member agency.

d. Advise and make recommendations to the department concerning public transportation policy.

This rule is intended to implement Iowa Code sections 324A.4 and 324A.5.

761—910.4(324A) Certification process.

910.4(1) *Requirement for certification.* All providers are required to request a certification of compliance with the transportation coordination mandate of Iowa Code chapter 324A by submitting the certification application form in the Appendix to this rule plus a copy of a certificate of insurance or documentation of self-insurance. Agencies that provide a mixture of public transit service and other service will request certification based on that part of their overall operation that is public transit service.

910.4(2) *Form distribution.*

a. Recipients of state or state-administered funds. Each state agency in its own funding application or contract process will require each recipient of funding to submit a request for certification of compliance.

b. Recipients of other funds. The department will contact local governments and federal agencies to determine whether they are funding any providers that are not funded through the state. The department will send to any providers identified in this way, or by other means, an explanation of the certification requirement and a copy of the certification request form in the Appendix.

910.4(3) *Submission of request forms.*

a. Recipients of state funds shall submit both the certification application and the certificate of insurance forms annually to the funding agency.

b. Recipients of funds from multiple sources may submit a single request form to all state funding sources if it covers all agency transportation functions.

c. Providers not receiving any funds from state agencies are to return their completed forms within 20 working days of receipt.

d. Agencies or organizations that receive a form from the department and believe that none of their services fit the definition of public transit services are to respond to the department within 20 working days of receipt, stating this belief and providing a brief description of any passenger transportation service they do provide and why it should not be considered public transit service.

910.4(4) *Incomplete or unreturned request forms.*

a. Forms submitted to a state funding agency as part of a funding application will be reviewed for completeness by that agency within ten working days.

b. Forms submitted directly to the department by its recipients or by providers not receiving state or state-administered funds will be reviewed for completeness by the department within ten working days.

c. The reviewing agency will inform the provider in writing of any information deficiencies and allow ten working days from receipt for submittal of missing information.

d. Each state agency will report to the council each case in which a provider has failed upon notification to supply the necessary information within the required time frame.

e. All completed request forms submitted to state funding agencies will be forwarded to the council staff within five working days after verifying completeness.

910.4(5) *Processing requests.*

a. The council staff will evaluate completed requests based on the compliance standards found in rule 761—910.5(324A) and make a recommendation for a finding of compliance or noncompliance to the council within 20 working days of receiving the completed request form.

b. Ten working days prior to the council's scheduled quarterly meeting, the council staff will distribute to each council member and to the respective providers a meeting agenda and copies of all compliance-finding recommendations completed since the previous agenda mailing.

c. At the council's quarterly meeting, the council will consider the compliance-finding recommendations of the staff and may accept the staff recommendations as the council's recommendations to the director of transportation, change the recommendations and provide a statement of reasons, or defer action pending further review.

d. Upon consideration of the council recommendations, the department will make a final finding of compliance or noncompliance and notify the provider and the state funding agency, if applicable, in writing of the department's decision within five working days after the council meeting.

This rule is intended to implement Iowa Code section 324A.4.

761—910.5(324A) Standards for compliance. A provider shall be found compliant if the provider meets both of the following standards:

910.5(1) All vehicles used for the public transit services it provides or contracts for are insured for $1 million per accident for all hazards or the provider maintains a self-insurance fund adequate to provide equivalent protection.

910.5(2) The provider:

a. Purchases all services from a designated public transit system, or

b. Operates all services open to the public under contract with and under control of a designated transit system, or

c. Purchases all services from a private-for-profit operator of public transit services, or

d. Operates its own services, which:

(1) The designated public transit system is currently unable to provide, or

(2) When considered as a whole using fully allocated costs, prove to be more economical than the purchase of equivalent services from the designated public transit system.

e. Uses a combination of services in paragraphs 910.5(2)*"a," "b," "c,"* and *"d."*

This rule is intended to implement Iowa Code section 324A.4.

761—910.6(324A) Noncompliance. A provider shall be found noncompliant if:

910.6(1) The provider has not submitted required data upon expiration of either the original submittal deadline or the additional ten-day grace period after written notification of deficiencies in an original submittal.

910.6(2) The provider's request for certification has been processed and the provider did not qualify for a finding of compliance.

This rule is intended to implement Iowa Code section 324A.4.

761—910.7(324A) Noncompliant sanctions. A provider that is denied certification and continues the noncompliant activities for more than 30 days shall be subject to the penalties and sanctions specified in Iowa Code section 324A.5(2).

910.7(1) If the department of health and human services purchases services from the noncompliant provider, the department will notify the department of health and human services of the noncompliant finding.

910.7(2) If the noncompliant provider is a recipient of public funds from other than the department of health and human services, the department will notify the proper authority as required in Iowa Code section 324A.5.

This rule is intended to implement Iowa Code sections 324A.4 and 324A.5.

761—910.8(324A) Revocation.

910.8(1) If certification is revoked, the department will send a written notice of revocation to the provider.

910.8(2) The affected public transit system, the provider and the department are to meet within ten days after the date of the revocation notice to determine an acceptable amendment of the transportation services. The amendments that are agreed upon shall become effective within 60 days. The contract between the provider and the affected public transit system shall be amended, if necessary, to agree with the service changes.

910.8(3) If the transportation services are not amended in a timely manner, the department will initiate actions as required in Iowa Code section 324A.5(2).

This rule is intended to implement Iowa Code section 324A.5.

Appendix to rule 761—910.4(324A)

Date

FY

CERTIFICATION APPLICATION

State/Federal Administering Agency _____

I. GENERAL INFORMATION:

Agency Name: _____

Address: _____

_____

Contact Person: _____ Phone:(_____)_____

Service Area (counties): _____

Types of Clients: _____

Types of Services: _____

_____

Does agency provide transportation services? Yes _____ No _____

Does agency use public funds for transportation? Yes _____ No _____

II. TRANSPORTATION ACTIVITIES:

Population groups served: Elderly _____ Youth Economically Deprived _____ Public _____

Persons with physical disabilities _____ Persons with mental disabilities _____ Other _____

Describe others: _____

_____

Services Accessed: Medical _____ Day Care _____ Shopping _____ Nutrition _____ Employment _____

Recreation _____ Education/training _____ Other social services _____

What percent of your transportation service (in terms of miles driven) is operated during the following time periods?

_____ % weekdays + _____ % evenings + _____ % weekends = 100%

Is any part of agency's transportation purchased from an urban or regional transit system?

Yes _____ No _____ If yes, please indicate system:

_____

III. AGENCY OPERATED VEHICLE FLEET:

Year/ Model	Seats/ Wheelchairs	Special Equipment*	% Used for Passengers	Average Monthly Ridership	Average Monthly Vehicle Miles	Owned/ Leased

* Two-way radio, wheelchair lift, ramp, etc.

IV. FUNDING SOURCES USED FOR SUPPORT OF TRANSPORTATION: **Total $ _____**

Source	Federal	State	Local	Annual Total
1.				$
2.				$
3.				$
4.				$
5.				$
6.				$
Total	----------	----------	----------	$

V. PURCHASE OF SERVICE (Contracts and Vendor Agreements): **Total $ _____**

	Average Monthly Ridership	Average Monthly Vehicle Miles	Projected Annual Expenditures
Taxi			$
Intracity bus			$
Regional/Urban Transit System			$
Other - specify			$
Total	----------	----------	$

VI. OPERATION OF OWN TRANSPORTATION SERVICE: **Total $ _____**

STAFF	Number	% of Time	Projected Annual Expenditures
Administrative			$
Drivers			$
Maintenance			$
Professional			$
Escorts			$
Volunteers reimbursement		$ /mile	$
Other - specify			$
Subtotal	----------	----------	$

VEHICLE OPERATING COSTS	Projected Annual Expenditures
Fuel and oil	$
Maintenance and repair	$
Insurance	$
Licenses and fees	$
Staff mileage reimbursement $ /mile	$
Indirect cost or overhead	$
Other - specify	$
Subtotal	$

PURCHASE OR LEASE OF VEHICLES AND SPECIAL EQUIPMENT

Vehicle Type	No. to be Leased	No. to be Purchased	No. for Replacement	No. for Expansion	Special Equipment	Projected Annual Cost
						$
						$
						$
Subtotal	----------	----------	----------	----------	----------	$

Note: The total funding in Section IV should equal the total expenditures in Section V plus Section VI.

ARC 9885C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to school transportation services provided by regional transit systems and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 911, "School Transportation Services Provided by Regional Transit Systems," Iowa Administrative Code, and to adopt a new Chapter 911 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 321.377.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 321.1, 321.189, 321.343, 321.375 through 321.377 and 324A.1.

Purpose and Summary

This proposed chapter establishes standards for school transportation services provided by Iowa's regional transit systems under contract with local schools.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025. A public hearing was held on the following date(s):

- November 6, 2025

The Department received no comments.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa. This proposed chapter outlines the requirements for regional public transit agencies to provide school transportation, allowing transit agencies and school districts to coordinate provision of student transportation.

Jobs Impact

This proposed chapter explains how school districts can coordinate with regional transit systems to provide school transportation. No private sector jobs are impacted by this proposed rulemaking.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 9:30 to 10 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 148 136 587#
January 28, 2026 2:30 to 3 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 917 640 938#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 911 and adopt the following **new** chapter in lieu thereof:

CHAPTER 911
SCHOOL TRANSPORTATION SERVICES PROVIDED
BY REGIONAL TRANSIT SYSTEMS

761—911.1(321) Purpose and information.

911.1(1) *Purpose.* This chapter establishes standards for school transportation services provided by Iowa's regional transit systems under contract with local schools.

911.1(2) *Information.* Information and forms may be obtained from the Modal Transportation Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone 515.233.7870; or the department's website at www.iowadot.gov/transit.

761—911.2(321,324A) Definitions. The definitions in Iowa Code sections 321.1 and 324A.1 apply to this chapter. In addition:

"Bus" means a motor vehicle, excluding a trailer, designed to carry ten or more persons.

"School bus" means a bus that complies with all federal motor vehicle safety standards applicable to a school bus.

"School transportation service" means transit service provided under contract to a public or nonpublic school or other group, including day care centers, to transport students to or from schools or school-sponsored activities.

"Student" means a person attending a public or nonpublic school, grades prekindergarten through high school, including a Head Start participant.

"Vehicle" means an automobile, multipurpose vehicle, bus or school bus, including as defined in this rule.

761—911.3(321) Services to students as part of the general public. All services provided by regional transit systems must be open to the public. This chapter shall not be construed to restrict the use of these services by any individual fare-paying passenger, in either fixed route or demand response service.

761—911.4(321) Contracts for nonexclusive school transportation. Regional transit systems may contract with schools, day care providers, after-school program providers or others to provide

nonexclusive school transportation service that meets the requirements of this chapter. Exclusive service contracts are prohibited.

761—911.5(321) Adoption of federal regulations.

911.5(1) *Code of Federal Regulations.* The department adopts the following portions of the October 1, 2024, Code of Federal Regulations, which are referenced throughout this chapter:

a. 49 CFR Part 38, Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.

b. 49 CFR Part 571, Federal Motor Vehicle Safety Standards.

c. 49 CFR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

911.5(2) *Obtaining copies of regulations.* Copies of these regulations are available from the state law library or online through the U.S. Government Publishing Office at www.ecfr.gov.

761—911.6(321) Driver standards. The following standards apply to regional transit system drivers assigned to provide school transportation service.

911.6(1) *Federal Transit Administration (FTA) drug and alcohol testing.* Each driver is subject to the following testing for drug and alcohol usage as detailed by the FTA in 49 CFR Part 655, including:

a. Preemployment testing.

b. Reasonable suspicion testing.

c. Postaccident testing.

d. Random testing.

e. Return to duty testing.

f. Follow-up testing.

911.6(2) *Training.* Each driver must, before or within the first 6 months of assignment and at least every 24 months thereafter, complete a course of instruction approved by the department of education in accordance with Iowa Code section 321.376.

911.6(3) *Driving record check.* The regional transit system must review the driving record of each driver prior to assignment and on an annual basis.

911.6(4) *Criminal record check.* The regional transit system must conduct a criminal records review of each driver prior to assignment and on an annual basis. This review verifies that the driver has no history of child abuse or other criminal activity.

911.6(5) *Driver licensing.* Each driver must be licensed appropriately for the size and type of vehicle used as provided in Iowa Code section 321.189. A Class A, B or C commercial driver's license with passenger endorsement may be required. A driver may operate the vehicle for purposes of training if the driver has the appropriate commercial learner's permit as described in 761—Chapter 607, and the restrictions in rule 761—607.20(321) shall apply. If a commercial driver's license is not required, a Class D (chauffeur) license is required.

911.6(6) *Authorization to operate a school bus.* Each driver who transports students must have an authorization to operate a school bus issued by the department of education in accordance with Iowa Code section 321.376.

911.6(7) *Physical fitness.*

a. Each driver who transports students must undergo a physical examination by a certified medical examiner who is listed on the National Registry of Certified Medical Examiners in accordance with Iowa Code section 321.375(1)*"d"* and with rule 281—43.15(285) or 281—43.17(285). Annually, the driver must submit the signed medical examiner's certificate to the driver's employer.

b. Upon a commercial driver's license issuance or renewal, the driver shall self-certify as to the type of driving the driver does and, if required, provide a current medical examiner's certificate to the department unless the driver's medical examiner's certification is provided to the department electronically by the Federal Motor Carrier Safety Administration pursuant to 761—paragraph 607.37(1)*"a"* and 761—subrule 607.50(2).

761—911.7(321) Vehicle standards. The following standards apply to regional transit system vehicles assigned to provide school transportation service.

911.7(1) *Vehicle construction.*

a. Each vehicle must be constructed in compliance with the federal motor vehicle safety standards for that type of vehicle as set forth in 49 CFR Part 571. The capacity rating of automobiles and multipurpose vehicles shall not be modified or altered in any way except by the original manufacturer.

b. Each bus in use must also comply with the following federal motor vehicle safety standards:

(1) Standard No. 217, Bus Emergency Exits and Window Retention and Release. Buses utilized for school transportation shall incorporate a rear emergency exit door in meeting this standard.

(2) Standard No. 220, School Bus Rollover Protection.

(3) Standard No. 221, School Bus Body Joint Strength.

(4) Standard No. 301, Fuel System Integrity.

911.7(2) *Passenger restraint/protection.* Each automobile, multipurpose vehicle or school bus must provide passenger restraint/protection devices as required for that type of vehicle in the federal motor vehicle safety standards. Each bus must meet the standards listed in either paragraphs 911.7(2)*"a"* through *"f"* or paragraph 911.7(2)*"g"*:

a. Standard No. 207, Seating Systems.

b. Standard No. 208, Occupant Crash Protection.

c. Standard No. 209, Seat Belt Assemblies.

d. Standard No. 210, Seat Belt Assembly Anchorages.

e. Standard No. 213, Child Restraint Systems.

f. Standard No. 225, Child Restraint Anchorage Systems.

g. Standard No. 222, School Bus Passenger Seating and Crash Protection.

911.7(3) *Accessibility for persons with disabilities.* Each vehicle used for students with disabilities must comply with all applicable provisions of 49 CFR Part 38.

911.7(4) *Signage.* A vehicle must not be signed as a school bus.

911.7(5) *Department of education inspection.* Every vehicle must be inspected twice annually by the department of education school bus inspectors and officers of the Iowa state patrol to determine if the vehicle meets all vehicle standards set forth in this chapter. The department of education will notify each regional transit system of the dates and locations of scheduled inspections. Inspections must be documented on a form prescribed jointly by the departments of transportation and education.

911.7(6) *Transfer to another public transit system.* When a public transit system purchases a used vehicle from another public transit system, the previous owner's department of education's bus inspections stickers must be removed. If the purchasing public transit system plans to use the vehicle for school transportation service, a new inspection must be performed on the vehicle.

761—911.8(321) Maintenance. Regional transit system vehicles assigned to provide school transportation service must be maintained in a safe and operable condition. The following maintenance practices apply.

911.8(1) *FTA drug and alcohol testing of mechanics.* With the exception of mechanics providing vehicle maintenance services under contract to a regional transit system-recipient of funding from 49 U.S.C. 5311, all personnel providing maintenance services on regional transit system vehicles are subject to drug and alcohol testing as required by the FTA in 49 CFR Part 655.

911.8(2) *Daily pretrip vehicle inspections.* Drivers of these vehicles must perform daily pretrip vehicle inspections using a form prescribed by the department or a mobile application including the same information. Regional transit systems must retain daily pretrip vehicle inspection reports and documentation of follow-up maintenance for one year.

911.8(3) *Annual vehicle inspection.* Maintenance personnel must annually inspect each vehicle. Regional transit systems must retain annual vehicle inspection records for one year.

761—911.9(321) Safety equipment. Regional transit system vehicles assigned to provide school transportation service must carry the following safety equipment.

911.9(1) *Communication equipment.* Each vehicle must be equipped with a two-way radio, cellular telephone, or mobile data terminal tablet capable of emergency communication between the vehicle and the regional transit system's base of operations.

911.9(2) *First-aid/body fluids cleanup kit(s).* Each vehicle must be equipped with a first-aid kit of sufficient size and content for the capacity of the vehicle and be equipped with a body fluid cleanup kit. These may be provided as separate kits or combined into one kit. The contents of the kit(s) must be contained in one or more moistureproof and dustproof container(s) stored in an accessible location within the driver's compartment and must be removable from the vehicle in an emergency.

911.9(3) *Fire extinguisher.* Each bus or school bus must be equipped with a minimum 5-pound capacity, dry chemical fire extinguisher. Each automobile and multipurpose vehicle must be equipped with an extinguisher of at least 2.5-pound capacity. Extinguishers must have a 2A-10BC rating. All fire extinguishers shall be inspected and maintained in accordance with the National Fire Protection Association requirements. The standards for portable extinguishers are available online from the National Fire Protection Association at www.nfpa.org.

911.9(4) *Seatbelt web cutter.* A seatbelt web cutter must be mounted or placed within reach of the driver.

911.9(5) *Roadside reflective triangles.* Each vehicle must be equipped with roadside reflective triangles for use in case of breakdown or emergency.

911.9(6) *Flashlight.* Each vehicle must be equipped with an operable flashlight, or each driver must be assigned an operable flashlight to be in the vehicle at all times of operation.

911.9(7) *Reflective vest.* Each vehicle must be equipped with a reflective vest, or each driver must be assigned a reflective vest that must be in the vehicle at all times of operation. Individual regional transit systems are to establish a policy for when the reflective vests must be worn.

761—911.10(321) Operating policies. School transportation services provided by regional transit systems must be designed to maximize the safety of student riders and must, at a minimum, meet the following standards.

911.10(1) *Passenger loading/unloading.* Unless prohibited by law, students transported in vehicles other than school buses must be loaded and unloaded on the same side of the street as their residence or other origin or destination. Students may be released only to the custody of a designated school official, parent or guardian, employee of the department of health and human services, or law enforcement official, unless other arrangements are made in advance.

911.10(2) *Student passenger behavior and discipline policy.* Each contract for school transportation service must include a policy relating to the behavior of students while they ride in vehicles. The regional transit system or school must provide instruction to all drivers assigned to school transportation service relative to the content and application of the policy. If a student is removed from a vehicle for one or more policy violations, the student may be released only to the custody of a school official, parent or guardian, employee of the department of health and human services or a law enforcement officer. In all cases, the school must be notified immediately of any such disciplinary action, and a written report must be filed with the school describing the circumstances resulting in the removal.

911.10(3) *Standing prohibited.* Under no circumstances shall a student be permitted or required to stand while a vehicle is in motion. Every student must be provided an appropriate seat at all times.

911.10(4) *Stops at rail crossings.* Every driver must make a complete stop before driving across the tracks of any railroad crossing in accordance with Iowa Code section 321.343.

911.10(5) *Accident reporting.* If a driver is involved in a collision or other incident causing or having a potential to cause injuries to students, the regional transit system must immediately notify the school of the incident. The regional transit system must file all accident reports required by law. In addition, the regional transit system must complete a school bus accident report on a form prescribed by the department of education and submit it to the school or the department of education.

911.10(6) *Passenger instruction/evacuation drills.* Each school must provide students assigned to school transportation service with school bus passenger safety instruction and emergency evacuation

drills at least twice each school year. These evacuation drills must involve a vehicle of the same type used to provide the school transportation service.

911.10(7) *Special training for drivers carrying students with disabilities.* Each school contracting for school transportation services for a student with one or more disabilities must provide the regional transit system with information on any special needs of the student and, if necessary, provide the assigned driver with appropriate information and training on how to appropriately respond to the needs of the student during transit and in the event of an emergency.

911.10(8) *Posttrip inspection.* After each trip that had students on board, the driver must perform a posttrip inspection of the interior of the vehicle. The posttrip inspection must include a walk-through to the back of the vehicle to ensure no sleeping or hiding children are left behind.

These rules are intended to implement Iowa Code sections 321.1, 321.189, 321.343, 321.375 through 321.377 and 324A.1.

ARC 9871C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rulemaking related to state transit assistance and providing an opportunity for public comment

The Transportation Department hereby proposes to rescind Chapter 920, "State Transit Assistance," Iowa Administrative Code, and to adopt a new Chapter 920 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 324A.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 324A.4.

Purpose and Summary

This proposed chapter is intended to implement Iowa Code chapter 324A, which provides applicant eligibility and project requirements for the receipt of State Transit Assistance funding.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025. A public hearing was held on the following date(s):

- November 6, 2025

The Department received no comments.

Fiscal Impact

This proposed rulemaking has no fiscal impact to the State of Iowa. This proposed rulemaking explains the types of projects that may be funded with State Transit Assistance, a funding program distributed entirely to Iowa's designated public transit systems.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Ryan Pell
Department of Transportation
DOT Rules Administrator, Office of the Director
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1358
Email: ryan.pell@iowadot.us

Public Hearing

Public hearings at which persons may present their views orally will be held as follows:

January 28, 2026 9 to 9:30 a.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 376 193 737#
January 28, 2026 3 to 3:30 p.m.	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 853 221 925#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing impairments, should contact Ryan Pell and advise of specific needs.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 761—Chapter 920 and adopt the following **new** chapter in lieu thereof:

CHAPTER 920
STATE TRANSIT ASSISTANCE

761—920.1(324A) Statement of policy. State financial assistance to any public transit system is restricted to joint projects with the department that hold substantial promise of accomplishing the following goals:

920.1(1) Development, maintenance and improvement of transit services for the general public and for transportation disadvantaged persons.

920.1(2) Protection of the rights of private enterprise public transit providers, especially those providing intercity scheduled services on fixed routes.

920.1(3) Improvement of transit system effectiveness and efficiency.

761—920.2(324A) General information. The department will post annually the required forms and instructions for applying for state transit assistance through an online portal furnished to the transit systems by the department and notify each public transit system in Iowa of the availability. Requests for assistance and questions about application preparation should be directed to: Modal Transportation Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone 515.233.7870. For more information, visit www.iowadot.gov/modes-travel/transit.

761—920.3(324A) Definitions. The definitions in Iowa Code section 324A.1, except for the definition of "urban transit system," apply to this chapter. In addition:

"Formula assistance" means state transit assistance appropriations minus funds reserved for special projects.

"Operating deficit" means the funding gap remaining after subtracting the passenger revenues from the service's operating costs.

"Project" means a concerted set of actions that will develop, maintain, or improve one or more elements of the public transit system's service.

"Urban transit system" means a system designated by the department that meets the requirements of Iowa Code section 324A.1(8). To be designated as an urban transit system for the purposes of this chapter, the system must serve a city or urbanized area with a population of 20,000 or more. The system also must be managed by a board of local officials who have either been elected by the public or appointed by elected officials, and who are responsible for policy and oversight of transit services for one or more incorporated areas within Iowa.

761—920.4(324A) Types of projects.

920.4(1) *Formula projects.* A formula project may involve operations assistance, capital assistance, planning or any combination of the three. These projects are developed with input from the appropriate planning agencies and shall ensure public participation and discussion.

920.4(2) *Special projects.*

a. Special projects are extraordinary, emergency or innovative in nature and may include but are not limited to the following purposes:

(1) Expanding the scope of planning, managerial, or technical expertise.

(2) Increasing the public's awareness and understanding of transit.

(3) Enhancing the capacity for administration consolidation and service coordination.

(4) Reducing impediments to intramodal or intermodal transfers.

(5) Increasing the cooperation and coordination between private and public sectors.

(6) Developing, demonstrating, or refining a technical, procedural, or mechanical innovation that may be utilized by other public transit systems in Iowa.

(7) Responding to an emergency situation that places an extraordinary and unforeseen strain on the resources of a public transit system.

b. Applications for training fellowships may be submitted to the department at any time.

c. Applications for special projects are due to the department by October 1 each year. The department may announce to the public transit systems the acceptance of special project applications at other times of the year if unobligated funds are available.

761—920.5(324A) Standards for projects.

920.5(1) *Requirements for transit system.* A public transit system is eligible for project assistance if the system is in compliance with all the following criteria. The transit system:

a. Abides by all applicable state and federal laws and regulations.

b. Maintains primary documentation for all revenues and expenses for a period of at least three years after contract closeout.

c. Maintains the system's policies, routes, schedules, fare structure and budget in a manner that encourages public review, responsiveness to user concerns, energy conservation and fiscal solvency.

d. Received departmental approval of the system's plan or schedule for repayment of any loan administered by the department.

e. Accurately reports all services to be supported with project formula assistance and ensures that all services are open to the general public.

920.5(2) *Project conditions.* The department will obligate state transit assistance for joint projects that meet the following criteria:

a. Each project must be included in the current year of the locally adopted transportation improvement program.

b. Each project shall contain payment criteria, through the contract, which are mutually agreed upon by the department and the contracting officer of the transit system.

c. Each special project shall have a preestablished basis for determining success using a specified means of performance measurement and include a detailed budget of the resources available and the assistance necessary for implementation.

d. State assistance for a special project involving capital expense shall not exceed 85 percent of the project's total capital expense. State assistance for a special project involving operating support shall not exceed 80 percent of the project's total operating deficit in the first year and 50 percent of the project's total operating deficit in the second year.

920.5(3) *Items not eligible for assistance.*

a. Administrative, operations or capital expenses that are determined by the department to be inconsistent with department policies, public law, officially approved planning and programming documents or inconsistent with the purpose of improving the effectiveness and quality of transit services.

b. Development of managerial, administrative or operational systems that duplicate programs made available at no charge to the transit system by the department.

920.5(4) *Determination of system eligibility for formula assistance.*

a. Prior to the beginning of each fiscal year, each state-designated public transit system's formula percentage will be determined through the process shown in the appendix located at the end of this chapter.

(1) Transit system data used in determining formula percentage is based only on services that are open to the general public and is derived from the last fiscal year for which complete information is available.

(2) The process shown in the appendix establishes the percentage of available state transit assistance funds not reserved for special projects for which each transit system is eligible during the fiscal year.

b. The amount of each system's eligibility for formula assistance from this appropriation will be determined by multiplying the system's formula percentage by the amount of the appropriation not reserved for special projects.

c. If the dollar amount of state transit assistance is not known until the funds are actually deposited in the state transit assistance account, the amount of each system's eligibility for formula assistance from these funds will be determined as follows: At the beginning of each month, the system's formula percentage will be multiplied by the amount of new funds not reserved for special projects that were deposited in the state transit assistance account during the previous month.

d. A transit system's eligibility for programmed project assistance may be reduced if it is subject to the sanctions outlined in Iowa Code section 324A.5 or 761—Chapter 910.

920.5(5) *Determination of amount reserved for special projects.* Each fiscal year, at least $300,000 will be reserved from state transit assistance appropriations for special projects. Any special project funds not obligated in the previous fiscal year and any funds made available through closeout of previously approved projects may also be reserved for special projects. Special project funds are distributed by the department on a discretionary basis in accordance with subrule 920.4(2).

761—920.6(324A) Processing.

920.6(1) *Review and recommendation.* The department will review the proposed projects and, based on available funds and the project priorities established by the transit systems, prepare a set of funding recommendations.

920.6(2) *Approval and agreement.* Upon approval of the projects by the transportation commission, the department will prepare a contract and send it to each public transit system for execution.

920.6(3) *Advance payment allowed.* Each transit system with a signed contract may be paid formula assistance monthly starting on the execution date of the contract, one-twelfth (or 8.33 percent) of the total contract amount, in advance of project expenditures, if all of the following conditions are met:

a. The transit system included in its application for state transit assistance a request for advance allocations as set forth in Iowa Code section 324A.6.

b. The transit system is current on all reporting required by the department.

c. The transit system is current on all scheduled repayments under loan contracts from the department.

d. The application for advance allocation includes:

(1) The name of the transit system.

(2) A specific statement of the reasons why an advance allocation is required by the transit system.

(3) The signature of the contract officer of the transit system and the date of the signature.

e. The department will give consideration to the following items in determining the approval, disapproval or deferment of advance allocation applications:

(1) The justification submitted with the application pursuant to paragraph 920.6(3)*"d."*

(2) The department's previous experience with the transit system making application, including but not limited to the following:

1. Timeliness of contract and application materials as assessed by the department.

2. Fiscal management capability of the transit system as assessed by the department.

f. If the department defers or disapproves of the transit system's application for advanced allocation of formula assistance, the department will notify the transit system with reasons for that decision.

g. Any transit system that receives advance allocation payments shall deposit the funds in a separately identified interest-bearing account until such time as the funds are expended on costs incurred by the transit system. All income derived from interest-bearing accounts and investments shall be credited to the transit system and its transit accounts as a nonoperating or nontransportation revenue.

761—920.7(324A) Reporting.

920.7(1) Transit systems receiving state transit assistance shall provide quarterly and end-of-the-year financial and statistical reports to the department in the manner and within the time limits described in the state transit assistance contract. These reports shall be made through an online portal furnished to the transit systems by the department.

920.7(2) Failure to file quarterly and end-of-the-year financial and statistical reports by any transit system with the department in the manner and within the time limits described in the state transit assistance contract shall be cause for withholding of state transit assistance payments. The department will notify any transit system of such actions. Withheld state transit assistance payments, both advanced and reimbursement, will resume once the transit system's required reporting is current.

761—920.8(324A) Contract closeout and audits. After the end-of-the-year financial and statistical reports are submitted or after the department has instituted any action(s) for failure to do so, the department will require an audit of the transit system's books, accounts, records and other material and information necessary to determine contract compliance. The advance allocations paid to the transit system will be taken into consideration and made part of the amount to be audited.

These rules are intended to implement Iowa Code chapter 324A.

APPENDIX TO
761—920.5(324A)

LDI — Locally determined income. All transit system revenue dedicated for operations expense during a fiscal year, minus federal operating assistance from the U.S. Department of Transportation and minus all special project operating support and formula assistance funds received from the Iowa Department of Transportation.

OpExp — Operations expense. All eligible transit system expenses related to operating, maintaining, and administering transit operations.

Pass — Passenger. A person boarding a transit vehicle for the purpose of making a trip. A passenger is counted each time that person boards a vehicle for travel to a destination.

RevMi — Revenue miles. Total vehicle miles traveled by revenue vehicles of public transit systems while in revenue service. Excludes miles traveled to and from storage facilities and other deadhead travel.

Iowa State Transit Assistance Formula Percentage Allocation

Regional System Allocation

$$\frac{\text{Regional RevMi}}{\text{Sum of Regional and Urban RevMi}} = \text{Total Regional Systems Allocation} \times \left(.50 \times \left(\frac{\text{System LDI}}{\text{Total Regional LDI}} \right) + .25 \times \left(\frac{\text{System Pass to OpExp ratio}}{\text{Sum of Regional Pass to OpExp ratios}} \right) + .25 \times \left(\frac{\text{System RevMi to OpExp ratio}}{\text{Sum of Regional RevMi to OpExp ratios}} \right) \right) = \text{Individual Regional System Formula Allocation}$$

Urban System Allocation

$$\frac{\text{Urban RevMi}}{\text{Sum of Regional and Urban RevMi}} = \text{Total Urban Allocation} \times \left(.50 \times \left(\frac{\text{System LDI}}{\text{Total Urban LDI}} \right) + .25 \times \left(\frac{\text{System Pass to OpExp ratio}}{\text{Sum of Urban Pass to OpExp ratios}} \right) + .25 \times \left(\frac{\text{System RevMi to OpExp ratio}}{\text{Sum of Urban RevMi to OpExp ratios}} \right) \right) = \text{Individual Urban System Formula Allocation}$$

ARC 9940C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to employer's contribution and charges and providing an opportunity for public comment

The Workforce Development Department hereby proposes to amend Chapter 23, "Employer's Contribution and Charges," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 96.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 96.

Purpose and Summary

The purpose of this proposed subrule is to provide guidance on submitting an employer liability appeal pursuant to Iowa Code chapter 96.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 26, 2025. A public hearing was held on the following date(s):

- December 16, 2025

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 for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Jeffrey Koncsol
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.725.5400
Email: jeffrey.koncsol@iwd.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 9 to 9:30 a.m.	Microsoft Teams Meeting ID: 291 351 978 325 45 Passcode: yx2d3mH9 Dial in by phone: +1 469.998.6043 Phone conference ID: 574 758 745#
January 27, 2026 1 to 1:30 p.m.	Microsoft Teams Meeting ID: 286 818 540 628 8 Passcode: DH7DX7tW Dial in by phone: +1 469.998.6043 Phone conference ID: 181 837 953#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.725.5400 or via email at jeffrey.koncsol@iwd.iowa.gov at least 48 hours prior to the hearing date.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind subrule 23.52(3) and adopt the following **new** subrule in lieu thereof:

23.52(3) The appeal shall be addressed or delivered to: Department of Workforce Development, Tax Bureau, 1000 East Grand Avenue, Des Moines, Iowa 50319. Appeals that are received by the tax bureau after 11:59 p.m. central time will be deemed filed as of the next regular business day.

ARC 9939C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to contested case proceedings and providing an opportunity for public comment

The Workforce Development Department hereby proposes to rescind Chapter 26, "Contested Case Proceedings," Iowa Administrative Code, and to adopt a new Chapter 26 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 17A and 96.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 96.

Purpose and Summary

The purpose of this proposed chapter is to provide procedures for contested case proceedings brought pursuant to Iowa Code chapter 96.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 26, 2025. A public hearing was held on the following date(s):

- December 16, 2025

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 for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on January 27, 2026. Comments should be directed to:

Jeffrey Koncsol
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.725.5400
Email: jeffrey.koncsol@iwd.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

January 27, 2026 9:30 to 10 a.m.	Microsoft Teams Meeting ID: 230 290 607 809 82 Passcode: cY3DL75W Dial in by phone: +1 469.998.6043 Phone conference ID: 595 560 643#
January 27, 2026 1:30 to 2 p.m.	Microsoft Teams Meeting ID: 219 074 431 720 19 Passcode: Lk32QN6y Dial in by phone: +1 469.998.6043 Phone conference ID: 596 196 34#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.725.5400 or via email at jeffrey.koncsol@iwd.iowa.gov at least 48 hours prior to the hearing date.

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).

The following rulemaking action is proposed:

ITEM 1. Rescind 871—Chapter 26 and adopt the following **new** chapter in lieu thereof:

CHAPTER 26
CONTESTED CASE PROCEEDINGS

871—26.1(17A,96) Applicability. The rules in this chapter govern the procedures for contested case proceedings brought pursuant to Iowa Code chapter 96.

871—26.2(17A,96) Definitions. Terms defined in the Iowa employment security law and the Iowa administrative procedure Act and that are used in these rules shall have the same meaning as provided by such laws. In addition, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Contested case" means a proceeding defined in Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case in Iowa Code section 17A.10A. It specifically includes any appeal from a determination of a representative of the department or any appeal or request for a hearing by an employer or employing unit from an experience rating, charge determination or other decision affecting its liability. Except as provided in subrule 26.16(4), a final decision of the employment appeal board of the department of inspections, appeals, and licensing shall constitute final agency action. A presiding officer's decision shall be the final decision of the department if there is no appeal therefrom to the employment appeal board of the department of inspections, appeals, and licensing or if the appeal is made directly to the district court in lieu of filing an appeal with the employment appeal board of the department of inspections, appeals, and licensing.

"Presiding officer" means an administrative law judge employed by the department of inspections, appeals, and licensing.

871—26.3(17A,96) Appeal of unemployment benefits contested case.

26.3(1) An unemployment benefits contested case must be filed by a party within ten calendar days from the date noted on the initial determination. The appeal must be in writing and delivered by mail, by email, online, or in person to the department of inspections, appeals, and licensing's unemployment insurance appeals bureau at Department of Inspections, Appeals, and Licensing, Unemployment Insurance Appeals Bureau, 6200 Park Avenue, Suite 100, East Entrance, Des Moines, Iowa 50321-1270. An online appeal is filed by completing and submitting an online appeal form available in the IowaWorks digital portal.

26.3(2) The appeal should state the following:

a. The name, address and social security number of the claimant;

b. A reference to the decision from which the appeal is taken; and

c. The grounds upon which the appeal is based.

26.3(3) Notwithstanding the provisions of subrule 26.3(1), a contributory employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 30 calendar days from the mailing date of the quarterly statement of benefit charges.

26.3(4) Also notwithstanding the provisions of subrule 26.3(1), a reimbursable employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's

eligibility to receive benefits within 15 calendar days from the mailing date of the quarterly billing of benefit charges.

871—26.4(17A,96) Appeal of employer liability contested case.

26.4(1) An appeal from a decision of the tax bureau of the department concerning employer status and liability, assessments, contribution (tax) rate, successorship, workers' status, and all questions regarding coverage of a worker or group of workers must be filed by a party no later than 30 calendar days from the mailing date printed on the notice. The appeal must be in writing and delivered by mail, by email, or in person to Tax Bureau, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

26.4(2) The appeal should state the following:

a. The name, address, and Iowa employer account number of the employer;

b. The name and official position of the person filing the appeal;

c. The decision that is being appealed; and

d. The grounds upon which the appeal is based.

871—26.5(17A,96) Notice of hearing.

26.5(1) Notices of hearing shall be sent to all parties at their last-known address at least ten days in advance of the hearing date by first-class mail, email, or other electronic means. Notices of hearing shall contain the information required by Iowa Code section 17A.12(2) and any additional information required by statute or rule.

26.5(2) Unless otherwise precluded, the parties in a contested case may waive any provision of this chapter pursuant to Iowa Code section 17A.10.

26.5(3) A hearing will be promptly scheduled and conducted by telephone unless a party requests that it be held in person. In-person hearings will be located at the Wallace State Office Building or at a site designated by UIAB. The party requesting an in-person hearing will ordinarily be required to travel the greater distance if all parties are not located near the same hearing site. A request for an in-person hearing may be denied if factors such as the distance between the parties, the number of parties or the health of any party make it impractical or impossible to conduct a fair hearing in person. An in-person hearing may be scheduled at the discretion of the presiding officer to whom the contested case is assigned or by the manager or chief administrative law judge of the appeals bureau. At the discretion of the presiding officer, witnesses or representatives may be allowed to participate via telephone in an in-person hearing.

26.5(4) Whenever it appears that other parties should be joined to dispose of all issues in a contested case, the presiding officer may so order and may grant such continuance to hold such additional proceedings upon notice to all parties.

26.5(5) Any number of appeals involving similar issues of law or fact may be consolidated for hearing so long as no substantial rights of any party would be prejudiced by so doing.

871—26.6(17A,96) Recusal. A presiding officer shall withdraw from participation in the hearing or the making of any decision in a contested case in accordance with provisions outlined in rule 481—10.9(17A).

871—26.7(17A,96) Withdrawals, dismissals, and continuance.

26.7(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of a presiding officer. Requests for withdrawal may be made in writing or orally, provided the oral request is recorded by a presiding officer. An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

26.7(2) A hearing may be postponed by the presiding officer for reasons stated in 481—subrule 10.17(3), either upon the presiding officer's own motion or upon the request of any party in interest. A party's request for postponement should be made not less than three days prior to the scheduled hearing and may be in writing or oral, provided the oral request is recorded by the

presiding officer. A party shall not be granted more than one postponement except in the case of extreme emergency.

26.7(3) For good cause shown, the presiding officer may reopen the record, and with notice to all parties, schedule another hearing.

"Good cause," for purposes of this rule, is defined as an emergency circumstance that is beyond the control of the party and that prevents the party from being able to participate in the hearing. Examples of good cause include but are not limited to death, sudden illness, or accident involving the party or the party's immediate family (spouse, partner, children, parents, siblings) or other circumstances evidencing an emergency situation that was beyond the party's control and was not reasonably foreseeable.

Examples of circumstances that do not constitute good cause include but are not limited to a lost or misplaced notice of hearing, confusion as to the date and time for the hearing, failure to follow the directions on the notice of hearing, oversleeping, or other acts demonstrating a lack of due care by the party.

26.7(4) If necessary, the presiding officer may hear, ex parte, additional information regarding the request for reopening. The granting or denial of such a request may be used as grounds for appeal to the employment appeal board of the department of inspections, appeals, and licensing upon the issuance of the presiding officer's final decision in the case.

26.7(5) If good cause for reopening has not been shown, the presiding officer may make a decision based upon whatever evidence is properly in the record or, in appropriate cases, may enter default as set forth in rule 871—26.13(17A,96).

871—26.8(17A,96) Discovery.

26.8(1) Discovery procedures applicable to civil actions are available to all parties in interest in contested cases.

26.8(2) Unless otherwise limited by a protective order, discovery is not limited. Upon application by any adversely affected party or upon the presiding officer's own motion, the presiding officer may limit discovery in the following situations:

a. The discovery sought is unduly repetitious, or the information sought can be obtained by another method that is more convenient, less burdensome, or less expensive; or

b. The party seeking discovery has had prior ample opportunity to obtain the information; or

c. The discovery is unduly burdensome or expensive when viewed in the context of the factual issues to be resolved, the limited resources of the parties, and the parties' interest in prompt resolution of the contested case.

26.8(3) A party may obtain discovery regarding any matter, not privileged, relevant to the subject matter involved in the contested case, including the existence, description, nature, custody, condition and location of any tangible items and the identity and location of persons having knowledge of discoverable matters. Information may be discovered, even if inadmissible itself, if it appears reasonably calculated to lead to the discovery of admissible evidence. The names of a party's witnesses, their expected testimony, and exhibits to be offered into evidence may be obtained by discovery.

26.8(4) A party who responded to a request for discovery with a response that was complete and accurate when made need not supplement the response to include information obtained later. However, a party must promptly supplement its response to requests for the identity and location of persons having knowledge of discoverable matters and the identity of each person expected to be called to testify at the hearing, and the party must produce copies of exhibits expected to be offered into evidence at the hearing as such decisions are made. A party must also promptly amend any response if it obtains information showing that its prior response was incorrect when made or, though correct when made, is no longer correct.

26.8(5) No motion relating to discovery, including motions for imposition of sanctions, will be considered unless the moving party states that it made a good-faith but unsuccessful effort to resolve the issues raised in the motion with the opposing party without intervention by the presiding officer.

26.8(6) Upon motion by a party or the person from whom discovery is sought or by any person who may be adversely affected thereby, and for good cause shown, the presiding officer before whom

the contested case is pending may make any order that justice requires to protect a party or person from oppression or undue burden or expense. Such order may deny the request for discovery or limit terms, conditions, manner, and scope thereof.

26.8(7) A party may, in accordance with subrule 26.8(5), ask the presiding officer for an order compelling discovery if the other party fails within a reasonable time to make a complete, good-faith response. After notice to both parties and hearing on the motion, the presiding officer shall enter an order that denies or compels discovery. This order may be combined with a protective order pursuant to subrule 26.8(6).

26.8(8) Upon written request by any party or upon the presiding officer's own motion, the presiding officer may impose sanctions for the failure to respond to discovery requests; however, sanctions shall not be imposed without prior specific notice from the presiding officer of the contemplated sanction, opportunity to be heard, and, if necessary, further opportunity to cure its failure. The sanctions may include the following:

a. Postponing and rescheduling the hearing if requested by the party demonstrably prejudiced by the failure.

b. Excluding testimony of witnesses not identified in response to a specific request for such information.

c. Excluding from the record those exhibits not identified in response to a specific request for such information.

d. Excluding the party from participating in the contested case proceedings.

e. Dismissing the party's appeal.

26.8(9) Requests for discovery shall be served on the opposing party by ordinary mail or email. Responses must be served on the party requesting the discovery within ten days after the discovery request is sent unless the presiding officer grants an extension of time to comply. Requests for discovery must be made at least ten days before a scheduled contested case hearing. A party's inattention to preparation is not good cause to postpone the hearing.

871—26.9(17A,96) Ex parte communications. Ex parte communication is subject to rule 481—10.23(17A).

871—26.10(17A,96) Motions. Motion practice is subject to rule 481—10.15(10A,17A) with the following exceptions:

1. Written responses to motions may be filed within five days after the motion is served.
2. Motions pertaining to the hearing must be filed and served at least five days prior to the hearing date.

871—26.11(17A,96) Prehearing conference. Prehearing conferences are subject to rule 481—10.16(10A,17A), with the exception that requests for a prehearing conference must be filed within three days prior to hearing.

871—26.12(17A,96) Subpoenas for witnesses and documents. Subpoenas are subject to rule 481—10.14(10A,17A) and Iowa Code section 17A.13, with the exception that subpoena requests must be filed within three days prior to hearing.

871—26.13(17A,96) Conduct of hearings. The conduct of hearings is governed by rule 481—10.20(17A), with the exception of the additional following subrules:

26.13(1) The presiding officer shall begin each hearing with a brief statement identifying the parties and issues, outlining the history of the case, advising the parties of their appeal rights and announcing what matters, if any, will be officially noticed. Any party may inspect and use any portion of the administrative file necessary for the presentation of its case. The administrative file may include information from the claimant's files maintained in the agency's computer system.

26.13(2) Each party shall be afforded an opportunity for an opening statement and final arguments.

26.13(3) The hearing shall be confined to evidence relevant to the issue or issues stated on the notice of hearing.

26.13(4) If, during the course of a hearing, it appears to the presiding officer that an issue not set forth in the notice of hearing may affect the presiding officer's decision, the presiding officer shall so notify the parties and announce willingness to continue taking testimony on the underlying factual matters if the parties agree to waive on record further notice and make no objection to continuing. If any party objects, the presiding officer shall postpone or continue the hearing and cause new notices of hearing, containing all relevant issues, to be sent to the parties. Notwithstanding, voluntary quits and discharges generally shall be construed to constitute the single issue of separation from employment so that evidence of either or both types of separation may be received in a single hearing.

26.13(5) If factual issues generally relevant to a party's eligibility or liability for benefits but unrelated to the underlying facts in controversy in the present contested case are exposed, the presiding officer may remand the issue to the appropriate section of the department for investigation and preliminary determination.

26.13(6) If a party fails to appear for the hearing, the presiding officer may proceed with the hearing or decide the appealing party is in default and dismiss the appeal as provided in Iowa Code section 17A.12(3). If no decision has been issued, the absent party may make a written request to reopen the record for good cause as defined in subrule 26.7(3). The presiding officer may reopen the record for additional material, relevant and nonrepetitious evidence not submitted at the case hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If an absent party responds to the notice of hearing after the record has been closed and any party that has participated is no longer on the telephone line or present, the presiding officer shall not take the evidence of the late party and the party may file a written request to reopen the record.

c. Once a decision has been entered, the absent party may file an appeal to the employment appeal board to request a new hearing.

26.13(7) Whenever necessary, the presiding officer may require the attendance at a hearing of department employees having knowledge of the facts in controversy or having technical knowledge concerning the issues raised in appeal.

a. If the primary issue is the claimant's ability to work, availability for work or work search, the department may be named as respondent. The presiding officer may call department personnel having knowledge of the facts in controversy as witnesses.

b. If the issue on appeal is an offer of or recall to work or a job referral by a local workforce development center, both the employer making the offer or recall and the workforce development center representative making the referral may be witnesses at the hearing.

c. If the issue on appeal is the claimant's refusal of employment because of wages, the presiding officer may take the testimony of the workforce development representative having knowledge of prevailing wages in the vicinity. The presiding officer may also obtain testimony and evidence of the hours and other conditions of work for similar jobs in the area.

26.13(8) At the discretion of the presiding officer, witnesses may be excluded from the hearing room or telephone hearing until called to testify. The presiding officer shall admonish such witnesses not to discuss the case among themselves until after the record has been closed. All witnesses shall be subject to examination by the presiding officer and by all parties.

26.13(9) The presiding officer may expel or refuse admittance to any party, witness or other person whose conduct at the hearing is disorderly.

26.13(10) If the parties agree that no dispute of material facts exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant material evidence either by stipulation or otherwise as agreed by the parties, without the necessity of a formal evidentiary hearing.

26.13(11) Any party may appear in any proceeding. Any partnership, cooperation, or association may be represented by any of its members or officers or a duly authorized representative of an

interested party. Any party may appear by, or be represented by, an attorney-at-law or a duly authorized representative of an interested party.

26.13(12) If a party not attending the hearing will be represented by another person, such person must submit to the presiding officer written proof of the representation, signed by the party such person claims to represent, at least three days before the hearing.

871—26.14(17A,96) Evidence. Rules of evidence are followed in accordance with Iowa Code section 17A.14.

871—26.15(17A,96) Recording costs.

26.15(1) The presiding officer shall electronically record all evidentiary hearings, prehearing conferences and hearings on motions, all of which constitute a part of the record of the contested case. A party may, at its own expense, also record any hearing electronically or by certified shorthand reporter.

26.15(2) Upon request of a party, the department shall provide a copy of the whole or a part of the record at a cost, unless there is further appeal, in which event the record shall be provided to all parties at no cost.

871—26.16(17A,96) Decisions.

26.16(1) The presiding officer shall issue a written, signed decision as soon as practicable after the closing of the record in a contested case. Each decision shall:

a. Set forth the issues, the appeal rights, a concise history of the case, the findings of essential facts, the reasons for the decision and the actual disposition of the case;

b. Be based on the kind and quality of evidence upon which reasonably prudent persons customarily rely for the conduct of their serious affairs, even if none of such evidence would be admissible in a jury trial in the Iowa district court; and

c. Be sent by first-class mail, email, or other electronic transmission to each of the parties in interest and their representatives.

26.16(2) Copies of all presiding officer decisions shall be kept on file for public inspection at the administrative office of the department of workforce development, filed according to hearing (appeal) number and indexed by the social security number of the claimant.

26.16(3) A presiding officer's decision allowing benefits shall result in the prompt payment of all benefits due. An appeal shall not stay the payment of benefits. A presiding officer's decision reversing an allowance of benefits shall include a statement of overpayment of benefits erroneously paid.

26.16(4) A presiding officer's decision constitutes final agency action in an employer liability contested case.

a. Any party in interest may file with the presiding officer a written application for rehearing within 20 days after the issuance of the decision. A request for rehearing is deemed denied unless the presiding officer grants the rehearing request within 20 days after its filing.

b. Any party in interest may file a petition for judicial review in the Iowa district court within 30 days after the issuance of the decision or within 30 days after the denial of the request for rehearing.

26.16(5) In a claimant benefit contested case, final agency action shall be a presiding officer's decision, if no aggrieved party appealed the decision to the employment appeal board within 15 days, or the decision of the employment appeal board, if the aggrieved party appealed the decision to that tribunal.

a. Once final agency action has been established, any party who is aggrieved or adversely affected by the agency action has 30 days to file a petition for judicial review with the district court.

b. Any party in interest may file with the presiding officer a written application for rehearing within 20 days after the date that the decision becomes final as a result of the failure to appeal the decision to the employment board. Applications for rehearing filed before this date will be forwarded to the employment appeal board as appeals to that tribunal. A request for rehearing is deemed denied unless the presiding officer grants the rehearing request within 20 days after its filing.

c. Any party in interest may file a petition for judicial review within 30 days after the denial of the request for rehearing.

These rules are intended to implement Iowa Code chapters 17A and 96.

ARC 9932C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed Emergency After Notice

Rulemaking related to contested cases, contracts for public improvements and professional services, and waivers

The Environmental Protection Commission (Commission) hereby rescinds Chapter 7, "Rules of Practice in Contested Cases," and adopts a new Chapter 7 with the same title; rescinds Chapter 8, "Contracts for Public Improvements and Professional Services," and adopts a new Chapter 8, "Contracts for Services and Public Improvements"; and rescinds Chapter 13, "Waivers or Variances from Administrative Rules," and adopts a new Chapter 13, "Waivers from Administrative Rules," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 17A.9A, 17A.22, 455A.6 and 573.12(13).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.3, 17A.9A, 17A.22, 455A.6 and 573.12(13) and Executive Order 10.

Purpose and Summary

New Chapter 7 adopts by reference the Department of Natural Resources' rules of practice in contested cases as contained in 561—Chapter 7 (**ARC 9433C**, IAB 7/23/25, effective 8/27/25). This chapter is necessary to guarantee due process and ensure a consistent and transparent hearing process. 561—Chapter 7 is narrowly tailored to that end and was edited consistent with Executive Order 10.

New Chapter 8 adopts by reference the Department's process for soliciting and awarding contracts for services, contracts for public improvements, and contracts for sale of timber found in 561—Chapter 8 (**ARC 9434C**, IAB 7/23/25, effective 8/27/25). 561—Chapter 8 was amended and simplified consistent with Executive Order 10.

New Chapter 13 adopts by reference the process for a person to petition the Commission for a waiver from the requirements of an administrative rule as contained in 561—Chapter 10 (**ARC 9436C**, IAB 7/23/25, effective 8/27/25). Chapter 10 was amended and simplified consistent with Executive Order 10.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025, as **ARC 9604C**. Virtual public hearings were held on the following dates:

- November 4, 2025
- November 5, 2025

No one attended either public hearing. No public comments were received. No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Commission finds that the normal effective date of this rulemaking, 35 days after publication, should be waived and the rulemaking made effective on December 16, 2025, because this rulemaking removes restrictions and confers a benefit on the Commission and on the Department of Natural Resources (Department), on regulated entities, on contractors and vendors, and on the general public. All three underlying chapters adopted by reference

were reviewed and simplified by removing regulations and restrictive terms, as required by Executive Order 10.

In more detail, new Chapter 8 has incorporated higher contract approval thresholds, allowing the Department to more quickly award contracts for services and public improvements without waiting for a month or more for the Commission to approve the award at its business meeting. This will benefit the general public, who will use the resulting projects and infrastructure, as well as associated industry, who seek business transactions with the State. Likewise, new Chapter 13 contains streamlined waiver standards that ensure environmental, natural resources, and public health standards are met through an alternative compliance requirement. Finally, new Chapter 7 has been updated to reflect modern electronic filing systems, eliminating antiquated paper and ink requirements. This will streamline contested case fillings and proceedings, saving all parties both time and money.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on December 9, 2025.

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567—Chapter 13.

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 became effective on December 16, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 567—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
RULES OF PRACTICE IN CONTESTED CASES

567—7.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 7.
This rule is intended to implement Iowa Code section 17A.22.

ITEM 2. Rescind 567—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8
CONTRACTS FOR SERVICES AND PUBLIC IMPROVEMENTS

567—8.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 8.
This rule is intended to implement Iowa Code sections 17A.3, 455A.6, and 573.12(13).

ITEM 3. Rescind 567—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13
WAIVERS FROM ADMINISTRATIVE RULES

567—13.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 10.

567—13.2(17A) Report to commission. The director shall submit reports of decisions regarding requests for waivers to the commission at its regular meetings.

These rules are intended to implement Iowa Code section 17A.9A.

[Filed Emergency After Notice 12/16/25, effective 12/16/25]
[Published 1/7/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9902C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed Emergency After Notice

Rulemaking related to contracts and waivers

The Natural Resource Commission (Commission) hereby rescinds Chapter 7, "Rules of Practice in Contested Cases," and adopts a new Chapter 7 with the same title; rescinds Chapter 8, "Contracts for Public Improvements and Professional Services," and adopts a new Chapter 8, "Contracts for Services and Public Improvements"; and rescinds Chapter 11, "Waivers or Variances from Administrative Rules," and adopts a new Chapter 11, "Waivers from Administrative Rules," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 17A.3, 17A.9A, 17A.22, 455A.4 and 573.12(13).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.3, 17A.9A, 17A.22, 455A.4 and 573.12(13) and Executive Order 10.

Purpose and Summary

New Chapter 8 adopts by reference the Department of Natural Resources' (Department's) process for soliciting and awarding contracts for services, contracts for public improvements, and contracts for sale of timber found in 561—Chapter 8 (**ARC 9434C**, IAB 7/23/25, effective 8/27/25). 561—Chapter 8 was amended and simplified consistent with Executive Order 10.

New Chapter 11 adopts by reference the process for a person to petition the Environmental Protection Commission for a waiver from the requirements of an administrative rule as contained in 561—Chapter 10 (**ARC 9436C**, IAB 7/23/25, effective 8/27/25). 561—Chapter 10 was amended and simplified consistent with Executive Order 10.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025, as **ARC 9593C**. Virtual meetings were held on the following dates:

- November 4, 2025
- November 5, 2025

No one attended either public hearing. No public comments were received. No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Commission finds that the normal effective date of this rulemaking, 35 days after publication, should be waived and the rulemaking made effective on December 15, 2025, because this rulemaking removes restrictions and confers a benefit on the Commission, the Department, regulated entities, contractors and vendors, and the general public. All three underlying chapters adopted by reference were reviewed and simplified by removing regulations and restrictive terms as required by Executive Order 10.

In more detail, new Chapter 8 has incorporated higher contract approval thresholds, allowing the Department to quickly award contracts for services and public improvements without having to wait a month or more for Commission approval. This change is a significant benefit to many parties. In addition to the Department, this change will benefit the general public who will use the resulting projects and infrastructure, as well as associated industry, who seek business transactions with the state.

Likewise, new Chapter 11 contains streamlined waiver standards that ensure environmental, natural resources, and public health standards are met through an alternative compliance requirement.

Finally, new Chapter 7 has been updated to reflect modern electronic filing systems, eliminating antiquated paper and ink requirements. This will streamline contested case filings and proceedings, saving all parties both time and money.

Adoption of Rulemaking

This rulemaking was adopted by the Commission on December 11, 2025.

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 571—Chapter 11.

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 became effective on December 15, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 571—Chapter 7 and adopt the following **new** chapter in lieu thereof:

CHAPTER 7
RULES OF PRACTICE IN CONTESTED CASES

571—7.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 7.

This rule is intended to implement Iowa Code section 17A.22.

ITEM 2. Rescind 571—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8
CONTRACTS FOR SERVICES AND PUBLIC IMPROVEMENTS

571—8.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 8.

This rule is intended to implement Iowa Code sections 17A.3, 455A.4, and 573.12(13).

ITEM 3. Rescind 571—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
WAIVERS FROM ADMINISTRATIVE RULES

571—11.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 10.

571—11.2(17A) Report to commission. The director shall submit reports of decisions regarding requests for waivers to the commission at its regular meetings.

These rules are intended to implement Iowa Code section 17A.9A.

[Filed Emergency After Notice 12/15/25, effective 12/15/25]
[Published 1/7/26]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9952C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to the Hawki program

The Department of Health and Human Services hereby amends Chapter 86, "Healthy and Well Kids in Iowa (Hawki) Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 514I.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 514I.

Purpose and Summary

The purpose of this rulemaking is to correct an error that was made in a recently adopted rulemaking.

The Red Tape Review of Chapter 86 was done in 2024 and was Adopted and Filed in **ARC 9468C** (IAB 8/6/25). During the adoption process, language describing the grace period for premium payment was added back to the chapter. The language had been removed from the chapter proposed in the Regulatory Analysis and the Notice as being duplicative of the State Plan for the program.

Since the 2024 Red Tape Review was initiated in early 2024, a change was made to Iowa's State Plan Amendment (SPA) to comply with a federal requirement for continuous eligibility for children under the age of 19 for both Medicaid and Hawki. This change became effective April 1, 2024, and eliminated the need for a grace period for premium payment for both the Medicaid program and Hawki.

This rulemaking strikes the grace period language from the chapter.

There is no substantive impact because the SPA's authority exceeds that of administrative rule. The Hawki program has not changed, and no children's coverage or eligibility has been or will be impacted.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 12, 2025, as **ARC 9660C**. Public hearings were held on the following date:

- December 2, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on December 17, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa beyond that of the federal change that eliminated the grace period for Hawki. The Consolidated Appropriations Act requires Iowa to comply with mandatory continuous eligibility for children in the Children's Health Insurance Program (CHIP) and Medicaid. The Department submitted a State Plan Amendment (SPA) to the Centers for Medicare and Medicaid Services to make changes. The Department has historically maintained continuous eligibility for children in Medicaid but not CHIP. The SPA included an estimated cost increase of approximately $9.0 million in fiscal year 2025 to provide 12-month continuous eligibility to children enrolled in Hawki. Of this amount, the State portion is approximately $2.3 million, and the federal portion is approximately $6.7 million. These changes became effective April 1, 2024.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

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 March 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind subrule **86.8(4)**.

ITEM 2. Renumber subrules **86.8(5)** and **86.8(6)** as **86.8(4)** and **86.8(5)**.

[Filed 12/17/25, effective 3/1/26]
[Published 1/7/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9953C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rulemaking related to student abuse reports and investigations

The Department of Health and Human Services hereby adopts new Chapter 174, "Student Abuse Reports and Investigations," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in 2025 Iowa Acts, Senate File 659.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2025 Iowa Acts, Senate File 659.

Purpose and Summary

This rulemaking implements 2025 Iowa Acts, Senate File 659, division VI, which establishes new Iowa Code chapter 232E.

This new Iowa Code chapter tasks the Department with the investigation of alleged cases of student abuse involving a public or nonpublic school employee.

All references to Iowa Code chapter 232E herein are to that chapter as enacted by 2025 Iowa Acts, Senate File 659.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 29, 2025, as **ARC 9641C**. Public hearings were held on the following date:

- November 18, 2025

Multiple public comments from interested stakeholders were received at the public hearings. Multiple public comments were received via email.

As a result of comments received both at the hearings and in writing, the following changes from the Notice have been made:

- **174.1(1)** – clarified that the rules apply to incidents of alleged student abuse that occur on or after July 1, 2025.
- **174.1(2)** – clarified that Iowa Code chapter 232E does not provide an exclusive process or remedy for addressing "alleged misconduct by a school employee" involving a student. Previous language said "...for addressing any abuse involving a student..."
- **441—174.3(232E) rule title, 174.3(1) and 174.3(2); and 174.7(2)"a"(2)** – clarified that student abuse could impact a dependent adult as well as a child.
- **174.3(2)"b"** – clarified that schools still have the authority to investigate misconduct that does not meet the threshold of "student abuse."
- **174.3(2)"b"(4)** – clarified that a complaint not meeting the threshold of student abuse may be filed with the superintendent of a public school district. Previous language directed that complaints could be filed with the Board of Directors of a public school.
- **174.4(3)"c"(1) –** clarified physical abuse does not include conduct that falls under Iowa Code section 280.21(2).
- **174.5(2)** – clarified that dismissal or rejection of the alleged student abuse does not preclude a school's authority to investigate a school's ability to investigate reported alleged misconduct of a school employee involving a student that does not meet the threshold of student abuse.
- **174.5(2)"d"** – clarified that a complaint dismissed or rejected as not meeting the threshold of student abuse may be filed with the superintendent of a public school district. Previous language directed complaints could be filed with the Board of Directors of a public school.
- **174.6(1); 174.9(1) and 174.9(3); and 174.10(1) and 174.10(3)** – clarified that the Department will only notify the Board of Educational Examiners if applicable.
- **174.9(3)** – clarified that an appeal must be filed on or before the thirtieth day following the notice of determination.
- **174.9(3)"c"** – clarified that any party can request Director's Review pursuant to rule 441—7.11(17A).
- **441—174.12(232E)** – did not adopt this rule, which stated that the Department may impose and collect reasonable reimbursement.

Adoption of Rulemaking

This rulemaking was adopted by the Department on December 3, 2025.

Fiscal Impact

The Department estimates an SFY 2026 fiscal impact of $129,400 and $126,000 annually thereafter.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

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 March 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** 441—Chapter 174:

CHAPTER 174
STUDENT ABUSE REPORTS AND INVESTIGATIONS

441—174.1(232E) Application—not exclusive.

174.1(1) Iowa Code chapter 232E applies only to incidents of alleged student abuse that occur on or after July 1, 2025, and only if the report of the alleged student abuse is made within three years from the date of the occurrence of the incident alleged in the report.

174.1(2) Iowa Code chapter 232E does not provide an exclusive process or remedy for addressing alleged misconduct by a school employee involving a student and does not preclude or replace other available forms of reporting, investigation, or disciplinary action for complaints that do not meet the threshold of student abuse.

441—174.2(232E) Definitions.

"Board of educational examiners" means the same as defined in Iowa Code chapter 232E.

"Credible report" means a report of alleged student abuse that is deemed by the department to be both investigable and complete and is an accepted report for the purposes of an investigation under Iowa Code chapter 232E.

"Department policies and procedures" means the written guidelines formulated by the department to be used by department personnel involved in the reporting and investigation of allegations of student abuse.

"Disposition data and information," for the purposes of disclosure of such data and information to a school employee under paragraph 174.9(2)*"b"* and as specified under subrule 174.10(3), means materially relevant data and information pertaining to the department's determination that the allegation of student abuse is substantiated.

"Identifiable," relative to an allegedly abused student or to a school employee allegedly involved in an incident, means an individual who is not anonymous and who may be identified by specific factors, such as name, age, address, or birth date.

"Identifiable source," with reference to the reporter of an allegation of student abuse, means an individual who is not anonymous; who may be identified by specific factors, such as name, age, address, or birth date; and who is available to sign the written report of alleged student abuse.

"Incident" means an occurrence of behavior that meets the definition of student abuse.

"Inconclusive," with reference to a credible report of student abuse that has been referred to law enforcement, means that, because the joint investigation has not yet been concluded, there is not sufficient evidence to determine whether the incident occurred.

"Injury" means bodily injury for which evidence of the injury is still apparent at least 24 hours after an incident.

"Investigation" means the same as defined in Iowa Code chapter 232E.

"Investigation report data and information," for the purposes of disclosure of such data and information to a school employee under paragraph 174.9(2)*"b"* and as specified under subrule 174.10(3), means materially relevant data and information pertaining to an investigation of an allegation of student abuse based upon which the department determines the alleged student abuse is substantiated.

"Investigator" means personnel of the department to whom a credible report is assigned for investigation.

"Model policy" means the policy and procedures formulated by the department of education in consultation with the department to be used in the reporting and investigating of an allegation of student abuse under Iowa Code chapter 232E.

"Nonpublic school" means the same as defined in Iowa Code chapter 232E.

"Preponderance of the evidence" means reliable, credible evidence that is of greater weight than evidence offered in opposition to it.

"Public school" means the same as defined in Iowa Code chapter 232E.

"Public school district" means the same as defined in Iowa Code chapter 232E.

"Receipt of a report" or *"receipt of a credible report"* occurs on the date of the business day on which a credible report is initially assigned to an investigator.

"School employee" means the same as defined in Iowa Code chapter 232E.

"School time" means the hours of a regular school day as specified by the board of directors of a public school district or by the authorities in charge of a nonpublic school.

"Student" means the same as defined in Iowa Code chapter 232E.

"Student abuse" means the same as defined in Iowa Code chapter 232E.

"Substantiated," with reference to a credible report of student abuse, means that, based on the investigation, there is a preponderance of the evidence indicating the incident occurred.

"Unsubstantiated," with reference to a credible report of student abuse, means that, based on the investigation, there is not a preponderance of the evidence indicating the incident occurred.

441—174.3(232E) Abuse intake process—report of alleged student abuse.

174.3(1) If, during the abuse intake process under Iowa Code chapter 232, subchapter III, part 2, and Iowa Code chapter 235B, an identifiable source reports information that the department, in accordance with department policies and procedures, determines may constitute an allegation of student abuse, the identifiable source shall be referred to the student abuse intake process.

174.3(2) If, during the abuse intake process under Iowa Code chapter 232, subchapter III, part 2, and Iowa Code chapter 235B, the department determines the information reported by an identifiable source does not constitute an allegation of student abuse subject to investigation by the department, the department shall reject the report and may inform the identifiable source of all the following:

a. The report is rejected and the basis for the rejection.

b. Rejection of the report of alleged student abuse does not preclude other options for reporting, investigation, or disciplinary action for complaints that do not meet the threshold of student abuse, including:

(1) Contacting law enforcement.

(2) Contacting the county attorney.

(3) Contacting private counsel for the purpose of filing a civil suit or complaint.

(4) Filing a complaint with the superintendents of the public school district or the authorities in charge of the nonpublic school associated with the school employee allegedly involved in the alleged misconduct or contacting the board of educational examiners, as applicable.

441—174.4(232E) Student abuse intake process—credible reports.

174.4(1) Following the referral of an identifiable source of a report of alleged student abuse to the student abuse intake process, the department will do all the following:

a. Assist the identifiable source in making a report of alleged student abuse. Reports shall be made in a manner similar to that specified in Iowa Code section 232.70 as adapted for application to student abuse reports in department policies and procedures.

b. Determine if the report of alleged student abuse is a credible report.

c. If the report of alleged student abuse is determined to be a credible report, refer the credible report to an investigator for investigation.

174.4(2) Credible reports. To be a credible report, a report of alleged student abuse must be deemed to be both investigable and complete by the department.

174.4(3) Investigable reports.

a. To be deemed investigable, a report of alleged student abuse must provide all the following details as specified in department policies and procedures:

(1) The person allegedly responsible for the act or omission is identifiable, was a school employee at the time of the alleged incident, and remains a school employee at the time the alleged abuse is reported.

(2) The alleged act or omission of the school employee is alleged to have occurred on school grounds during school time or on or at a school-related curricular or extracurricular activity.

(3) The alleged act or omission of the school employee resulted in injury or otherwise meets the definition of student abuse.

(4) The allegedly abused student is identifiable and is a student or was a student at the time of the alleged incident.

b. If the report of alleged student abuse is deemed not to be investigable, the report will be dismissed for lack of jurisdiction.

c. Not physical abuse.

(1) For the purposes of determining whether the alleged act or omission of a school employee constitutes physical abuse that meets the definition of student abuse under subparagraph 174.4(3)*"a"*(3), reasonable contact under circumstances described in Iowa Code section 280.21(2) does not constitute physical abuse.

(2) In determining the reasonableness of the contact or force used under subparagraph 174.4(3)*"c"*(1), the following factors will be considered:

1. The nature of the misconduct of the student, if any, precipitating the physical contact by the school employee.
2. The size and physical condition of the student.
3. The instrumentality used in making the physical contact.
4. The motivation of the school employee in initiating the physical contact.
5. The extent of injury to the student resulting from the physical contact.

174.4(4) Complete reports.

a. To be deemed complete, a report of alleged student abuse must meet all the following conditions as specified in department policies and procedures. The report must:

(1) Contain information regarding the identifiable source making the allegation of student abuse; the student allegedly abused; the school employee allegedly involved in the alleged incident; any witnesses to the alleged incident; and any person who examined, counseled, or treated the student for the alleged abuse.

(2) Include a concise statement of the facts surrounding the alleged incident, including the date, time, and place of occurrence, if known.

(3) Be reduced to writing, signed by the identifiable source, and witnessed by a person of majority age.

b. If a report of alleged student abuse is deemed incomplete by the department, the report will not be rejected unless either of the following conditions applies:

(1) The reporter of the alleged student abuse is not an identifiable source and does not sign the written report, and the report is not witnessed by a person of majority age.

(2) A reasonable person would conclude that the absence of the information missing from the report of alleged student abuse would render an investigation of the report futile or impossible.

441—174.5(232E) Options if report dismissed or rejected during student abuse intake. If the report of alleged student abuse is dismissed as not being investigable for lack of jurisdiction or rejected as incomplete, the department may inform the identifiable source of all the following:

174.5(1) The report is being dismissed or rejected and the basis for the dismissal or rejection.

174.5(2) Dismissal or rejection of the report of alleged student abuse does not preclude other options for reporting, investigation, or disciplinary action for complaints that do not meet the threshold of student abuse, including:

a. Contacting law enforcement.

b. Contacting the county attorney.

c. Contacting private counsel for the purpose of filing a civil suit or complaint.

d. Filing a complaint with the superintendent of the public school district or the authorities in charge of the nonpublic school associated with the school employee allegedly involved in the alleged misconduct or contacting the board of educational examiners, as applicable.

441—174.6(232E) Notification of school authorities and identifiable source regarding credible reports. The department, in accordance with department policies and procedures, will notify all the following when a report of alleged student abuse is determined to be a credible report:

174.6(1) The board of directors of the public school district or the authorities in charge of the nonpublic school associated with the school employee allegedly involved in the incident, as applicable, and the board of educational examiners, if applicable. The department of education shall cooperate with the department in completing the required notifications under this paragraph and shall provide the department with access to school contact information in a manner that ensures the accuracy of the notifications.

174.6(2) The identifiable source.

441—174.7(232E) Investigation—duties of an investigator and school authorities.

174.7(1) *Duties of an investigator.* An investigator will do all the following:

a. Commence an investigation within 24 hours of the receipt of a credible report.

b. Based on a credible report received, if an investigator determines the alleged student abuse constitutes a criminal act:

(1) Refer the matter to law enforcement, defer the department's investigation, and work jointly with law enforcement in law enforcement's investigation. The investigator may share with law enforcement information collected by the department during the joint investigation.

(2) If the investigation is deferred under this paragraph, resume the deferred investigation following completion of the joint investigation if the investigator determines information collected during the joint investigation warrants further investigation. The investigator will complete the resumed investigation within 30 business days of its commencement and will submit a written investigation report to the entities as specified under this rule upon the completion of the resumed investigation.

c. During the investigation:

(1) Interview the allegedly abused student, any witnesses or persons who may have knowledge of the circumstances contained in the credible report, and the school employee allegedly involved in the incident identified in the credible report.

(2) Conduct the interview of the allegedly abused student and any other student in a manner similar to that specified in Iowa Code section 232.71B(7), relating to child abuse assessment interviews conducted in facilities or schools as adapted for application to student abuse interviews in department policies and procedures.

(3) Provide notification to the parent or guardian of the allegedly abused student in a manner similar to that specified in Iowa Code section 232.71B(2), relating to the notification of parents regarding a child abuse assessment as adapted for application to student abuse investigations in department policies and procedures.

(4) Provide notification to the school employee allegedly involved in the incident in a manner similar to that specified in Iowa Code section 232.71B(4), relating to the notification of a person alleged

to have committed child abuse as adapted for application to student abuse investigations in department policies and procedures.

d. Complete the investigation within 30 business days of the date of receipt of the credible report unless the investigation is deferred.

e. Include in the written investigation report the information specified in department policies and procedures. At a minimum, the written investigation report will include all of the following:

(1) A general overview of the investigation.

(2) If the matter was not referred to law enforcement and the department's investigation was not deferred, a statement that, in the investigator's opinion, the allegations in the credible report are either substantiated or unsubstantiated.

(3) If the matter was referred to law enforcement, the department's investigation was deferred, and the joint investigation has not been completed, a statement that the allegations in the credible report are inconclusive pending the results of the joint investigation.

(4) Any alternative status or disposition of the investigation.

(5) Any other information relevant to the investigation and the department's determination relating to the allegation of student abuse.

174.7(2) *Duties of school authorities.*

a. Granting access and immunity.

(1) The board of directors of a public school district or the authorities in charge of a nonpublic school shall cooperate with the investigator by providing confidential access to the allegedly abused student named in the credible report for the purpose of interviewing the student and shall allow the investigator confidential access to other students for the purpose of conducting interviews to obtain relevant information.

(2) The immunity granted by Iowa Code sections 232.73 and 235B.3(11) applies to participation in good faith by boards of directors of a public school district and the authorities in charge of nonpublic schools, the facilities of a public school or nonpublic school, and public school districts in an investigation and when providing confidential access to a student.

b. The board of directors of a public school district or the authorities in charge of a nonpublic school shall provide an investigator access to an allegedly abused student's education records pursuant to 34 CFR §99.31 as amended to August 1, 2025.

441—174.8(232E) School employee resignation during pendency of investigation. Following a determination by the department that a report of alleged student abuse is a credible report, the department will complete the investigation of the credible report in accordance with rule 441—174.7(232E), whether the school employee allegedly involved in the incident resigns any time prior to or at the time of the submission of the written investigation report.

441—174.9(232E) Substantiated report—right of school employee to contested case proceedings and further review.

174.9(1) At the time the written investigation report is submitted to the board of directors of the public school district or the authorities in charge of the nonpublic school, as applicable, and the board of educational examiners, if applicable, under paragraph 174.7(1)*"e,"* the department will provide notice of the department's determination regarding the allegation of student abuse to the school employee who is the subject of the investigation pursuant to 441—Chapter 16.

174.9(2) If the notice of determination includes a statement that the allegation of student abuse is substantiated, the notice of determination will also inform the school employee who is the subject of the investigation of:

a. The school employee's right to contested case proceedings and further review pursuant to 441—Chapter 7; and

b. The right and process to request additional investigation report data and information and disposition data and information as specified in department policies and procedures.

174.9(3) The appellant must appeal on or before the thirtieth day following the date of notice of the determination.

174.9(4) The department will notify the board of directors of the public school district or the authorities in charge of the nonpublic school, as applicable, and the board of educational examiners, if applicable, of the following:

a. If the school employee requests contested case proceedings under 441—Chapter 7.

b. The proposed decision of the contested case.

c. If any party requests director's review pursuant to rule 441—7.11(17A).

d. The final decision of the contested case.

174.9(5) Any disciplinary, employment, or other action that may be taken in response to an investigation report by the directors of a public school district or the authorities in charge of a nonpublic school, and the board of educational examiners, if applicable, is stayed during the pendency of the proceedings under subrule 174.9(2).

441—174.10(232E) Case record retention—protection of identifiable source—disclosure limitations.

174.10(1) The department will retain the case record, including the intake report, the written investigation report, and all related supporting documentation, for three years from the date the written investigation report is submitted pursuant to paragraph 174.7(1)*"e"* to the director of the public school district or the authorities in charge of the nonpublic school, as applicable, and the board of educational examiners, if applicable.

174.10(2) The name and identity of the identifiable source of a report of alleged student abuse will not be disclosed with the following exceptions:

a. To department personnel and law enforcement involved in, and as necessary to perform official duties related to, the reporting and investigation of a specific allegation of student abuse.

b. To the board of educational examiners if the allegation of student abuse involves a school employee who is licensed, certified, or authorized by the board of educational examiners, or who holds an active statement of recognition issued by the board of educational examiners, as necessary to perform official duties related to the specific allegation of student abuse.

c. To other persons for good cause as determined by the department based on criteria specified in department policies and procedures.

174.10(3) Student abuse information.

a. Student abuse information is confidential and shall not be a public record under Iowa Code chapter 22. The confidentiality of all student abuse information will be maintained, except as specifically provided in these rules and department policies and procedures.

b. Student abuse information may be shared with department personnel as necessary to perform official duties.

c. With the exception of the name and identity of the identifiable source, the disclosure of which is subject to subrule 174.10(2), any investigation report data and information and disposition data and information, as specified by department policies and procedures, may be disclosed, upon request, only to the following:

(1) The student named in the report of student abuse as the victim or the student's attorney or guardian ad litem.

(2) The parent or guardian or the attorney for the parent or guardian of the student named in the report of student abuse as the victim.

(3) A person or the attorney for the person named in a report as having abused the student.

(4) Law enforcement involved in the investigation of the report of student abuse.

(5) The board of directors of the public school district or the authorities in charge of the nonpublic school, as applicable, and the board of educational examiners, if applicable, that received the written investigation report.

(6) The county attorney.

(7) The administrative law judge or court involved in a contested case proceeding or further review upon a finding that the information is necessary for the resolution of an issue arising in any phase of a case involving a determination of a substantiated allegation of student abuse.

441—174.11(232E) Substantial compliance. Because investigative procedures seldom allow for rigid observance of the protocol, substantial compliance with these rules is required with the overriding goal of reaching a fair and unbiased resolution of a report of alleged student abuse.

These rules are intended to implement Iowa Code chapter 232E.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9954C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rulemaking related to mortgage credit certificates

The Iowa Finance Authority hereby rescinds Chapter 10, "Mortgage Credit Certificates," Iowa Administrative Code, and adopts a new Chapter 10 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 17A and section 16.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A and 26 U.S.C. section 25.

Purpose and Summary

Pursuant to Executive Order 10, the Authority is rescinding Chapter 10 and adopting a new chapter in lieu thereof. The new chapter eliminates language that is duplicative of statutory language, eliminates unnecessary and inconsistent language, removes unnecessarily restrictive terms, and updates outdated language. The new chapter also includes a statement on the availability of acquiring a reissued mortgage credit certificate (MCC) upon the refinancing of the original mortgage. The new chapter also includes a new rule designating references to certain Authority internal program documents.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 29, 2025, as **ARC 9646C**. A public hearing was held on the following date(s):

- November 18, 2025
- November 20, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on December 3, 2025.

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

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 February 11, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 265—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
MORTGAGE CREDIT CERTIFICATES

265—10.1(16) General.

10.1(1) *Authorization.* Mortgage credit certificates (MCCs) were authorized by Congress in the 1984 Tax Reform Act as a new concept for providing housing assistance. The Iowa finance authority (authority) may elect to allocate a portion of its mortgage revenue bonding authority for single-family housing toward an MCC program. The program will be made available to home buyers through participating Iowa lenders on a first-come, first-served basis.

10.1(2) *Federal income tax credit.* An MCC operates as a federal income tax credit. The MCC tax credit will reduce the federal income taxes of qualified home buyers purchasing qualified residences, in effect assisting buyers with their house payments.

10.1(3) *Application timing.* A purchaser of a new or existing single-family residence may apply for an MCC through a participating lender at the time of purchasing a home and obtaining financing through the lender. An MCC cannot be issued to a home buyer who is refinancing an existing mortgage or land contract nor can it be used in conjunction with a mortgage financed through a mortgage subsidy bond. MCCs will be made available to home buyers with generally the same noncredit eligibility requirements as are in effect for the authority's single-family mortgage program.

265—10.2(16) Participating lenders.

10.2(1) Any lending institution as defined in Iowa Code section 16.1 may become a participating lender by entering into an MCC lender participation agreement with the authority. All other participating lenders may take applications for MCCs on loans closed after the effective date of the participation agreement.

10.2(2) The annual participation fee shall be:

a. $0 for a lender currently participating in the authority's first mortgage program.

b. $500 for a lender not participating in the authority's first mortgage program and with one to five branches listed on the authority's website.

c. $1,000 for a lender not participating in the authority's first mortgage program and with six or more branches listed on the authority's website.

265—10.3(16) Eligible borrowers.

10.3(1) To be eligible to receive a mortgage credit certificate, an eligible borrower must, on the date the loan is closed:

a. Be a resident of Iowa.

b. Be a purchaser of a single-family residence who will occupy the single-family residence as a permanent, primary, principal residence located within the state.

c. Have the legal capacity to incur the obligations of the loan.

d. Agree not to rent the single-family residence any time during the term of the loan.

10.3(2) To the extent determined by the authority to ensure its MCCs will be qualified MCCs pursuant to a qualified MCC program, the authority shall require that the eligible borrower meet the requirements of 26 U.S.C. §25 and the rules and regulations promulgated thereunder, as well as the requirements set forth in the MCC program guide. Copies of the program guide are available from the authority.

265—10.4(16) MCC procedures.

10.4(1) Applications for MCCs may be made with any participating lender. The applicant shall provide the lender with all information that is necessary to secure a mortgage loan and an MCC. An applicant must meet the eligibility requirements set out in rule 265—10.3(16). If the eligibility requirements are met, the participating lenders may nonetheless deny a loan, subject to all reporting and disclosure requirements of applicable state and federal law, for any reason premised on sound lending practices, including underwriting risk evaluation, portfolio diversification, and limitations on restrictions on investments or available funds.

10.4(2) If the loan is approved, the terms of the loan, including interest rate, length of loan, down payment, fees, origination charge and repayment schedule, shall not be greater than those available to similar customers that do not make application for an MCC. However, the lender may collect a one-time MCC commitment fee, which may be paid by the borrower, the lender, or any other party. An MCC program application fee must accompany the MCC application and be submitted to the authority by the lender. The amount of the maximum allowable MCC commitment fee shall be $250, and the amount of the MCC program application fee shall be:

a. $0 if the borrower currently uses an authority first mortgage product.

b. $500 if the borrower does not currently use an authority first mortgage product.

10.4(3) No MCC will be issued unless the requirements and procedures set out in the MCC program guide are complied with by all parties to the home sale and financing.

10.4(4) An MCC may be reissued at the sole discretion of the authority if the mortgagor refinances; however, the credit cannot be taken beyond the term of the original mortgage. No MCC shall be reissued unless:

a. The borrower uses or continues to use the residence as its permanent, primary, principal residence; and

b. All other requirements and procedures set out in the authority's MCC reissuance instructions are complied with, which reissuance instructions shall be posted on the authority's website.

265—10.5(16) References. All references to the United States Code in this chapter are to the laws as in effect February 11, 2026. All references to the MCC program guide are to the MCC program section within the authority's Procedural Guide (The Single Family Department) dated March 2018. All references to the MCC reissuance instructions are to the Instructions for Requesting Reissuance of Mortgage Credit Certificates dated March 2019.

These rules are intended to implement Iowa Code section 16.5(1)*"e," "i,"* and *"t."*

[Filed 12/15/25, effective 2/11/26]
[Published 1/7/26]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9955C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rulemaking related to the water quality financial assistance program

The Iowa Finance Authority hereby rescinds Chapter 33, "Water Quality Financial Assistance Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 16.5 and 2009 Iowa Acts, Senate File 376, section 13.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2009 Iowa Acts, Senate File 376, section 13.

Purpose and Summary

Pursuant to Executive Order 10, the Authority is permanently rescinding Chapter 33, which describes the policies and procedures applicable to a water quality financial assistance program created by 2009 Iowa Acts, Senate File 376, section 13. The funds allocated by the legislation have been expended, making the chapter obsolete.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 29, 2025, as **ARC 9650C**. A public hearing was held on the following date(s):

- November 18, 2025
- November 20, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on December 3, 2025.

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 Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

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 February 11, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **265—Chapter 33**.

[Filed 12/15/25, effective 2/11/26]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9956C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to volunteer health care provider program

The Department of Health and Human Services hereby rescinds Chapter 88, "Volunteer Health Care Provider Program," Iowa Administrative Code, and adopts a new Chapter 88 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 135.24.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.24.

Purpose and Summary

This rulemaking implements Iowa Code section 135.24, which describes the Volunteer Health Care Provider Program (VHCPP). The VHCPP was established to defend and indemnify eligible individual volunteer health care providers and protected clinics providing free health care services. This chapter underwent a 2025 Red Tape Review as instructed in Executive Order 10.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 12, 2025, as **ARC 9664C**. Public hearings were held on the following date:

- December 2, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on December 17, 2025.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

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 March 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 88 and adopt the following **new** chapter in lieu thereof:

CHAPTER 88
VOLUNTEER HEALTH CARE PROVIDER PROGRAM

641—88.1(135) Definitions. For the purpose of these rules, the following definitions will apply:

"Charitable organization" means the same as defined in Iowa Code section 135.24.

"Defend" means that the office of the attorney general will provide the individual volunteer health care provider and protected clinic with legal representation at no cost to the individual volunteer health care provider or protected clinic.

"Field dental clinic" means the same as defined in Iowa Code section 135.24.

"Free clinic" means the same as defined in Iowa Code section 135.24.

"Health care facility" means a residential care facility, a nursing facility, or an intermediate care facility for persons with an intellectual disability.

"Health care provider" means the same as defined in Iowa Code section 135.24.

"Health care services" means services received from a health care provider at a protected clinic or sponsor entity, as provided in Iowa Code section 135.24 and these rules, and approved in a protection agreement or sponsor entity agreement. The agreement covers "health care services" that are volunteer, uncompensated services. For those services to qualify as volunteer, uncompensated services under this chapter, the individual volunteer health care provider, health care provider, protected clinic, or sponsor entity will receive no compensation for any services provided under the agreement and shall not bill or accept compensation from the person, or any public or private third-party payor, for the specific services provided.

"Indemnify" means that the state of Iowa will pay all sums that the individual volunteer health care provider or protected clinic holding a protection agreement with the VHCPP is legally obligated to pay as damages because of any claim made against the individual volunteer health care provider or protected clinic that arises out of the provision of free health care services rendered or that should have been rendered by the individual volunteer health care provider or protected clinic.

"Individual volunteer health care provider" means any one of the health care providers defined in Iowa Code section 135.24 who has a fully executed protection agreement with the VHCPP.

"License" means a license, certification or registration issued to a person by a licensing authority that evidences the granting of authority to engage in a profession or occupation.

"Major surgical procedure" means a surgical procedure not ordinarily performed in a private provider's office, free clinic, or specialty health care provider office and includes the surgery performed in a hospital as defined in Iowa Code section 135B.1(3) or an organized outpatient health facility.

"Minor surgical procedure" means a surgical procedure ordinarily performed in a private provider's office, free clinic, or specialty health care provider office.

"Organized outpatient health facility" means a facility defined in Iowa Code section 10A.711.

"Permanent site" means a site at which free health care services will be provided on a continuous basis.

"Protected clinic" means field dental clinic, free clinic, or specialty health care provider office providing free care to the uninsured and underinsured. Each protected clinic has a signed protection agreement that provides for defense and indemnification of the protected clinic. The protection agreement will allow the protected clinic to deliver health care services to uninsured and underinsured persons as an agent of the state.

"Protection agreement" means a signed contract providing for defense and indemnification between an individual volunteer health care provider or protected clinic and the VHCPP. This agreement will allow the individual health care provider or protected clinic to deliver health care services to uninsured and underinsured persons as an agent of the state. The agreement covers "health care services" that are volunteer, uncompensated services. For those services to qualify as volunteer, uncompensated services under this chapter, the individual volunteer health care provider, health care provider, and protected clinic will receive no compensation for any services provided under the agreement and will not bill or accept compensation from the person, or any public or private third-party payor, for the specific services provided by the individual volunteer health care provider covered by the agreement.

"Specialty health care provider office" means the same as defined in Iowa Code section 135.24.

"Sponsor entity" or *"sponsor entity clinic"* means a hospital, clinic, free clinic, health care facility, health care referral program, charitable organization, specialty health care provider office, organized outpatient health facility, or field dental clinic. Each sponsor entity has a fully executed sponsor entity agreement. The sponsor entity agreement will allow an individual volunteer health care provider to deliver health care services to uninsured and underinsured persons as an agent of the state.

"Sponsor entity agreement" means a signed contract between the VHCPP and a hospital, clinic, free clinic, health care facility, health care referral program, charitable organization, specialty health care provider office, organized outpatient health facility, or field dental clinic allowing an individual volunteer health care provider to deliver free health care services through the VHCPP at the sponsor entity location.

"Temporary site" means a site at which free health care services will be provided for a short period of time not to exceed three days. "Temporary site" includes but is not limited to temporary health fairs, flu shot clinics, and temporary sites that provide back-to-school physicals.

"Underinsured" means that a person does not have adequate insurance, which is determined on cost-exposure to family income with at least one of three indicators: (1) out-of-pocket medical expenses equal to or greater than 10 percent of income; (2) out-of-pocket medical expenses equal to or greater than 5 percent of income if income is less than 200 percent of the federal poverty level; and (3) health plan deductibles equal to or greater than 5 percent of income.

"Volunteer health care provider program" or *"VHCPP"* means the volunteer health care provider program of the department.

641—88.2(135) Eligibility for the volunteer health care provider program.

88.2(1) *Individual volunteer health care provider eligibility.* To be eligible for protection as an employee of the state under Iowa Code chapter 669 for a claim arising from covered health care services, an individual volunteer health care provider shall satisfy each of the following conditions at the time of the act or omission allegedly resulting in injury:

a. The individual volunteer health care provider must hold an active unrestricted license, registration, or certification to practice in Iowa under Iowa Code chapter 147A, 148, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, 154F, or 155A. The individual volunteer health care provider shall provide a sworn statement attesting that the license, registration, or certification to practice is free of restrictions. The statement shall describe any disciplinary action that has ever been taken against the individual volunteer health care provider by any professional licensing,

registering, or certifying authority or health care facility, including any voluntary surrender of license, registration, or certification or other agreement involving the individual volunteer health care provider's license, registration, or certification to practice or any restrictions on practice, suspension of privileges, or other sanctions. The statement shall also describe any malpractice suits that have been filed against the individual volunteer health care provider. The statement provided by a pharmacist shall also describe any disciplinary action that has ever been taken against any pharmacy in which the pharmacist has ever been owner, partner, or officer.

b. Application. The applicant shall submit the following information on forms provided by the VHCPP:

(1) The individual volunteer health care provider's current licensure identification number and expiration date;

(2) The health care services to be voluntarily provided meet all of the following:

1. The services fall under the individual volunteer health care provider's licensed scope of practice;

2. The services are covered health care services listed in paragraph 88.4(1)*"d"*; and

3. The individual volunteer health care provider applicant is willing to voluntarily provide the health care services to those persons who are uninsured and underinsured for the public health purpose of improved health, prevention of illness/injury, and disease management.

c. Agreement. The individual volunteer health care provider shall have a signed and current protection agreement with the VHCPP that identifies the covered health care services within the respective scope of practice and conditions of defense and indemnification as provided in rules 641—88.4(135) and 641—88.5(135).

(1) The protection agreement is only valid during the time that the individual volunteer health care provider maintains a current unrestricted license and only for voluntary services provided in conjunction with a sponsor entity or protected clinic that has its own valid VHCPP protection agreement in effect at the time of service provision.

(2) The protection agreement with the VHCPP will provide that the individual volunteer health care provider shall:

1. Perform only those health care services identified and approved by the VHCPP;

2. Promptly notify the VHCPP of any changes in licensure status;

3. Maintain proper records of the health care services provided;

4. Make no representations concerning eligibility for the VHCPP or eligibility of services for indemnification by the state except as authorized by the department;

5. Cooperate fully with the state in the defense of any claim or suit relating to participation in the VHCPP, including attending hearings, depositions and trials and assisting in securing and giving evidence, responding to discovery and obtaining the attendance of witnesses;

6. Accept financial responsibility for personal expenses and costs incurred in the defense of any claim or suit related to participation in the VHCPP, including travel, meals, compensation for time and lost practice, and copying costs, and agree that the state will not compensate the individual volunteer health care provider for the individual volunteer health care provider's expenses or time needed for the defense of the claim or suit;

7. Receive no direct monetary compensation of any kind for services provided in the VHCPP; and

8. Comply with the protection agreement with the VHCPP concerning approved health care services.

88.2(2) *Protected clinic eligibility.* To be eligible for protection as a state agency under Iowa Code chapter 669 for a claim arising from the provision of covered health care services at a protected clinic, the protected clinic will satisfy each of the following conditions at the time of the act or omission allegedly resulting in injury:

a. The protected clinic will comply with subrules 88.3(1) through 88.3(5).

b. The protected clinic will, upon request from the department, provide to the department a list of all health care providers who provided health care services at the protected clinic at the time of a claim made against the individual health care provider or protected clinic that arises out of the provision of free

health care service rendered or that should have been rendered by the individual volunteer health care provider or protected clinic.

c. The protected clinic will only be covered under the VHCPP for the provision of covered health care services by a health care provider providing health care services at the protected clinic who either:

(1) Holds a current individual volunteer health care provider protection agreement with the VHCPP, or

(2) Holds current professional liability insurance coverage and an active unrestricted license, registration, or certification to practice in Iowa under Iowa Code chapter 147A, 148, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, 154F, or 155A.

d. The protected clinic will submit a list of the clinic board of directors and contact information for the board of directors, if applicable.

e. If the protected clinic is a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code, the protected clinic will provide proof of Section 501(c)(3) status to the VHCPP.

f. A protected clinic may allow health care profession students to volunteer at the protected clinic provided that the following conditions are satisfied:

(1) The college, university, or other health care profession educational institution provides professional liability insurance that covers the students;

(2) The protected clinic or the health care profession institution provides general liability and professional liability insurance that covers the students; and

(3) The students provide only those services or activities as are authorized by the education agreement, and such services and activities are provided under the on-site supervision of a health care provider.

88.2(3) *Sponsor entity or sponsor entity clinic.* As a condition of sponsoring individual volunteer health care providers in the VHCPP, a hospital, clinic, free clinic, health care facility, health care referral program, charitable organization, specialty health care provider office, organized outpatient health facility, or field dental clinic shall comply with subrules 88.3(1) through 88.3(5).

641—88.3(135) Sponsor entity and protected clinic.

88.3(1) Licensure. The sponsor entity or protected clinic shall be licensed to the extent directed by law for the facility in question.

88.3(2) If the sponsor entity or protected clinic is a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code, the sponsor entity or protected clinic shall provide proof of Section 501(c)(3) status to the VHCPP.

88.3(3) Application. The sponsor entity or protected clinic shall submit the following information on forms provided by the VHCPP:

a. By category, the patient groups to be served;

b. The health care services to be provided;

c. The site where free health care services are to be provided;

d. Classification of each site as a permanent site or temporary site; and

e. The services that will be provided to those persons who are uninsured and underinsured for the public health purpose of improved health, prevention of illness/injury, and disease management.

88.3(4) Agreement. A signed and current sponsor entity agreement or protected clinic agreement will exist with the VHCPP that will:

a. Provide that the individual volunteer health care provider or health care provider within a protected clinic and the individual volunteer health care provider within a sponsor entity will perform only those health care services identified and approved by the VHCPP;

b. Identify by category the patient groups to be served;

c. Identify the sites at which the free health care services will be provided;

d. Identify as a permanent site or temporary site for the provision of free health care services through the VHCPP;

e. Provide that the sponsor entity or protected clinic will maintain proper records of health care services for a period of seven years from the date of service or, in the case of a minor, for a period of one year after the minor has reached the age of majority; and

f. Provide that the sponsor entity agrees that only the individual volunteer health care provider or protected clinic covered under a current VHCPP protection agreement at the time of the service provision in a claim is afforded protection under Iowa Code section 135.24 and that the state assumes no obligation to the sponsor entity, its employees, officers, or agents. The sponsor entity or protected clinic shall submit a statement, that will be submitted on forms provided by the VHCPP, attesting that the sponsor entity or protected clinic and its staff, employees and volunteers agree to:

(1) Cooperate fully with the state in the defense of any claim or suit relating to participation in the VHCPP, including attending hearings, depositions and trials and assisting in securing and giving evidence, responding to discovery and obtaining the attendance of witnesses;

(2) Accept financial responsibility for the sponsor entity's or protected clinic's expenses and costs incurred in the defense of any claim or suit related to participation in the VHCPP, including travel, meals, compensation for time and lost practice, and copying costs, and agree that the state will not compensate the sponsor entity or protected clinic for expenses or time needed for the defense of the claim or suit;

(3) Receive no direct monetary compensation of any kind for health care services provided in the sponsor entity or protected clinic; and

(4) Comply with the sponsor entity agreement or protected clinic agreement with the VHCPP concerning approved health care services.

88.3(5) General liability insurance. The sponsor entity or protected clinic shall submit proof of general liability insurance for the clinic site.

641—88.4(135) Covered health care services. An individual volunteer health care provider holding a current protection agreement with the VHCPP will be afforded the protection of an employee of the state under Iowa Code chapter 669, and a protected clinic holding a current protection agreement with the VHCPP will be afforded protection as an agency of the state under Iowa Code chapter 669, only for claims for injury alleged to have been proximately caused by an individual volunteer health care provider's provision of covered health care services or solely on the basis of the individual volunteer health care provider's participation in the sponsor entity or protected clinic.

88.4(1) Covered health care services are only those that are:

a. Identified in the protection agreement with the VHCPP;

b. In compliance with these rules;

c. Provided by or under the direct supervision of the individual volunteer health care provider;

d. Health care services of:

(1) Advanced registered nurse practitioners for: well-child examinations; annual adult examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; immunizations; and minor surgical procedures. Certified registered nurse anesthetists may provide anesthesia services for major surgical procedures only if the following conditions are satisfied:

1. The surgery is performed in a hospital as defined in Iowa Code section 135B.1(3) or an organized outpatient health facility;

2. The hospital or organized outpatient health facility at which the surgery is performed has executed a sponsor entity agreement;

3. The physician performing the surgery provides or ensures the provision of adequate presurgical and postsurgical care, including any follow-up necessary to address postoperative complications; and

4. The physician performing the surgery is an individual specialty health care provider or part of a group of specialty health care providers that has registered with the department as a specialty health care provider office.

(2) Audiologists for: testing, measurement and evaluation related to hearing and hearing disorders and associated communication disorders for the purpose of nonmedically identifying, preventing,

modifying or remediating such disorders and conditions including the determination and use of appropriate amplification; patient instruction/counseling; patient habilitation/rehabilitation; and referrals.

(3) Bachelor social workers for: psychosocial assessment and intervention through direct contact with clients; referral to other qualified resources for assistance; performance of social histories; problem identification; establishment of goals and monitoring of progress; interviewing techniques; counseling; social work administration; supervision; evaluation; interdisciplinary consultation and collaboration.

(4) Chiropractors for: examinations; diagnosis and treatment; health education; and health maintenance.

(5) Dental assistants for: intraoral services; extraoral services; infection control; radiography; and removal of plaque or stain by toothbrush, floss, or rubber cup coronal polish.

(6) Dental hygienists for: assessments and screenings; health education; health maintenance; and preventive services (cleaning, X-rays, sealants, fluoride treatments, fluoride varnish).

(7) Dentists for: dental examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; and minor surgical procedures.

(8) Emergency medical care providers for: airway/ventilation/oxygenation; assisted medications—patient's; cardiovascular/circulation; immobilization; IV initiation/maintenance/fluids; and medication administration—routes.

(9) Independent social workers for: psychosocial assessment, diagnosis, and treatment; performance of psychosocial histories; problem identification; evaluation of symptoms and behavior; assessment of psychosocial and behavioral strengths and weaknesses and effects of the environment on behavior; psychosocial therapy; differential treatment planning; and interdisciplinary consultation.

(10) Licensed practical nurses for: supportive or restorative care.

(11) Marital and family therapists for: marital and family therapy; and application of counseling techniques in the assessment and resolution of emotional conditions.

(12) Master social workers for: psychosocial assessment, diagnosis, and treatment; performance of psychosocial histories; problem identification; evaluation of symptoms and behavior; assessment of psychosocial and behavioral strengths and weaknesses and effects of the environment on behavior; psychosocial therapy; differential treatment planning; and interdisciplinary consultation.

(13) Mental health counselors for: mental health counseling; and counseling services involving assessment, referral and consultation.

(14) Occupational therapists for: evaluation and treatment of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorder, congenital or developmental disability or the aging process.

(15) Optometrists for: examinations; diagnosis and treatment of the human eye and adnexa; health education; and health maintenance.

(16) Pharmacists for: drug dispensing; patient counseling; health screenings and education; and immunizations.

(17) Physical therapists for: interpretation of performance, tests, and measurements; evaluation and treatment of human capabilities and impairments; use of physical agents, therapeutic exercises, and rehabilitative procedures to prevent, correct, minimize, or alleviate a physical impairment; establishment and modification of physical therapy program; treatment planning; and patient instruction/education.

(18) Physicians and physician assistants for: well-child examinations; annual adult examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; immunizations; and minor surgical procedures. Physicians may perform major surgical procedures only if the following conditions are satisfied:

1. The surgery is performed in a hospital as defined in Iowa Code section 135B.1(3) or an organized outpatient health facility;

2. The hospital or organized outpatient health facility at which the surgery is performed has executed a sponsor entity agreement;

3. The physician provides or ensures the provision of adequate presurgical and postsurgical care, including any follow-up necessary to address postoperative complications; and

4. The physician performing the surgery is an individual specialty health care provider or part of a group of specialty health care providers that has registered with the department as a specialty health care provider office.

(19) Podiatrists for: examinations; diagnosis and treatment; health education; health maintenance; and minor surgical procedures.

(20) Psychologists for: counseling and the use of psychological remedial measures with persons with adjustment or emotional problems.

(21) Registered nurses for: well-child examinations; annual adult examinations; treatment of acute and chronic conditions; health education; health maintenance; and immunizations.

(22) Respiratory therapists for: diagnostic and therapeutic use of administration of medical gases, aerosols, and humidification, not including general anesthesia; pharmacologic agents relating to respiratory care procedures; bronchopulmonary hygiene; specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of cardiopulmonary abnormalities; and pulmonary function testing.

(23) Speech pathologists for: testing, measurement and evaluation related to the development and disorders of speech, fluency, voice or language for the purpose of nonmedically preventing, ameliorating, modifying or remediating such disorders and conditions; patient instruction/counseling; patient habilitation/rehabilitation; and referrals.

88.4(2) Experimental procedures or procedures and treatments that lack sufficient evidence of clinical effectiveness are excluded from the VHCPP.

641—88.5(135) Defense and indemnification. The state will defend and indemnify an individual volunteer health care provider or a protected clinic for a claim arising from the VHCPP only to the extent provided by Iowa Code chapter 669 and section 135.24. Persons or entities other than the participating individual volunteer health care provider or protected clinic are not considered state employees or state agencies under Iowa Code chapter 669. Defense and indemnification of the individual volunteer health care provider or a protected clinic under Iowa Code chapter 669 and section 135.24 will occur only if all of the following are met:

88.5(1) The claim involves medical injury alleged to have been proximately caused by health care services that were identified and approved in the protection or sponsor agreement with the VHCPP and then only to the extent the health care services were provided by or under the direct supervision of the individual volunteer health care provider, including claims based on negligent delegation of health care, or the individual volunteer health care provider is named as a defendant solely because of the individual volunteer health care provider's participation in the protected clinic or sponsor entity clinic.

88.5(2) The claim arises from covered health care services that were performed at a site identified and approved in the protection agreement with the VHCPP.

88.5(3) The claim arises from covered health care services provided through a protected clinic or sponsor entity clinic identified and approved in the individual volunteer health care provider's protection agreement with the VHCPP and that meets the necessities of rule 641—88.2(135).

88.5(4) The individual volunteer health care provider, health care provider, protected clinic, or sponsor entity clinic that provided the health care services receives no direct monetary compensation of any kind and no promise to pay compensation for the health care services that allegedly resulted in medical injury.

88.5(5) The health care services are provided to a patient who is a member of a patient group identified in the sponsor entity or protected clinic protection agreement with the VHCPP.

88.5(6) The individual volunteer health care provider, protected clinic, or sponsor entity clinic is eligible and registered as provided in rule 641—88.2(135) or the care is provided by a health care provider who holds current professional liability insurance coverage and an active unrestricted license to practice in Iowa under Iowa Code chapter 147A, 148, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, 154F, or 155A and has been approved by the VHCPP.

641—88.6(135) Term of agreement.

88.6(1) *Individual volunteer health care provider.* The protection agreement with the VHCPP will expire five years from the date of execution. Individual volunteer health care providers may apply for renewal by filing an application at least 30 days prior to expiration of the protection agreement.

88.6(2) *Protected clinic.* The protection agreement with the VHCPP will expire five years from the date of execution. The protected clinic may apply for renewal by filing an application at least 30 days prior to expiration of the protection agreement. It is anticipated that temporary sites may change over the five-year period. An updated list of temporary site location or service provision changes will be provided to the department for review and acceptance at least one week prior to service provision at the temporary site. Location or service provision changes to permanent sites will necessitate a protection agreement amendment.

88.6(3) *Sponsor entity.* The sponsor entity agreement with the VHCPP will expire five years from the date of execution. Sponsor entities may apply for renewal by filing an application at least 30 days prior to expiration of the sponsor entity agreement. It is anticipated that temporary sites may change over the five-year period. An updated list of temporary site location or service provision changes will be provided to the department for review and acceptance at least one week prior to service provision at the temporary site. Location or service provision changes to permanent sites will necessitate a protection agreement amendment.

641—88.7(135) Reporting necessities and duties.

88.7(1) Upon obtaining knowledge or becoming aware of any injury allegedly arising out of the negligent rendering of, or the negligent failure to render, covered health care services under the VHCPP, a participating individual volunteer health care provider, protected clinic, or sponsor entity will provide to the VHCPP, as soon as practicable, written notice containing, to the extent obtainable, the circumstance of the alleged injury, the names and addresses of the injured, and any other relevant information.

88.7(2) Upon obtaining knowledge or becoming aware of an injury as defined in subrule 88.7(1), the participating protected clinic or sponsor entity will promptly take all reasonable steps to prevent further or other injury from arising out of the same or similar incidents, situations or conditions.

88.7(3) A participating individual volunteer health care provider, protected clinic, or sponsor entity will immediately notify the Iowa Department of Justice, Special Litigation Division, Hoover State Office Building, Des Moines, Iowa 50319, of service or receipt of an original notice, petition, suit or claim seeking damages from the individual volunteer health care provider, protected clinic or sponsor entity related to participation in the VHCPP.

641—88.8(135) Revocation of agreement. The VHCPP may deny, suspend, revoke, or condition the agreement of an individual volunteer health care provider, protected clinic or sponsor entity for cause, including but not limited to:

1. Failure to comply with the protection agreement or sponsor entity agreement with the VHCPP.
2. Violation of state law governing the respective scope of practice or other law governing the health care services provided under the VHCPP.
3. Making false, misleading, or fraudulent statements in connection with the VHCPP, including determination of eligibility of the individual volunteer health care provider, protected clinic, or sponsor entity or handling of a claim against the individual volunteer health care provider, protected clinic, sponsor entity or the state.
4. Evidence of substance abuse or intoxication affecting the provision of health care services under the VHCPP.
5. Reasonable grounds to believe that the individual volunteer health care provider or health care provider may have provided incompetent or inadequate care to a patient under the VHCPP or is likely to do so.
6. Reasonable grounds to believe that the individual volunteer health care provider's, protected clinic's, or sponsor entity's participation in the VHCPP may expose the state to undue risk.

7. Failure to immediately notify the VHCPP of any disciplinary action brought against the individual volunteer health care provider by the applicable state licensing board.

641—88.9(135) Procedure for revocation of agreement. A proceeding for revocation of an individual volunteer health care provider's protection agreement or a protected clinic's protection agreement or a sponsor entity's agreement for participation will be conducted as a contested case proceeding pursuant to Iowa Code chapter 17A. Iowa Code section 17A.18 does not preclude emergency summary suspension of a protection agreement or a sponsor entity agreement. The VHCPP will immediately notify the appropriate licensing board and the appropriate protected clinic or sponsor entity of revocation of an individual volunteer health care provider's protection agreement.

641—88.10(135) Effect of suspension or revocation. If the VHCPP suspends or revokes an individual volunteer health care provider's protection agreement, sponsor entity protection agreement, or protected clinic's protection agreement, the action will suspend or revoke future protection but will not negate defense and indemnification coverage for covered acts or omissions that occurred during the effective dates of the protection agreement.

641—88.11(135) Protection denied.

88.11(1) *Protection denied—appeal procedure.* An applicant who has been denied protection by the VHCPP may appeal the decision according to the provisions set forth in 441—Chapter 7.

88.11(2) Reserved.

641—88.12(135) Board notice of disciplinary action. The applicable state licensing board will notify the VHCPP of the initiation of a contested case against a protected individual volunteer health care provider or the imposition of disciplinary action, including providing copies of any contested case decision or settlement agreement with the protected individual volunteer health care provider upon request of the VHCPP.

641—88.13(135) Effect of eligibility protection. A fully executed protection agreement of an individual volunteer health care provider or protected clinic as eligible for participation in the VHCPP by the applicable state licensing board and the department is solely a determination that the state will defend and indemnify the individual volunteer health care provider or the protected clinic to the extent provided by Iowa Code section 135.24 and these rules. The protection is not an approval or indication of ability or competence and will not be represented as such. The protected clinic or sponsor entity through which the individual volunteer health care provider provides free health care services will retain responsibility for determining that health care personnel are competent and capable of adequately performing the health care services to be provided.

641—88.14(135) Reporting by a protected clinic or sponsor entity. A reporting form will be provided by the VHCPP to the participating protected clinic or sponsor entity at the time the protected clinic or sponsor entity agreement is approved by the VHCPP. Within 60 days following each calendar quarter, the protected clinic or sponsor entity will provide a report to the VHCPP. At a minimum, the report will include the number of clinic patients receiving free health care services and patient demographics by age, ethnicity, and insurance status.

These rules are intended to implement Iowa Code section 135.24.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9957C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to the BCBA/BCaBA grants program

The Department of Health and Human Services hereby rescinds Chapter 107, "Board-Certified Behavior Analyst and Board-Certified Assistant Behavior Analyst (BCBA/BCaBA) Grants Program," Iowa Administrative Code, and adopts a new Chapter 107 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 135.181.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.181.

Purpose and Summary

This chapter was reviewed as part of the Red Tape Review process laid out by Executive Order 10. As a result of its review, the Department removed restrictive and duplicative terms. The BCBA/BCaBA Grants Program was established to increase access for Iowans to applied behavior analysis services by providing grants to Iowa resident and nonresident applicants who have been accepted for admission or are attending a university, a community college, or an accredited private institution, within or outside the State of Iowa; are enrolled in a program, offered at a physical location or online, that is accredited and meets coursework requirements to prepare the applicant to be eligible for board certification as a behavior analyst or assistant behavior analyst; and demonstrate financial need.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 12, 2025, as **ARC 9665C**. Public hearings were held on the following date:

- December 2, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on December 17, 2025.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

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 March 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 641—Chapter 107 and adopt the following **new** chapter in lieu thereof:

CHAPTER 107
BOARD-CERTIFIED BEHAVIOR ANALYST AND BOARD-CERTIFIED ASSISTANT BEHAVIOR ANALYST (BCBA/BCaBA) GRANTS PROGRAM

641—107.1(135) Definitions. For the purposes of these rules, the following definitions will apply:

"Board-certified assistant behavior analyst" or *"BCaBA"* means a person who has a bachelor's degree from an accredited university, has completed approved coursework as defined by the international Behavior Analyst Certification Board, has completed a defined period of supervised practical experience, and has passed the BCaBA examination.

"Board-certified behavior analyst" or *"BCBA"* means a person who has an acceptable graduate degree from an accredited university as defined by the international Behavior Analyst Certification Board, has completed acceptable graduate coursework in behavior analysis, has completed a defined period of supervised practical experience, and has passed the BCBA examination.

"Full-time enrollment" means the applicant is enrolled in a program to be eligible for board certification as a behavior analyst or assistant behavior analyst with the appropriate number of semester credit hours as defined by the educational institution.

"Nonresident" means a person who is not a resident.

"Part-time enrollment" means the applicant is enrolled in a program to be eligible for board certification as a behavior analyst or assistant behavior analyst with the appropriate number of semester credit hours as defined by the educational institution.

"Resident" means a natural person who physically resides in Iowa as the person's principal and primary residence and who establishes evidence of such residency by providing the department with one of the following:

1. A valid Iowa driver's license,
2. A valid Iowa nonoperator's identification card,
3. A valid Iowa voter registration card,
4. A current Iowa vehicle registration certificate,
5. A utility bill,
6. A statement from a financial institution,
7. A residential lease agreement,
8. A check or pay stub from an employer,
9. A child's school or child care enrollment documents,
10. Valid documentation establishing a filing for homestead or military tax exemption on property located in Iowa, or
11. Other valid documentation as deemed acceptable by the department to establish residency.

641—107.2(135) Eligibility criteria. To be eligible for a grant, the applicant shall:

107.2(1) Be an Iowa resident or nonresident.

107.2(2) Be accepted for admission to or be attending a university, a community college, or an accredited private institution, within or outside the state of Iowa; be enrolled in a program, offered at a physical location or online, that is accredited and meets coursework requirements to prepare the applicant to be eligible for board certification as a behavior analyst or assistant behavior analyst; and demonstrate financial need.

107.2(3) Have on file with the college student aid commission a current Free Application for Federal Student Aid (FAFSA) and Iowa Financial Aid Application or similar financial aid documentation from another state and submit documentation of financial need as described in the department's request for proposal process.

107.2(4) Agree to practice in the state of Iowa for a period of time, not to exceed four years, as specified in the contract entered into between the applicant and the department at the time the grant is awarded.

107.2(5) Agree, as specified in the contract between the applicant and the department at the time the grant is awarded, that during the contract period, the applicant will assist in supervising an individual working toward board certification as a behavior analyst or assistant behavior analyst or to consult with schools and service providers that provide services and supports to individuals with autism.

641—107.3(135) Priority in grant awards. Priority in the awarding of a grant will be given to resident applicants.

641—107.4(135) Amount of a grant. The department will award funds based upon the amount set aside in the special fund as identified in Iowa Code section 135.181. Moneys appropriated to, and all other moneys specified for deposit in, the fund will be dedicated to the BCBA/BCaBA grants program as established in Iowa Code section 135.181. These rules will be implemented only to the extent that funding is available. The amount of funding awarded to each applicant will be based on the applicant's enrollment status (full-time enrollment or part-time enrollment), the number of applicants, and the total amount of available funds. The total amount of funds awarded to an individual applicant will not exceed 50 percent of the total costs attributable to program tuition and fees, annually. Awarded grant funds will be payable to the student and prorated on the number of semesters or other terms of study to complete the program.

641—107.5(135) Use of funds. Funds awarded may be used to offset the costs attributable to tuition and fees for the accredited behavior analyst or assistant behavior analyst program.

641—107.6(135) Review process.

107.6(1) An applicant shall complete and submit an application to the program in the manner specified by the department. An applicant, if awarded a grant, shall enter into a contract with the department. The department will follow the requirements for competitive bid appeals contained in Division II of 441—Chapter 7.

107.6(2) The department will establish an application process for applicants eligible to receive funding. The application review process and review criteria for preference in awarding the grants will be described in a request for proposals.

107.6(3) An applicant may appeal the denial of a properly submitted grant application. Appeals will be governed by the provisions set forth in Division II of 441—Chapter 7.

These rules are intended to implement Iowa Code section 135.181.

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ARC 9958C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to emergency medical services

The Department of Health and Human Services hereby amends Chapter 132, "Emergency Medical Services—Service Program Authorization," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 147A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 147A and Iowa Code section 169.4 as amended by 2025 Iowa Acts, Senate File 296.

Purpose and Summary

This rulemaking implements Iowa Code sections 147A.8 and 169.4 as amended by 2025 Iowa Acts, Senate File 296, which provides that emergency medical care providers may diagnose or treat a severely injured police service dog.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 12, 2025, as **ARC 9659C**. Public hearings were held on the following date:

- December 2, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on December 17, 2025.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

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 March 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Adopt the following **new** paragraph **132.3(4)"e"**:

e. Service programs electing to diagnose or treat police service dogs. A service program that elects to have rostered emergency medical care providers diagnose or treat severely injured police service dogs shall develop, maintain, and follow policies and procedures for diagnosing or treating police service dogs. The policies and procedures shall be developed in consultation with a veterinarian holding an active license to practice veterinary medicine in Iowa pursuant to Iowa Code chapter 169.

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ARC 9959C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to the love our kids grant program

The Department of Health and Human Services hereby rescinds Chapter 141, "Love Our Kids Grant," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 321 and Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 147A.4 and 321.34.

Purpose and Summary

This rulemaking was undertaken as a result of a Red Tape Review pursuant to Executive Order 10. The purpose of the Love Our Kids Grant is to provide funding to statewide, regional and local agencies and service programs that serve to promote the development, promotion, and implementation of injury prevention and education for children in Iowa. Funds are provided by the Iowa Department of Transportation, and the Department disburses to eligible agencies across the State. The Iowa Code does not dictate that the funds must be administered via grants. In addition, there is no rulemaking authority for this chapter. Therefore, the Department is rescinding this chapter and will distribute funds to agencies through the procurement and contracting process instead of through grants.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 12, 2025, as **ARC 9669C**. Public hearings were held on the following date:

- December 2, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on December 17, 2025.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

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 March 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **641—Chapter 141**.

[Filed 12/17/25, effective 3/1/26]
[Published 1/7/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9960C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to Iowa physician orders for scope of treatment

The Department of Health and Human Services hereby rescinds Chapter 145, "Iowa Physician Orders for Scope of Treatment," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 144A.7 and 144D.2.

Purpose and Summary

The Physician Orders for Scope of Treatment (POST) Form is a document that contains medical orders that may be relied upon across medical settings and that consolidates a patient's preferences for life-sustaining treatments and interventions. The purpose of this chapter was to establish the process for the development, review, modification, and posting of the POST Form.

Upon a Red Tape Review of this chapter, it was determined that the language is duplicative of Iowa Code chapter 144D. In addition, there is no rulemaking authority for this chapter. As such, the Department is rescinding the chapter. This will not cause any disruption in the effectiveness of the POST Form as determined by a patient and the patient's medical provider.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 12, 2025, as **ARC 9666C**. Public hearings were held on the following date:

- December 2, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on December 17, 2025.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

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 March 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **641—Chapter 145**.

[Filed 12/17/25, effective 3/1/26]
[Published 1/7/26]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9961C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rulemaking related to tobacco use prevention and control funding process

The Department of Health and Human Services hereby rescinds Chapter 152, "Tobacco Use Prevention and Control Funding Process," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 142A.6.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 142A.6 and 2024 Iowa Acts, House File 2673.

Purpose and Summary

This rulemaking is being undertaken as a result of Executive Order 10. In addition, this chapter became obsolete effective July 1, 2025, due to the enactment of 2024 Iowa Acts, House File 2673. That legislation, in part, realigned the State's behavioral health service system and repealed Iowa Code chapter 142A, which established the Tobacco Use Prevention and Control Commission. The Commission was dissolved effective July 1, 2025. Because the Commission was dissolved, this chapter is no longer needed and is being rescinded.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 12, 2025, as **ARC 9663C**. Public hearings were held on the following date:

- December 2, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on December 17, 2025.

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 for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

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 March 1, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **641—Chapter 152**.

[Filed 12/17/25, effective 3/1/26]
[Published 1/7/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9962C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rulemaking related to law enforcement administrator's telecommunications advisory committee (LEATAC)

The Department of Public Safety hereby rescinds Chapter 15, "Law Enforcement Administrator's Telecommunications Advisory Committee (LEATAC)," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 80.29.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 80.28.

Purpose and Summary

Pursuant to Executive Order 10, this rulemaking rescinds Chapter 15 in its entirety. The LEATAC no longer exists, and the Law Enforcement Administrator's Communications Network frequency was removed. The committee and network were replaced by the Iowa Statewide Interoperable Communications System (ISICS) and the ISICS Board, governed by 661—Chapter 600. Those entities and that chapter supplanted Chapter 15 and the need therefor.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 29, 2025, as **ARC 9637C**. A public hearing was held on the following date(s):

- November 18, 2025
- November 19, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on December 3, 2025.

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 for a waiver of the discretionary provisions, if any, pursuant to rule 661—10.222(17A).

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 February 11, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **661—Chapter 15**.

[Filed 12/5/25, effective 2/11/26]
[Published 1/7/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9963C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rulemaking related to reflective devices on slow-moving vehicles

The Department of Public Safety hereby rescinds Chapter 23, "Reflective Devices on Slow-Moving Vehicles," Iowa Administrative Code, and adopts a new Chapter 23 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 321.383(2).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 321.383(2).

Purpose and Summary

Pursuant to Executive Order 10, this rulemaking rescinds Chapter 23 and adopts a new chapter in lieu thereof. Chapter 23 outlines the standards for an alternative reflective device for a person operating a vehicle drawn by a horse or mule that objects for religious reasons to using a reflective device that complies with the standards of the American Society of Agricultural Engineers.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 29, 2025, as **ARC 9635C**. A public hearing was held on the following date(s):

- November 18, 2025
- November 19, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on December 3, 2025.

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 for a waiver of the discretionary provisions, if any, pursuant to rule 661—10.222(17A).

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 February 11, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 661—Chapter 23 and adopt the following **new** chapter in lieu thereof:

CHAPTER 23
REFLECTIVE DEVICES ON SLOW-MOVING VEHICLES

661—23.1(321) Alternative reflective device. If a person operating a vehicle drawn by a horse or mule objects for religious reasons to using a reflective device that complies with the standards of the American Society of Agricultural Engineers, the vehicle may be identified by an alternative reflective device that is in compliance with the following:

23.1(1) The alternative reflective device will consist of one-inch-wide strips applied to the rear of the vehicle. The combined length of the strips will be at least 72 inches, and the strips, when applied, will approximate the outline of the vehicle.

23.1(2) The reflective material may be black, gray, silver or white in color but must reflect white when illuminated by other vehicles' headlamps.

23.1(3) The reflective material will be visible from a distance of not less than 500 feet from the rear of the vehicle when illuminated by other vehicles' headlamps.

23.1(4) The reflective material will be kept free of dirt and debris.

This rule is intended to implement Iowa Code section 321.383(2).

[Filed 12/5/25, effective 2/11/26]
[Published 1/7/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9964C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rulemaking related to firefighter training and certification

The Department of Public Safety hereby rescinds Chapter 251, "Firefighter Training and Certification," Iowa Administrative Code, and adopts a new Chapter 251 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 100B.10 and 2025 Iowa Acts, House File 793.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 100B and 2025 Iowa Acts, House File 793.

Purpose and Summary

Pursuant to Executive Order 10, this rulemaking rescinds Chapter 251 and adopts a new chapter in lieu thereof. Chapter 251 provides minimum training standards and certification standards for firefighters in Iowa. The rulemaking also incorporates and addition to the training standards pursuant to 2025 Iowa Acts, House File 793.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 29, 2025, as **ARC 9636C**. A public hearing was held on the following date(s):

- November 18, 2025
- November 19, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on December 3, 2025.

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 for a waiver of the discretionary provisions, if any, pursuant to rule 661—10.222(17A).

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 February 11, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 661—Chapter 251 and adopt the following **new** chapter in lieu thereof:

CHAPTER 251
FIREFIGHTER TRAINING AND CERTIFICATION

661—251.1(100B) Definitions. The following definitions apply to rules 661—251.1(100B) through 661—251.204(100B):

"Emergency incident" means any incident involving a fire or other hazardous situation to which personnel of a fire department respond.

"NFPA" means the National Fire Protection Association.

"Structural firefighting" means firefighting in a hazardous environment that requires the use of self-contained breathing apparatus.

661—251.2 to **251.100** Reserved.

MINIMUM TRAINING STANDARDS

661—251.101(100B) Minimum training standard. Any member of a fire department will have completed the training requirements identified in the job performance requirements for the firefighter I classification in NFPA 1010 – 2024 edition, Standard on Professional Qualifications for Fire Fighters, based on the current edition adopted by the fire service training bureau, prior to the member's engaging in structural firefighting. Each fire department will identify its members who are or will be engaged in structural firefighting and ensure that any member engaged in structural firefighting has completed the training requirements specified in this rule prior to the member's engaging in structural firefighting.

NOTE: A firefighter is not required to be certified to meet this requirement. Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, a local fire department, or any combination thereof.

EXCEPTION 1: A firefighter who received training that complied with the job performance requirements for the firefighter I classification contained in an earlier edition of NFPA 1001 is deemed to have met this requirement, provided that records documenting the training are maintained in accordance with rule 661—251.104(100B).

EXCEPTION 2: The chief or the training officer of any fire department may apply to the state fire marshal by June 1 of any year for an extension of the deadline to meet the training requirement for members of the department engaged in structural firefighting. Any such extension will be for one year and may be renewed annually upon application. An extension will be granted only if the department has requested training required under this rule, with training costs to be offset through funding from the firefighting training and equipment fund, pursuant to 661—Chapter 259, and funds to offset the cost of the training have not been available or have been inadequate to fully offset the cost of the training. The extension may be for all or some of the firefighters in the department. The application is to be in a form specified by the state fire marshal and will list by name each firefighter for whom an extension is requested. The

extension, if granted, will list by name the firefighters to whom the extension applies and will apply only to those listed.

661—251.102(100B) Other training. Any member of a fire department who serves in a capacity other than structural firefighting at an emergency incident will have received training based on the duties the member might perform at an emergency incident. Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

661—251.103(100B) Continuing training. Fire department members will participate in at least 24 hours of continuing training annually, which may include but is not limited to the following subject matter areas:

1. Personal protective equipment and respiratory protection.
2. Structural firefighting techniques, including standard operating policies and procedures or standard operating guidelines.
3. Ground ladders.
4. Hose and hose appliances.
5. Ventilation.
6. Forcible entry.
7. Search and rescue techniques.
8. Firefighter safety.
9. National Incident Management System or Incident Command System.
10. Emergency vehicle driver-operator.
11. Hazardous materials first responder—operations level.
12. Emergency medical service (EMS) training.
13. Additional training based on standard operating policies and procedures or standard operating guidelines.
14. Occupational Safety and Health Administration (OSHA)-related training, such as bloodborne pathogen protection.
15. Specialty training such as confined space entry, vehicle extrication, rescue techniques, wildland or agricultural firefighting techniques.
16. Emergency response to terrorism.
17. Any other training designed to meet local training needs.

NOTE: Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

661—251.104(100B) Recordkeeping. Each fire department will maintain training records for each individual member of the department who participates in emergency incidents. These training records will identify, for all training completed by the individual firefighter, the person or persons who provided the training, the dates during which the training was completed, the location or locations where the training was delivered, and a description of the content of the training.

661—251.105 to **251.200** Reserved.

FIREFIGHTER CERTIFICATION

661—251.201(100B) Firefighter certification and accreditation program. There is established within the fire service training bureau of the state fire marshal division a firefighter certification program for the state of Iowa, known as the certification and accreditation program. The certification and accreditation program is accredited by the National Board on Fire Service Professional Qualifications (Pro Board) and the International Fire Service Accreditation Congress (IFSAC) to certify fire service personnel to

accepted national standards. All certifications issued by the certification and accreditation program will be based upon nationally accepted standards.

NOTE 1: Participation in the certification and accreditation program is voluntary, and state law does not require certification to work or volunteer as a firefighter in Iowa. However, some fire departments within the state require certification for continued employment or promotion. Inquiries regarding such requirements should be directed to the hiring or employing department.

NOTE 2: Inquiries and requests regarding the certification and accreditation program should be directed to the fire service training bureau.

251.201(1) *Eligibility.* Any person seeking certification through the certification and accreditation program will be a current member of a fire, emergency, or rescue organization within the state of Iowa or enrolled in a fire science program within the Iowa college system and at least 18 years of age.

EXCEPTION: Persons not meeting the requirement of membership in a fire, emergency, or rescue organization may be granted exceptions to this requirement on an individual basis. Individuals seeking such exceptions will address these requests to the fire service training bureau.

251.201(2) *Registration.* Registration forms for each level of firefighter certification may be obtained from the fire service training bureau. In order to enter the certification and accreditation program, a candidate will submit a completed registration, accompanied by the required fee, to the fire service training bureau. The registration and fee will be submitted no less than two weeks prior to the date of any examination in which the candidate wishes to participate.

661—251.202(100B) Certification standards. Standards for the certification and accreditation program are based upon nationally recognized standards established by the NFPA. Certification at each level in the Iowa fire service certification system results in national certification.

251.202(1) *Firefighter.*

a. Firefighter I. Certification as a firefighter I is based upon the requirements for firefighter I certification established in NFPA 1010 – 2024 edition, "Standard on Professional Qualification for Fire Fighters."

b. Firefighter II. Firefighter II. Certification as a firefighter II is based upon the requirements for firefighter II certification established in NFPA 1010 – 2024 edition, "Standard on Professional Qualifications for Fire Fighters."

251.202(2) *Driver/operator.*

a. Driver/operator (pumper). Certification as a driver/operator (pumper) is based upon the requirements for fire department vehicle driver/operator (pumper) certification established in NFPA 1010 – 2024 edition, "Standard on Professional Qualification for Fire Fighters."

b. Driver/operator (aerial). Certification as a driver/operator (aerial) is based upon the requirements for fire department vehicle driver/operator (aerial) certification established in NFPA 1010 – 2024 edition, "Standard on Professional Qualifications for Fire Fighters."

251.202(3) *Fire officer.*

a. Fire officer I. Certification as a fire officer I is based upon the requirements for fire officer I certification established in NFPA 1021 – 2020 edition, "Standard for Fire Officer Professional Qualifications."

b. Fire officer II. Certification as a fire officer II is based upon the requirements for fire officer II certification established in NFPA 1021 – 2020 edition, "Standard for Fire Officer Professional Qualifications."

251.202(4) *Fire inspector.* Certification as a fire inspector is based upon the requirements for certification as a fire inspector established in NFPA 1030 – 2024 edition, "Standard for Professional Qualifications for Fire Prevention Programs."

251.202(5) *Fire investigator.* Certification as a fire investigator is based upon the requirements for certification as a fire investigator established in NFPA 1033 – 2022 edition, "Standard for Professional Qualifications for Fire Investigator."

251.202(6) *Fire and emergency services instructor.*

a. Fire and emergency services instructor I. Certification as a fire and emergency services instructor I is based upon the requirements for certification as a fire and emergency services instructor I established in NFPA 1041 – 2019 edition, "Standard for Fire and Emergency Services Instructor Professional Qualifications."

b. Fire and emergency services instructor II. Certification as a fire and emergency services instructor II is based upon the requirements for certification as a fire and emergency services instructor II established in NFPA 1041 – 2019 edition, "Standard for Fire and Emergency Services Instructor Professional Qualifications."

251.202(7) *Live fire instructor.*

a. Live fire instructor. Certification as a live fire instructor is based upon the requirements for certification as a live fire instructor established in NFPA 1041 – 2019 edition "Standard for Fire and Emergency Services Instructor Professional Qualifications."

b. Live fire instructor in charge. Certification as a live fire instructor in charge is based upon the requirements for certification as a live fire instructor in charge established in NFPA 1041 – 2019 edition "Standard for Fire and Emergency Services Instructor Professional Qualifications."

251.202(8) *Responder to hazardous materials incidents.*

a. Responder to hazardous materials incidents at the awareness level. Certification as a responder to hazardous materials incidents (awareness) is based on the requirements established in NFPA 470 – 2022 edition, "Hazardous Materials/Weapons of Mass Destruction (WMD) Standard for Responders."

b. Responder to hazardous materials incidents at the operations level. Certification as a responder to hazardous materials incidents (operations) is based upon the requirements established in NFPA 470 – 2022 edition, "Hazardous Materials/Weapons of Mass Destruction (WMD) Standard for Responders."

661—251.203(100B) Fees.

251.203(1) The fee for each certification is $50. These fees can be found on the fire service training bureau's website and also within the publication Certification Procedures Guide for each level of certification, published by the fire service training bureau. The information in each guide is effective upon publication until superseded by publication of a later edition. Prospective candidates who are considering application for a particular level of certification should contact the fire service training bureau for the latest date of publication of the Certification Procedures Guide.

251.203(2) Fees may be paid by personal credit card or check made payable to Iowa Department of Public Safety—Fire Service Training Bureau, credit card or check from a public agency or private organization, or money order. The check, credit card information, money order or draft will be submitted with the application.

661—251.204(100B) Certification, denial, and revocation of certification.

251.204(1) *Certification.* Upon completion of the requirements for certification, the applicant's name will be entered into the Iowa certification database maintained by the fire service training bureau for the respective level of certification and into the certification databases maintained by the Pro Board and the IFSAC. Individuals who successfully complete the certification requirements will receive an individualized certificate awarding national certification from the fire service training bureau, which will bear numbered seals from the Pro Board and the IFSAC, and additional insignia from the fire service training bureau.

251.204(2) *Denial of certification.* Certification will be denied to any applicant who fails to meet all of the requirements for the type of certification, who knowingly submits false information to the fire service training bureau, or who engages in fraudulent activity during the certification process.

251.204(3) *Revocation.* The fire service training bureau may revoke the certification of any individual who is found to have knowingly provided false information to the fire service training bureau during the certification process or to have engaged in fraudulent activity during the certification process. In addition, certification may be revoked by the fire service training bureau if an individual was found to have engaged in and been convicted of a felony-level crime, including but not limited to murder, arson,

sexual assault, physical assault, embezzlement, and crimes committed against a fire department or its respective association.

251.204(4) *Appeals.* Any person who is denied certification or whose certification is revoked may appeal the denial or revocation. An appeal of a denial or revocation of certification will be made to the commissioner of public safety within 30 days of the issuance of the denial or revocation using the contested case procedures specified in rules 661—10.301(17A) through 661—10.332(17A).

251.204(5) *Sex offender registry.* Pursuant to 2025 Iowa Acts, House File 793, a person who has committed any crime as an adult that resulted in the requirement that the person be listed on a sex offender registry will not be certified as a firefighter and will not serve as a noncertified or volunteer firefighter.

These rules are intended to implement Iowa Code chapter 100B.

[Filed 12/5/25, effective 2/11/26]
[Published 1/7/26]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9965C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rulemaking related to statewide standard for permitting certain implements of husbandry

The Transportation Department hereby rescinds Chapter 181, "Statewide Standard for Permitting Certain Implements of Husbandry," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 307.12(1)"j."

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 321.1, 321.463(4) and 321.471.

Purpose and Summary

The Department is permanently rescinding Chapter 181 and instead including the established statewide standard required by Iowa Code section 321.463(4) within the Department's Local Systems Instructional Memorandums, which are available on the Department's website. The standard allows a local authority to issue a special permit for a fence-line feeder, grain cart, tank wagon or tracked implement of husbandry with a weight in excess of the weights allowed under Iowa Code chapter 321 to operate within the local authority's jurisdiction safely.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 15, 2025, as **ARC 9607C**. Public hearings were held on the following date:

- November 4, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Department on November 19, 2025.

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 for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

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 February 11, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind and reserve **761—Chapter 181**.

[Filed 12/16/25, effective 2/11/26]
[Published 1/7/26]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.

ARC 9966C

WORKFORCE DEVELOPMENT BOARD, STATE[877]

Adopted and Filed

Rulemaking related to workforce development board

The Workforce Development Department hereby rescinds Chapter 1, "Workforce Development Board," Iowa Administrative Code, and adopts a new Chapter 1 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapters 17A and 84A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A and 84A.

Purpose and Summary

Chapter 1 provides duties of the State Workforce Development Board. The chapter provides for the coordination between the Department of Corrections and the Workforce Development Department (Department) for private sector employment projects.

As part of the Department's review of rules under Executive Order 10, the Department identified several instances where the current chapter duplicates statutory language and uses restrictive terms. This text has been removed in the chapter.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9378C**. Public hearings were held on the following date:

- July 15, 2025

No one attended the public hearings. No public comments were received. No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Director of the Department on December 8, 2025.

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 for a waiver of the discretionary provisions, if any.

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 February 11, 2026.

The following rulemaking action is adopted:

ITEM 1. Rescind 877—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
WORKFORCE DEVELOPMENT BOARD

877—1.1(84A) Records. Agendas, minutes, and materials presented to the board are available from Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319, except those records concerning closed sessions that are exempt from disclosure under Iowa Code section 21.5(5) or that are otherwise confidential by law. Board records contain information about persons who participate in meetings. This information is collected pursuant to Iowa Code sections 21.3 and 96.11(6). These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

877—1.2(84A) Coordination with the department of corrections on private sector employment projects. To assist the department of corrections with programs that employ offenders in the private

sector, the department of workforce development shall be responsible for coordinating the following process:

1.2(1) Prior to an employer's submission of an application to the department of corrections for a private sector employment project, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet site.

1.2(2) The department of corrections shall send a letter requesting verification of the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders. The letter should be sent to Division Administrator, Labor Market Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.2(3) The department of workforce development shall verify in writing the job listing, including the number of qualified applicant referrals and hires made as a result of the job order, the average entry-level wage rate for the proposed job(s), the entry-level wage range, the current unemployment rate for the county where the employer is located, and the current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available. The average wage rate and wage range will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

1.2(4) Average entry-level wage rates and entry-level wage ranges for jobs currently held by offenders and employment levels of companies employing offenders shall be updated by the department of workforce development annually upon the department of corrections' sending a letter listing all current companies employing offenders and the offenders' job classifications to Division Administrator, Labor Market Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.2(5) The department of workforce development shall provide a periodic report to the state workforce development board regarding information supplied to the department of corrections for private sector employment projects. Frequency of the report will depend upon the level of activity.

1.2(6) Inquiries concerning private sector employment projects shall be in writing and address the following questions:

a. Whether and how the project is believed to violate the intent of Iowa Code section 904.809;

b. Evidence of a local surplus of labor in the job classifications of the type in which offenders are employed; and

c. Whether private sector employees or employees involved in a labor dispute have been displaced as a result of the project.

Inquiries shall be sent to the Executive Assistant of the State Workforce Development Board, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. A copy of the inquiry shall be sent to the department of corrections. The director of the department shall consult with the director of prison industries concerning the inquiry prior to the workforce development board's making a final recommendation regarding possible corrective action.

The state workforce development board shall review the inquiry and any additional responses or oral testimony requested by the board and make a recommendation as to whether the intent of Iowa Code section 904.809 has or has not been met and whether corrective action, if any, needs to be taken by the department of corrections to meet the intent. At the discretion of the board, oral presentations may be requested from the party(ies) to the inquiry. The board shall make a final recommendation within 60 days of receipt of the inquiry. The board's final recommendation shall be mailed to both the department of corrections and the party(ies) making the inquiry.

877—1.3(84A) Coordination with the department of corrections on construction and maintenance projects. To assist the department of corrections with the employment of offenders on construction and maintenance projects, the department of workforce development shall be responsible for coordinating the following process:

1.3(1) Prior to an employer's submitting an application to the department of corrections for employing offenders on a construction or maintenance project, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet site.

1.3(2) The department of corrections shall send a letter requesting verification of the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders. The letter should be sent to Division Administrator, Labor Market Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.3(3) The department of workforce development shall verify in writing the job listing, including the number of qualified applicant referrals and hires made as a result of the job order, the average entry-level wage rate for the proposed job(s), the entry-level wage range, the prevailing wage as determined by the U.S. Department of Labor, the current unemployment rate for the county where the employer is located, and the current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available. The average entry-level wage rate and entry-level wage range will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

1.3(4) If the contract to employ offender labor exceeds six months, the department of corrections shall request and receive from the department of workforce development the average wage rates and wage ranges for jobs currently held by offenders and current employment levels of companies employing offenders. The letter should be addressed to Division Administrator, Labor Market Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.3(5) Inquiries concerning construction and maintenance projects performed by offenders may be made by area workers, or their representatives, that are affected by a project. Inquiries shall be in writing and address the following questions:

a. Whether and how the project is believed to violate the intent of Iowa Code sections 904.701 and 904.703;

b. Evidence of a local surplus of labor in the job classifications of the type in which offenders are employed;

c. Whether private sector employees or state, county or local government employees or employees involved in a labor dispute have been displaced as a result of the project; and

d. Whether existing contracts for employment or services have been impaired.

Inquiries shall be sent to Division Administrator, Labor Market Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. A copy of the inquiry shall be sent to the department of corrections. The director of the department shall consult with the director of the department of corrections and the affected regional advisory board concerning the inquiry prior to the workforce development board's making a final recommendation regarding possible corrective action.

The state workforce development board shall review the inquiry and any additional responses or oral testimony requested and make a recommendation as to whether the intent of Iowa Code sections 904.701 and 904.703 has or has not been met and whether corrective action, if any, needs to be taken by the department of corrections to meet the intent. At the discretion of the board, oral presentations may be requested from the party(ies) to the inquiry. The board shall make a final recommendation within 60 days of receipt of the inquiry. The board's final recommendation shall be mailed to both the department of corrections and the party(ies) making the inquiry.

These rules are intended to implement Iowa Code sections 84A.1A and 84A.1B.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/26.