IOWA ADMINISTRATIVE BULLETIN

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Pages 2435 to 2683 include **ARC 3723C** to **ARC 3751C**

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]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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, lettered paragraph, or numbered subparagraph).

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)

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).

Schedule for Rule Making
2018

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 27 '17	Jan. 17 '18	Feb. 6 '18	Feb. 21 '18	Feb. 23 '18	Mar. 14 '18	Apr. 18 '18	July 16 '18
Jan. 12	Jan. 31	Feb. 20	Mar. 7	Mar. 9	Mar. 28	May 2	July 30
Jan. 26	Feb. 14	Mar. 6	Mar. 21	Mar. 23	Apr. 11	May 16	Aug. 13
Feb. 9	Feb. 28	Mar. 20	Apr. 4	Apr. 6	Apr. 25	May 30	Aug. 27
Feb. 23	Mar. 14	Apr. 3	Apr. 18	Apr. 20	May 9	June 13	Sep. 10
Mar. 9	Mar. 28	Apr. 17	May 2	May 4	May 23	June 27	Sep. 24
Mar. 23	Apr. 11	May 1	May 16	***May 16***	June 6	July 11	Oct. 8
Apr. 6	Apr. 25	May 15	May 30	June 1	June 20	July 25	Oct. 22
Apr. 20	May 9	May 29	June 13	***June 13***	July 4	Aug. 8	Nov. 5
May 4	May 23	June 12	June 27	June 29	July 18	Aug. 22	Nov. 19
May 16	June 6	June 26	July 11	July 13	Aug. 1	Sep. 5	Dec. 3
June 1	June 20	July 10	July 25	July 27	Aug. 15	Sep. 19	Dec. 17
June 13	July 4	July 24	Aug. 8	Aug. 10	Aug. 29	Oct. 3	Dec. 31
June 29	July 18	Aug. 7	Aug. 22	***Aug. 22***	Sep. 12	Oct. 17	Jan. 14 '19
July 13	Aug. 1	Aug. 21	Sep. 5	Sep. 7	Sep. 26	Oct. 31	Jan. 28 '19
July 27	Aug. 15	Sep. 4	Sep. 19	Sep. 21	Oct. 10	Nov. 14	Feb. 11 '19
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Aug. 22	Sep. 12	Oct. 2	Oct. 17	Oct. 19	Nov. 7	Dec. 12	Mar. 11 '19
Sep. 7	Sep. 26	Oct. 16	Oct. 31	***Oct. 31***	Nov. 21	Dec. 26	Mar. 25 '19
Sep. 21	Oct. 10	Oct. 30	Nov. 14	***Nov. 14***	Dec. 5	Jan. 9 '19	Apr. 8 '19
Oct. 5	Oct. 24	Nov. 13	Nov. 28	Nov. 30	Dec. 19	Jan. 23 '19	Apr. 22 '19
Oct. 19	Nov. 7	Nov. 27	Dec. 12	***Dec. 12***	Jan. 2 '19	Feb. 6 '19	May 6 '19
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Nov. 14	Dec. 5	Dec. 25	Jan. 9 '19	Jan. 11 '19	Jan. 30 '19	Mar. 6 '19	June 3 '19
Nov. 30	Dec. 19	Jan. 8 '19	Jan. 23 '19	Jan. 25 '19	Feb. 13 '19	Mar. 20 '19	June 17 '19
Dec. 12	Jan. 2 '19	Jan. 22 '19	Feb. 6 '19	Feb. 8 '19	Feb. 27 '19	Apr. 3 '19	July 1 '19
Dec. 26	Jan. 16 '19	Feb. 5 '19	Feb. 20 '19	Feb. 22 '19	Mar. 13 '19	Apr. 17 '19	July 15 '19

PRINTING SCHEDULE FOR IAB

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23	**Friday, April 20, 2018**	**May 9, 2018**
24	**Friday, May 4, 2018**	**May 23, 2018**
25	**Wednesday, May 16, 2018**	**June 6, 2018**

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

Note change of filing deadline

CHIEF INFORMATION OFFICER, OFFICE OF THE[129]

Broadband grants program, ch 22 IAB 4/11/18 **ARC 3728C**	OCIO Innovation Lab Hoover State Office Bldg. Des Moines, Iowa	May 2, 2018 10 to 11 a.m. (If requested)

DENTAL BOARD[650]

Overpayment, 1.1 IAB 3/28/18 **ARC 3703C**	Board Office, Suite D 400 S.W. Eighth St. Des Moines, Iowa	April 24, 2018 2 p.m.
Graduates of foreign dental schools—licensure, 11.4 IAB 3/28/18 **ARC 3705C**	Board Office, Suite D 400 S.W. Eighth St. Des Moines, Iowa	April 24, 2018 2 p.m.

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LABOR SERVICES DIVISION[875]

Occupational safety and health violations—increased penalties, 3.11(1) IAB 3/28/18 **ARC 3702C**	150 Des Moines St. Des Moines, Iowa	April 18, 2018 9 a.m. (If requested)
Conveyances, amendments to chs 66 to 73 IAB 4/11/18 **ARC 3727C**	150 Des Moines St. Des Moines, Iowa	May 2, 2018 9 a.m. (If requested)

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Deer hunting by residents and nonresidents, amendments to chs 94, 106 IAB 4/11/18 **ARC 3731C**	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	May 1, 2018 12 noon
Wild turkey spring and fall hunting, amendments to chs 98, 99 IAB 4/11/18 **ARC 3729C**	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	May 1, 2018 12 noon

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TRANSPORTATION DEPARTMENT[761]

Federal motor carrier safety and hazardous materials regulations—adoption by reference, 520.1, 529.1, 529.2, 607.10(1)"c" IAB 3/28/18 **ARC 3700C**	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	April 19, 2018 10 a.m. (If requested)

UTILITIES DIVISION[199]

Electric utility services, amendments to ch 20 IAB 4/11/18 **ARC 3726C**	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	May 16, 2018 9 a.m. to 12 noon

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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ARC 3728C

CHIEF INFORMATION OFFICER, OFFICE OF THE[129]

Notice of Intended Action

Proposing rule making related to the broadband grants program and providing an opportunity for public comment

The Office of the Chief Information Officer hereby proposes to adopt new Chapter 22, "Broadband Grants Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 8B.4(5) and 8B.11(8).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 8B.11.

Purpose and Summary

New Chapter 22 applies to the Broadband Grants Program established by Iowa Code section 8B.11 and administered by the Office. As authorized by Iowa Code section 8B.11(8), this proposed chapter establishes program process, management, and measurement rules designed to ensure the effective and efficient administration and oversight of the Broadband Grants Program, the key objective of which is to reduce or eliminate underserved areas (statutorily referred to as targeted service areas) in Iowa by incentivizing the installation of broadband infrastructure by communications service providers therein.

Fiscal Impact

The Office will use the existing budget and resources to implement these rules, including any specific appropriations made during the 2018 Legislative Session for such purpose.

Jobs Impact

Deployment of grant funds should lead to increased broadband projects for communications service providers and therefore increased job opportunities across the state.

Waivers

These rules establish general processes and procedures applicable to the posting of opportunities related to and applications for grant funds. Specific requirements, however, will be more fully articulated in the Notice of Funding Availability, as stated in these rules. Waivers will be handled in accordance with the terms of the Notice of Funding Availability—similar to the manner in which waivers for requests for proposals in the procurement context are handled.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Office no later than 4:30 p.m. on May 1, 2018. Comments should be directed to:

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

Robert S. von Wolffradt
Office of the Chief Information Officer
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50319
Email: CIO@iowa.gov

Public Hearing

If timely requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

May 2, 2018	OCIO Innovation Lab
10 to 11 a.m.	Hoover State Office Building
	1305 East Walnut Street
	Des Moines, Iowa

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 rule making.

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 Office and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making action is proposed:

Adopt the following **new** 129—Chapter 22:

CHAPTER 22
BROADBAND GRANTS PROGRAM

129—22.1(8B) Definitions. The definitions in rule 129—20.1(8B,427) shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall also apply:

"Grantee" means a communications service provider awarded grant funds by the office pursuant to and in accordance with Iowa Code section 8B.11 and these rules.

"Project" means an installation of broadband infrastructure by a communications service provider in one or more targeted service areas. Except in limited circumstances otherwise permitted herein, a project may not be comprised of, in whole or in part, census blocks that are not targeted service areas.

129—22.2(8B) Purpose and scope. This chapter applies to the broadband grants program established by Iowa Code section 8B.11 and administered by the office. As authorized by Iowa Code section 8B.11(8), this chapter establishes program process, management, and measurement rules designed to ensure the effective and efficient administration and oversight of the program, the key objective of which is to reduce or eliminate targeted service areas in the state of Iowa by incentivizing the installation of broadband infrastructure by communications service providers therein.

129—22.3(8B) Notice accepting grant funds.

22.3(1) The office shall provide notice to communications service providers when grant funds become available for distribution by the office by posting a "Notice of Funding Availability" (NOFA) online at iowagrants.gov and ocio.iowa.gov/broadband.

22.3(2) Such NOFA may:

a. Generally describe the application process.

b. State the date, time, and manner by which applications for such grant funds must be submitted to the office in order to be eligible for consideration by the office for an award of grant funds.

c. State the total amount of grant funds available for distribution under the applicable NOFA.

d. Describe the factors the office will consider in determining whether, to which communications service providers, and in what amount(s) to award grant funds.

e. Set forth any measurement, technical, scoring, or other similar standards, formulas or criteria the office will utilize in applying any factors considered by the office in determining whether, to which communications service providers, and in what amount(s) to award grant funds.

f. State any other terms, conditions, requirements, or processes applicable to communications service providers submitting applications for grant funds, including but not limited to any grant agreement the office may require a grantee to enter into as a condition of receiving grant funds pursuant to subrule 22.6(1).

129—22.4(8B) Applications for grant funds.

22.4(1) *Application process.* Following the issuance of a NOFA by the office, communications service providers may apply to the office for grant funds for the installation of broadband infrastructure in targeted service areas at or above 25 megabits per second of download speed and 3 megabits per second of upload speed. Applications shall be made and submitted in accordance with the terms of the NOFA.

22.4(2) *Contents of application.* In addition to any other questions or requirements established by the NOFA, an application shall, at a minimum, include:

a. The communications service provider's legal and business name and address;

b. The name, address, telephone number, and email address of the person authorized by the communications service provider to respond to inquiries regarding the application;

c. The census block number(s) as provided on the statewide map referenced in rule 129—20.4(8B,427) for the targeted service area(s) forming the basis of the application/project (i.e., the targeted service area(s) in which the proposed installation of broadband infrastructure will occur);

d. Attestation that the broadband infrastructure installed in the targeted service area(s) will facilitate broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed.

22.4(3) *Deadlines.* The office will only consider applications received on or before the applicable deadline as stated in the NOFA, unless the office, in its sole discretion, establishes a different deadline for the submission of applications. The office may establish a different deadline for all applicants, but will not change the deadline for or at the request of any individual applicant.

22.4(4) *Applications—public records.* Pursuant to Iowa Code section 8B.11(3), the office is required to post applications to a public Internet site. Accordingly, and consistent with Iowa Code chapter 22, except in narrowly defined circumstances as stated in the NOFA, in accordance with the terms and conditions stated therein, and solely to the extent permitted by applicable law, the office will treat all applications submitted by communications service providers and their contents as public, nonconfidential records/information and make them generally available for public inspection at ocio.iowa.gov/broadband.

22.4(5) *Limited exception for broadband infrastructure installed outside of targeted service areas.* These rules generally limit the use of grant funds to and for broadband infrastructure installed within targeted service areas. This requirement is designed to ensure that the use of grant funds has the greatest possible impact on eliminating targeted service areas and to ensure the office's effective, efficient, and responsible management/oversight of the program. Notwithstanding, the office may, on

a limited basis and in the office's sole discretion, permit communications service providers to apply for and utilize grant funds for broadband infrastructure installed outside of targeted service areas that is essential to and inextricably intertwined with facilitating broadband infrastructure within targeted service areas forming the basis of a project; provided that a communications service provider applying for any such exception shall be required to clearly demonstrate to the office's sole satisfaction:

a. Why reimbursement for such broadband infrastructure deployed outside of a targeted service area is essential to and inextricably intertwined with facilitating broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in a targeted service area(s) forming the basis of a project and cannot otherwise be excluded from the application; and

b. The specific methods/formulas the communications service provider will utilize in proportionally allocating the costs of and for such broadband infrastructure to targeted service area(s) forming the basis of the project to which broadband service is facilitated by such infrastructure.

129—22.5(8B) Application review process and award of grant funds.

22.5(1) *Optional period for public comment.* Following the expiration of the deadline for the receipt of applications stated in the NOFA, the office may, in its sole discretion, open a period for public comment as it relates to such applications through the state of Iowa's public comment website: comment.iowa.gov. If the office elects to solicit public comment pursuant to this rule, any member of the public will be permitted to submit comments regarding applications received by the office.

22.5(2) *Review committee.* Following the expiration of the deadline for the receipt of applications stated in the NOFA, the office will supply all applications received by the deadline and otherwise warranting review in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B, to a review committee established by the office comprised of representatives selected by the office from schools, communities, agriculture, industry, and other areas. The review committee will review the applications and provide input/make recommendations to the office regarding whether, to which projects, and in what amount(s) to award grant funds, in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B.

22.5(3) *Office final decision.* Following the office's receipt of the review committee's input or recommendations and the closure of the period for public comment, if any, the office will review all applications received by the deadline and otherwise warranting review in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B, the input/recommendations made by the review committee, and any public comment solicited/received, all in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B, and make a final agency decision regarding whether, to which projects, and in what amount(s) to award grant funds.

a. In so doing, the office will take into consideration the following factors, in accordance with and in the manner specified by the terms, conditions, and requirements of the NOFA:

(1) The relative need for broadband infrastructure in the area and the existing broadband service speeds. Existing broadband service speeds may be determined by reference to the statewide map referenced in rule 129—20.4(8B,427).

(2) The percentage of the homes, schools, and businesses in the targeted service area(s) forming the basis of the project that will be provided access to broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed as a result of the project.

(3) The geographic diversity of the project areas of all applicants.

(4) The economic impact the project will have on the area.

(5) The applicant's total proposed budget for the project, including the amount or percentage of local match, if any.

(6) Any other factors deemed relevant by the office as stated in the NOFA.

b. In determining whether, to which projects, and in what amount(s) to award grant funds, the office will not:

(1) Base its decision on the office's prior knowledge of any applicant except for the information provided in the application; or

(2) Make an award that exceeds 15 percent of any communications service provider's total estimated allowable project costs for a proposed installation of broadband infrastructure.

22.5(4) *Notice to applicants of decision and right to appeal.* The office shall notify each communications service provider awarded a grant by the office of the office's decision(s) in accordance with the terms and conditions of the NOFA. The office will also post such decision(s) online at iowagrants.gov and ocio.iowa.gov/broadband. Unsuccessful applicants are solely responsible for reviewing such websites to determine their award status. Such agency decision(s) shall become final unless, within ten days of such email transmission or posting, an applicant which was adversely affected by a decision of the office files a request for a contested case proceeding pursuant to 129—Chapter 6. Failure to challenge the office's decision under this rule by filing a request for a contested case within the ten-day period shall waive any claims an applicant may have related to the office's administration of the process and otherwise be deemed a failure to exhaust administrative remedies.

129—22.6(8B) Administration of award.

22.6(1) *Grant agreement required.* The office may require a grantee to enter into a grant agreement with the office in accordance with the terms, conditions, and requirements of the NOFA. Such grant agreement may include, but not be limited to, the total amount of the grant funds awarded to the grantee; a description of the project to be completed by the grantee and specifications related thereto; a description of allowable expenditures; conditions related to the disbursement of grant funds; default and termination procedures; performance, certification, and verification requirements/criteria necessary to confirm project success/completion; and repayment requirements in the event the grantee does not fulfill its obligations under the agreement, these rules, or Iowa Code chapter 8B. In addition to any terms, conditions, or requirements specifically set forth in such agreement, any and all requirements established by Iowa Code chapter 8B, these rules, other applicable law, rule, or regulation, or the NOFA shall be deemed incorporated by reference into such grant agreement as if fully set forth therein.

22.6(2) *Mapping data required.* Upon project completion, a grantee must supply the office with geographic information system (GIS) data in a form deemed acceptable to the office demonstrating specifically where a completed project for which grant funds have been utilized traverses. As it relates to aspects of installations delivered over wireline, such GIS data must enable the office to determine which specific homes, schools, and businesses within each targeted service area forming the basis of the project have access to broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed as a result of the project.

22.6(3) *Reimbursements, record keeping/audits, performance/certification, and repayment.* In the absence of more specific provisions in an agreement executed between a grantee and the office in accordance with these rules establishing conflicting or inconsistent terms and conditions, the following terms and conditions shall apply by default to any award of grant funds made by the office under Iowa Code section 8B.11 and these rules:

a. Reimbursement.

(1) General. A grantee shall only be reimbursed by the office for:

1. Allowable and not disallowed expenditures actually and previously incurred by the grantee. What constitutes allowable or disallowable expenditures shall be further specified in the NOFA or grant agreement.

2. Expenditures for broadband infrastructure installed in targeted service areas; or, in the limited circumstances permitted herein, to the extent any expenditures relate to broadband infrastructure installed outside of targeted service areas but which facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed within targeted service areas underlying the application, only for the proportionate amount that such broadband infrastructure facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed within targeted service areas; and

3. Expenditures for which the grantee is able to supply sufficient and appropriate documentation. What constitutes sufficient or appropriate documentation shall be further specified in the NOFA or grant agreement.

(2) Timing. Requests for reimbursement may be submitted to the office in accordance with the terms and conditions in the NOFA or grant agreement.

b. Performance/certification. After the completion of a project utilizing, in whole or in part, grant funds, a grantee must:

(1) Certify to the office that the project was completed as proposed in the original application, including but not limited to that the final installation was installed in or otherwise facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in each of the applicable targeted service areas identified in the original application, and identify the total number of homes, schools, and businesses actually receiving broadband service in each targeted service areas identified in the original application as a result of the project.

(2) Attest that any claimed, allowable expenditures are true and accurate, were directly related to the installation of broadband infrastructure that facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in eligible targeted service areas forming the basis of the project, and were properly allocated in accordance with the terms, conditions, and requirements of the NOFA or grant agreement.

(3) Supply the office with updated GIS data in accordance with subrule 22.6(2).

c. Field testing. The office may, in its discretion, conduct field tests for compliance with the requirements of Iowa Code sections 8B.1 and 8B.11, these rules, and any grant agreement entered into between a grantee and the office pursuant to subrule 22.6(1) at any time after broadband service is certified as complete in accordance with paragraph 22.6(3)*"b"* and prior to reimbursing a grantee for any claimed, allowable expenditures. Such field tests may include but not be limited to speed tests from any location in a targeted service area or census block in which the project was to be deployed or, in the case of wireline installations, the grantee's network operation center or central office.

d. Disbursement/repayments.

(1) A grantee shall not be entitled to the applicable portion of any grant funds or shall be obligated to repay the office the applicable portion of any grant funds previously distributed by the office to the grantee if the office determines that:

1. Claimed expenditures or a prior reimbursement, in whole or in part, was comprised of expenditures that were not allowable or were disallowed, were improperly or incorrectly allocated, or were not supported by sufficient and appropriate documentation;

2. Claimed expenditures or the total amount previously reimbursed by the office exceeds 15 percent of the grantee's estimated or final total allowable project costs, whichever is less.

(2) A grantee shall not be entitled to any grant funds or shall be obligated to repay the office the entire amount of any grant funds previously distributed by the office to the grantee if the office determines that:

1. Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that was not in or does not facilitate broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in a targeted service area identified in the original application;

2. A grantee fails to complete the project as proposed in the original application; or

3. Any representation or warranty made by a grantee in an application for grant funds, a grant agreement entered into between a grantee and the office pursuant to subrule 22.6(1), or in any other representation or statement made by the grantee to the office proves untrue in any material respect as of the date of the issuance or making thereof.

e. Notice of default. If the office determines a grantee is not entitled to or is otherwise required to repay the office in accordance with paragraph 22.6(3)*"d,"* the office may issue the grantee a "Notice of Default," which shall afford the grantee 30 days to cure the default. Whether a grantee has sufficiently cured the default shall be determined in the sole discretion of the office. If a grantee fails to cure the default within 30 days, the office may issue an order requiring the grantee to reimburse the office for the amount specified in the "Notice of Default."

22.6(4) *Remedies for noncompliance.* In addition to issuing a "Notice of Default" and subsequent order requiring the grantee to reimburse the office for failing to cure the default pursuant to paragraph

22.6(3)*"e"* and any other remedies available to the office pursuant to a grant agreement entered into between a grantee and the office pursuant to subrule 22.6(1), the office may, for cause, find that a grantee is not in compliance with the requirements of Iowa Code section 8B.11, these rules, or a grant agreement entered into by the office and a grantee pursuant to subrule 22.6(1).

a. At the office's sole discretion, remedies for noncompliance may include, but are not limited to, the following:

(1) Issuing a warning letter stating that further failure to comply with program requirements within a stated period of time will result in a more serious action.

(2) Conditioning a future grant on compliance with program requirements within a stated period of time.

(3) Disallowing future reimbursements.

(4) Requiring that some or all previously issued grant funds be reimbursed to the office.

b. Reasons for a finding of noncompliance include, but are not limited to, one or more of the following:

(1) A violation of any of the terms or conditions of a grant agreement entered into between the office and a grantee pursuant to subrule 22.6(1);

(2) A grantee's failure to complete a project in a timely manner;

(3) A grantee's failure to comply with any applicable state laws, rules, or regulations;

(4) Claimed expenditures or a prior reimbursement, in whole or in part, was comprised of expenditures that were not allowable or were disallowed, were improperly or incorrectly allocated, or were not supported by sufficient and appropriate documentation;

(5) Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that was not in or that does not facilitate broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in a targeted service area identified in the original application;

(6) A grantee fails to complete the project as proposed in the original application;

(7) The total claimed expenditures or the amount previously reimbursed by the office exceeds 15 percent of the grantee's estimated or final total allowable project costs, whichever is less;

(8) Any representation or warranty made by a grantee in an application for grant funds, an agreement entered into between a grantee and the office pursuant to subrule 22.6(1), or in any other representation or statement made by the grantee to the office proves untrue in any material respect as of the date of the issuance or making thereof.

22.6(5) *Office's decision and right to appeal.*

a. Any decision of the office entitled "proposed decision," "final decision," or other like caption as relating to any issues described in subparagraphs (1) through (5) below shall become final unless, within 30 days of the transmission of such decision by the office by email to the email address of the individual identified in paragraph 22.4(2)*"b"* or to the email address of a person otherwise identified by the grantee in writing prior to the issuance of such decision as the person authorized by the grantee to respond to inquiries regarding the administration of the grant, a grantee which is adversely affected by the decision files a request for a contested case proceeding pursuant to 129—Chapter 6.

(1) The interpretation, construction, or application of any terms or conditions or resolution of a dispute under a grant agreement entered into between the office and a grantee or under these rules;

(2) Whether or in what amount a grantee is entitled to reimbursement pursuant to a grant agreement entered into between the office and a grantee, or under these rules;

(3) Whether or in what amount a grantee must repay the office pursuant to a grant agreement entered into between the office and a grantee or under these rules;

(4) The imposition of any remedies for noncompliance in accordance with subrule 22.6(4); or

(5) Any other decision of the office as it relates to the administration of a grant awarded pursuant to Iowa Code section 8B.11, these rules, or a grant agreement entered into between the office and a grantee.

b. Failure to challenge the office's decision under this rule by filing a request for a contested case within the 30-day period shall waive any claims an applicant may have related to the administration of a grant award and otherwise be deemed a failure to exhaust administrative remedies.

129—22.7(8B) Reallocation of grant funds. To the extent permitted by applicable law, if grant funds the office had previously committed to specific grantees are not ultimately issued to a grantee (e.g., because applicable expenditures are not allowed or are disallowed, were improperly or incorrectly allocated, or a grantee fails to provide sufficient or appropriate documentation to support a claim for reimbursement) or are otherwise repaid to the office pursuant to a grant agreement entered into between the office and a grantee or these rules, the office may award the grant funds to other previous grantees, open additional rounds of applications, or revert the moneys to the general fund. If the office awards additional grant funds to other grantees, such grantees shall submit documentation establishing how such grant funds will be expended and may, to the extent applicable, be required to execute contract amendments with the office providing for the expenditure of the additional grant funds, and will otherwise be subject to Iowa Code section 8B.11 and these rules.

These rules are intended to implement Iowa Code section 8B.11.

ARC 3732C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to documentation of mental health services and providing an opportunity for public comment

The Department of Human Services hereby proposes to amend Chapter 24, "Accreditation of Providers of Services to Persons with Mental Illness, Intellectual Disabilities, or Developmental Disabilities," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 225C.6 and 2017 Iowa Acts, House File 653, section 93.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 225C.6 and 2017 Iowa Acts, House File 653, section 93.

Purpose and Summary

The requirements for documentation of the provision of mental health, intellectual disability or developmental disability services in the areas of social history, assessment, documentation of service provision, supported community living service-functional assessment, and emergency services to be in a narrative format are being removed. These amendments will allow documentation to be made using a checkbox or other format.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. This is a change to certain documentation requirements in disability services providers' records and will result in no fiscal impact to the state.

Jobs Impact

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on May 1, 2018. Comments should be directed to:

Harry Rossander
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319
Fax: 515.281.4980
Email: policyanalysis@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend subparagraph **24.4(1)"b"(1)** as follows:

(1) The organization collects and documents relevant historical information and organizes the information in one distinct document ~~in a narrative format~~.

ITEM 2. Amend paragraph **24.4(2)"b"** as follows:

b. Performance indicators.

(1) and (2) No change.

~~(3) Staff develop and complete the assessment in a narrative format.~~

~~(4)~~ (3) Staff base decisions regarding the level, type and immediacy of services to be provided, or the need for further assessment or evaluation, upon the analysis of the information gathered in the assessment.

~~(5)~~ (4) Staff complete an annual reassessment for each individual using the service and document the reassessment ~~in a written format~~.

~~(6)~~ (5) Documentation supporting the diagnosis is contained in the individual's record. A diagnosis of ~~mental retardation~~ intellectual disability is supported by a psychological evaluation conducted by a qualified professional. A diagnosis of developmental disability is supported by

professional documentation. A determination of chronic mental illness is supported by a psychiatric or psychological evaluation conducted by a qualified professional.

ITEM 3. Amend subparagraph **24.4(4)"b"(3)** as follows:

(3) Documentation of service provision is in a legible, written~~, legible, narrative~~ format in accordance with organizational policies and procedures.

ARC 3727C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Proposing rule making related to conveyances and providing an opportunity for public comment

The Elevator Safety Board hereby proposes to amend Chapter 66, "Waivers or Variances from Administrative Rules by the Elevator Safety Board," Chapter 67, "Elevator Safety Board Petitions for Rule Making," Chapter 68, "Declaratory Orders by the Elevator Safety Board," Chapter 69, "Contested Cases Before the Elevator Safety Board," Chapter 70, "Public Records and Fair Information Practices of the Elevator Safety Board," Chapter 71, "Administration of the Conveyance Safety Program," Chapter 72, "Conveyances Installed On or After January 1, 1975," and Chapter 73, "Conveyances Installed Prior to January 1, 1975," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 89A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 89A.

Purpose and Summary

This proposed rule making would make editorial and technical changes; rescind an obsolete exception for platform guards; set forth the function of electrical protective devices that are currently required; require that certain existing control panels be locked; update obsolete language; require the installation of hoistway lighting for new and altered elevators; replace the rule concerning accident and injury reporting with a clearer rule on the same topic; create two narrow exemptions from the existing requirements for older elevators; and codify the current practice concerning the presence of a mechanic during an escalator inspection.

A proposed amendment to require that most wiring for new conveyances be installed in conduit is included. This amendment would align the requirements for new elevators with the requirements for older elevators.

Fiscal Impact

The requirement for installation of hoistway lighting for new and altered elevators will have a minimal impact when an elevator is installed or altered. The requirement that certain existing control panels be locked represents a nominal expense. The requirement to enclose most wiring related to new conveyances will cost about $100 for a new installation. There are about 250 new installations in a year, and the majority of installers use conduit even though it is not required.

Jobs Impact

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

LABOR SERVICES DIVISION[875](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 66.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on May 2, 2018. Comments should be directed to:

Kathleen Uehling
Division of Labor Services
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: kathleen.uehling@iwd.iowa.gov

Public Hearing

If requested in accordance with Iowa Code section 17A.4(1)"b" by close of business on May 1, 2018, a public hearing at which persons may present their views orally or in writing will be held as follows:

May 2, 2018	150 Des Moines Street
9 a.m.	Des Moines, Iowa

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 rule making.

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 Board and advise of specific needs by calling 515.725.5615.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend rule 875—66.5(17A,89A), introductory paragraph, as follows:

875—66.5(17A,89A) Content of petition. The required form for a petition for waiver or variance is available on the board's ~~Web site~~ website at ~~http://www.iowaworkforce.org/labor/elevatorboard.htm~~ www.iowaelevators.gov. A petition for waiver shall include the following information where applicable and known to the petitioner:

ITEM 2. Amend rule 875—67.1(17A,89A), introductory paragraph, as follows:

875—67.1(17A,89A) Petitions for rule making. Any person or agency may file a petition for rule making with the board requesting the adoption, amendment or repeal of a rule. The required form for a petition for rule making is available on the board's ~~Web site~~ website at

~~http://www.iowaworkforce.org/labor/elevatorboard.htm~~ www.iowaelevators.gov. The petition shall be filed at the location specified in rule 875—65.5(89A). A petition is deemed filed when it is received by the board office. The board office shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be in writing and provide the following information where applicable and known to the petitioner:

ITEM 3. Amend subrule 68.1(1), introductory paragraph, as follows:

68.1(1) The required form for a petition for declaratory order is available on the board's ~~Web site~~ website at ~~http://www.iowaworkforce.org/labor/elevatorboard.htm~~ www.iowaelevators.gov. The petition must be in writing and provide the following information where applicable and known to the petitioner:

ITEM 4. Amend subrule 69.1(1), introductory paragraph, as follows:

69.1(1) A petition for reconsideration shall be in writing and must be signed by the requesting party or a representative of that party. The required form for a petition for reconsideration is available on the board's ~~Web site~~ website at ~~http://www.iowaworkforce.org/labor/elevatorboard.htm~~ www.iowaelevators.gov. A petition for reconsideration shall specify:

ITEM 5. Amend subrule 70.3(1) as follows:

70.3(1) ~~*Location of record*~~ *Address*. ~~A request for access to a record should be directed to the~~ The board's mailing address is Department of Workforce Development, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The board's staff is located at 150 Des Moines Street, Des Moines, Iowa.

ITEM 6. Adopt the following **new** subrule 71.11(10):

71.11(10) *Escalator inspections.* The owner shall arrange for an escalator mechanic to be on site to assist with the inspection. The inspector shall work with the owner to arrange an inspection time.

ITEM 7. Rescind rule 875—71.19(89A) and adopt the following **new** rule in lieu thereof:

875—71.19(89A) Accidents and injuries.

71.19(1) This rule applies to a conveyance in the event one of the following occurs:

a. A personal injury accident that requires the service of a physician;

b. A personal injury accident that causes disability exceeding one day; or

c. Damage that will require more than one hour of mechanic's time (excluding travel) to repair.

71.19(2) The owner shall promptly notify the commissioner if one of the events listed in subrule 71.19(1) occurs. Notification shall be in writing and shall include the state identification number, owner, and description of accident.

71.19(3) The removal of any part of the damaged conveyance or operating mechanism from the premises is forbidden until permission is granted by the commissioner.

71.19(4) When an accident or injury involves the failure or destruction of any part of the conveyance or its operating mechanism, the use of the conveyance is forbidden until it has been inspected and approved by the commissioner.

ITEM 8. Adopt the following **new** subrules 72.10(3) and 72.10(4):

72.10(3) Permanent lighting shall be installed in the hoistway of an elevator installed after July 1, 2018. The lighting shall be sufficient to provide 19 foot-candles to the car top regardless of where the car is located. Switches to control the hoistway lighting shall be installed at the bottom and the top hoistway access points.

72.10(4) For conveyances installed after August 1, 2018, all electrical wiring in a machine room, control space, control room, machinery space, and hoistway shall be enclosed in metal conduit, flexible conduit, or metal raceways. However, this subrule shall not apply to applications such as traveling cables and car top work lights where movement is required for proper function or operating devices and control equipment where adjustment may be needed.

ITEM 9. Amend subrule 72.13(4) as follows:

72.13(4) *Pit excavation exemption.* ~~The~~ For elevators altered before August 1, 2018, the full length of the platform guard set forth in ASME A17.1, Rule 2.15.9.2(a), shall not be required if all of the following criteria are met:

a. No other code or rule requires that the pit be excavated or lowered.

b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.

c. A full-length platform guard would strike the pit floor when the elevator is on its fully compressed buffer.

d. The clearance between the bottom of the platform guard and the pit floor is 2.5 centimeters (1 inch) when the elevator is on its fully compressed buffer.

ITEM 10. Amend paragraph **72.13(5)"c"** as follows:

c. The applicable version of ASME A17.1 shall be determined by reference to rule 875—72.1(89A). For purposes of ~~rule 875—72.13(89A)~~ subrule 72.13(5), the relevant subrule of 875—72.1(89A) shall apply based on the date the sprinkler is installed instead of the date the conveyance was installed.

ITEM 11. Adopt the following **new** subrule 72.13(7):

72.13(7) *Hoistway lighting.* In conjunction with an alteration as defined by ASME A17.1, permanent lighting shall be installed in the hoistway of an elevator. The lighting shall be sufficient to provide 19 foot-candles to the car top regardless of where the car is located. Switches to control the hoistway lighting shall be installed at the bottom and the top hoistway access points.

ITEM 12. Adopt the following **new** paragraphs **73.1(3)"g"** to **"i"**:

g. Electrical protective devices required by A17.3, requirement 3.10.4, shall cause the electric power to be removed from the elevator driving-machine motor and brake.

h. Control panels that are designed with a door or cover and lock shall be locked when not in use if equipment unrelated to the elevator is in the machine room. Group 1 security as set forth in A17.1, Section 8.1, shall be utilized.

i. A car top emergency exit pursuant to A17.3(2011), requirement 3.4.4.1(a), shall not be required for a hydraulic elevator if the elevator has manual lowering and it is not equipped with a plunger gripper or safety as described in ASME A17.1(2013), requirement 8.6.5.8.

ITEM 13. Amend subrule 73.1(4) as follows:

73.1(4) The American Society of Mechanical Engineers Safety Code for Elevators and Escalators, A17.1-2013/CSA B44-13 (2013), Rule 2.14.7.1.4, concerning car top lighting and car top electrical outlets, is adopted by reference with an effective date of May 1, 2020. However, if a car top already has a single outlet, installation of a duplex outlet will not be required.

ITEM 14. Amend subrule 73.8(1) as follows:

73.8(1) *General.* Except as set forth in this rule, all maintenance, repairs and alterations shall comply with the edition of ASME A17.1, Part 8, currently adopted for new conveyances at rule 875—72.1(89A) or ASME A17.7-2007/CSA B44-07, as applicable. Rule 875—71.10(89A) describes alterations which require that the entire conveyance be brought into compliance with the most current code.

ITEM 15. Amend paragraph **73.8(5)"c"** as follows:

c. The applicable version of ASME A17.1 shall be determined by reference to rule 875—72.1(89A). For purposes of ~~rule 875—73.8(89A)~~ subrule 73.8(5), the relevant subrule of 875—72.1(89A) shall apply based on the date the sprinkler is installed instead of the date the conveyance was installed.

ITEM 16. Adopt the following **new** subrule 73.8(8):

73.8(8) *Hoistway lighting.* In conjunction with an alteration as defined by ASME A17.1, permanent lighting shall be installed in the hoistway of an elevator. The lighting shall be sufficient to provide 19

foot-candles to the car top regardless of where the car is located. Switches to control the hoistway lighting shall be installed at the bottom and the top hoistway access points.

ITEM 17. Amend subrule 73.14(6) as follows:

73.14(6) All safeties operated by a speed governor shall be provided with a speed switch operated by the governor when used with type B or C car safeties on elevators having a rated speed exceeding 150 FPM. A switch shall be provided on the speed governor when used with a counterweight safety for any car speed. The switches required by this subrule shall disconnect power to the elevator driving-machine motor and brake.

ARC 3731C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rule making related to deer hunting and providing an opportunity for public comment

The Natural Resource Commission hereby proposes to amend Chapter 94, "Nonresident Deer Hunting," and Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(6), 481A.38(1)"a," 481A.39, 481A.48(1), 481A.48(5) and 481A.48(6).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 481A.38(1)"a," 481A.39, 481A.48(1), 481A.48(5), and 481A.48(6).

Purpose and Summary

Chapter 94 provides rules for deer hunting by nonresidents and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements. Chapter 106 provides rules for deer hunting by residents and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements.

Chapter 94

All of the rules regarding method of take in Chapter 94 are amended to reference the method of take rules in Chapter 106 to ensure consistency in the rules and to avoid the need to amend both chapters in the future when changes apply to both chapters.

Nonresident license quotas for any-sex and mandatory antlerless licenses in Chapter 94 are decreased in Zones 1, 2, and 10 and increased in Zone 9. The changes in quotas are intended to stabilize a declining deer population in the northwest area of the state, similar to the changes proposed in this rule making regarding Chapter 106. More specifically, both any-sex and mandatory antlerless license quotas are decreased from 180 to 90 in Zones 1 and 2 for all methods of take. Because Iowa Code section 483A.8(3)"b" requires that a nonresident who purchases an any-sex license must also purchase an antlerless license, the two licenses are necessarily paired in the regulations. This decrease results in a corresponding decrease in any-sex licenses for bow season from 63 to 31 because Iowa Code section 483A.8(3)"c" also requires that bow licenses not account for more than 35 percent of nonresident any-sex deer licenses available each year. Similarly, both any-sex and mandatory antlerless license quotas will be decreased from 200 to 100 in Zone 10 for all methods of take, resulting in a corresponding decrease in any-sex licenses available for bow season from 70 to 35. Finally, both any-sex and mandatory antlerless

license quotas are increased from 600 to 880 for all methods of take in Zone 9, resulting in an increase in any-sex licenses available for bow season from 210 to 308. The changes to the number of nonresident any-sex and mandatory antlerless licenses available in these four zones result in no net change to the number of nonresident any-sex and mandatory antlerless licenses available statewide.

Chapter 106

Several of the proposed amendments to Chapter 106 involve reestablishment of a January antlerless-deer-only season in Allamakee, Appanoose, Clayton, and Wayne counties and define license requirements, season dates, bag limits, and means and method of take. This season is coupled with increased county quotas and is targeted at slowing the spread of chronic wasting disease (CWD) in the four counties.

Modifications to the resident antlerless deer county quotas are made to Allamakee, Appanoose, Bremer, Butler, Clayton, Fayette, Madison, Wayne, and Winneshiek counties. With the exception of Bremer County, all quotas are increased in order to reduce deer densities for disease control or to alleviate negative human-deer interactions. The quota in Bremer County is decreased modestly as a first attempt to stabilize a healthy local population. Statewide, the overall proposed quota change is an increase of 1,550.

For purposes of deer hunting, a limit of six cartridges is imposed for shotguns, straight wall cartridge (SWC) rifles, and handguns. The six-cartridge limit is being added to improve human and hunter safety and to reduce the likelihood of wounding deer.

Clarifications are made to the definition of a legal handgun and to the legal calibers for SWC rifles. These clarifications will ensure that hunters can determine what firearms are a legal method of take for deer hunting in this state. These definitions apply only to the firearms that may be used while deer hunting and have no bearing on or relevance to other firearms laws. This rule making also removes handguns as a method of take from the late muzzleloader season to restore the original intent of the season.

Lastly, general organization and clarification changes are proposed in Chapter 106. For example, in subrule 106.1(9), two references to 2009 Iowa Acts are being updated to reflect codification as Iowa Code section 483A.8C.

Fiscal Impact

The proposed rule making should not result in any negative fiscal impact to the State. Deer hunting has been relatively constant in Iowa for many years, and none of the proposed changes will substantially alter hunters' ability to purchase tags and pursue deer. The Department expects a very minor increase in license sales with only 1,550 additional tags being available statewide (many of which will be free or low-cost ($10) tags). The Department is not aware of any fiscal impact of this proposed rule making on the general public, counties or local governments.

Jobs Impact

After analysis and review of this rule making, the Department has determined that there should not be a noticeable change overall in deer hunting in the state based upon the proposed rule making. The proposed quotas are designed to keep deer numbers stable in the identified counties and will not significantly alter license sales overall. The following types of jobs are positively impacted by deer hunting in Iowa generally and should see no noticeable change due to this rule making: hunting equipment retailers (firearms, ammunition, clothing, chairs, stands, binoculars, and other supporting equipment); field guides and outfitters; taxidermists; and restaurants, hotels, and gas stations for hunters traveling around the state.

NATURAL RESOURCE COMMISSION[571](cont'd)

Waivers

This rule is subject to the waiver provisions of 561—Chapter 10. Any person who believes that the application of the discretionary provisions of this rule making 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 comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on May 1, 2018. Comments should be directed to:

Tyler Harms
Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Phone: 515.432.2823
Email: tyler.harms@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held. Upon arrival, attendees should proceed to the fourth floor Department reception desk to sign in and to be directed to the appropriate hearing location:

May 1, 2018	Conference Room 4E
12 noon	Wallace State Office Building
	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 rule making.

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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend subrule 94.6(1) as follows:

94.6(1) *Zone license quotas.* Nonresident license quotas are as follows:

NATURAL RESOURCE COMMISSION[571](cont'd)

	~~Any-deer~~ Any-sex licenses		Mandatory Antlerless-only	Optional Antlerless-only
	All Methods	Bow		
Zone 1.	~~180~~ 90	~~63~~ 31	~~180~~ 90	
Zone 2.	~~180~~ 90	~~63~~ 31	~~180~~ 90	
Zone 3.	560	196	560	
Zone 4.	1280	448	1280	
Zone 5.	1600	560	1600	
Zone 6.	800	280	800	
Zone 7.	360	126	360	
Zone 8.	240	84	240	
Zone 9.	~~600~~ 880	~~210~~ 308	~~600~~ 880	
Zone 10.	~~200~~ 100	~~70~~ 35	~~200~~ 100	
Total	6000	~~2100~~ 2099	6000	3500

ITEM 2. Rescind rule 571—94.7(483A) and adopt the following **new** rule in lieu thereof:

571—94.7(483A) Method of take. Permitted weapons and devices vary according to the type of season.

94.7(1) *Bow season.* Bow season is as described in 571—subrule 106.7(1).

94.7(2) *Regular gun seasons.* Regular gun seasons are as described in 571—subrule 106.7(2).

94.7(3) *Muzzleloader seasons.* Muzzleloader seasons are as described in 571—subrule 106.7(3).

94.7(4) *Prohibited weapons and devices.* Prohibited weapons and devices are as described in 571—subrule 106.7(6).

94.7(5) *Discharge of firearms from roadway.* Discharge of firearms from roadway is as described in 571—subrule 106.7(7).

94.7(6) *Hunting from blinds.* Hunting from blinds is as described in 571—subrule 106.7(8).

ITEM 3. Amend subrule 106.1(6) as follows:

106.1(6) *January antlerless-deer-only licenses.* ~~Rescinded IAB 8/6/14, effective 9/10/14.~~ Only antlerless-deer-only licenses, paid or free, will be issued for the January antlerless-deer-only season. Free antlerless-deer-only licenses shall be available only in the portion of the farm unit located in a county where paid antlerless-deer-only licenses are available during the January antlerless-deer-only season.

ITEM 4. Amend subrule 106.1(9) as follows:

106.1(9) ~~*Nonambulatory deer*~~ *Deer hunting licenses for nonambulatory persons.* The commission shall issue licenses in conformance with ~~2009 Iowa Acts, Senate File 187~~ Iowa Code section 483A.8C. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant is nonambulatory using the criteria listed in ~~2009 Iowa Acts, Senate File 187~~ Iowa Code section 483A.8C(4). A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½″ × 11″ letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

ITEM 5. Amend subrule 106.2(5) as follows:

106.2(5) *January antlerless-deer-only season.* ~~Rescinded IAB 8/6/14, effective 9/10/14.~~ Antlerless deer may be taken from January 11 through the third Sunday after that date.

ITEM 6. Amend subrule 106.4(5) as follows:

106.4(5) *January antlerless-deer-only season.* ~~Rescinded IAB 8/6/14, effective 9/10/14.~~ The daily bag and possession limits and tagging requirements are the same as for the regular gun seasons.

ITEM 7. Amend subrule 106.6(4) as follows:

106.6(4) *January antlerless-deer-only licenses.* ~~Rescinded IAB 8/6/14, effective 9/10/14.~~ Licenses for the January antlerless-deer-only season shall be available in the following counties: Allamakee, Appanoose, Clayton, and Wayne. Prior to December 15, a hunter may purchase up to three January antlerless-deer-only licenses. Beginning December 15, an unlimited number of paid antlerless-deer-only licenses may be purchased for the January antlerless-deer-only season until the antlerless-deer-only quota as described in 106.6(6) is met in the aforementioned counties. These licenses may be obtained regardless of any other paid any-sex or paid antlerless-deer-only licenses that may have been obtained.

ITEM 8. Amend subrule 106.6(6) as follows:

106.6(6) *Antlerless-deer-only licenses.* Paid antlerless-deer-only licenses will be available by county ~~for the 2017–2018 deer season~~ as follows:

County	Quota	County	Quota	County	Quota
Adair	1025	Floyd	0	Monona	850
Adams	1450	Franklin	0	Monroe	1950
Allamakee	~~3600~~ 3700	Fremont	400	Montgomery	750
Appanoose	~~1800~~ 2400	Greene	0	Muscatine	775
Audubon	0	Grundy	0	O'Brien	0
Benton	325	Guthrie	1950	Osceola	0
Black Hawk	0	Hamilton	0	Page	750
Boone	300	Hancock	0	Palo Alto	0
Bremer	~~650~~ 500	Hardin	0	Plymouth	0
Buchanan	300	Harrison	850	Pocahontas	0
Buena Vista	0	Henry	925	Polk	1350
Butler	~~0~~ 150	Howard	350	Pottawattamie	850
Calhoun	0	Humboldt	0	Poweshiek	300
Carroll	0	Ida	0	Ringgold	1600
Cass	400	Iowa	450	Sac	0
Cedar	775	Jackson	825	Scott	200
Cerro Gordo	0	Jasper	775	Shelby	0
Cherokee	0	Jefferson	1650	Sioux	0
Chickasaw	375	Johnson	850	Story	150
Clarke	2100	Jones	800	Tama	200
Clay	0	Keokuk	450	Taylor	1600
Clayton	~~3400~~ 3600	Kossuth	0	Union	1500
Clinton	400	Lee	1275	Van Buren	2000
Crawford	0	Linn	850	Wapello	1825
Dallas	1875	Louisa	675	Warren	2200
Davis	1600	Lucas	2200	Washington	750
Decatur	2200	Lyon	0	Wayne	~~2200~~ 2400
Delaware	800	Madison	~~2350~~ 2600	Webster	0
Des Moines	800	Mahaska	475	Winnebago	0
Dickinson	0	Marion	1650	Winneshiek	~~2275~~ 2375
Dubuque	825	Marshall	150	Woodbury	625
Emmet	0	Mills	750	Worth	0
Fayette	~~1800~~ 1900	Mitchell	0	Wright	0

ITEM 9. Amend subrule 106.7(1) as follows:

106.7(1) *Bow season.* Only longbow, compound, or recurve bows shooting broadhead arrows are permitted during the bow season. Arrows must be at least 18 inches long.

a. Crossbows, as described in 106.7(1)*"b,"* may be used during the bow season in the following two situations:

(1) By persons with certain afflictions of the upper body as provided in ~~571—15.5(481A)~~ 571—15.22(481A); and

(2) By persons over the age of 70 with an antlerless-deer-only license as provided in Iowa Code section ~~483A.8A~~ 483A.8B.

b. Crossbow means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire a bolt, arrow, or quarrel by the release of the bow string, which is controlled by a mechanical trigger and a working safety. Crossbows equipped with pistol grips and designed to be fired with one hand are illegal for taking or attempting to take deer. All projectiles used in conjunction with a crossbow for deer hunting must be equipped with a broadhead.

~~*b.*~~ *c.* No explosive or chemical ~~devices~~ device may be attached to ~~the~~ any arrow, broadhead or bolt ~~(if used with a crossbow)~~.

ITEM 10. Amend subrule 106.7(2) as follows:

106.7(2) *Regular gun seasons.* Only 10-, 12-, 16-, and 20-gauge shotguns shooting single slugs, ~~and~~ straight wall cartridge rifles~~,~~ as described in 106.7(2)*"a"* and *"b,"* muzzleloaders as described in 106.7(3), and handguns as described ~~more fully in 106.7(3), will be permitted for taking~~ in 106.7(2)*"c"* to *"e"* shall be used to take deer during the regular gun seasons. Shotguns, straight wall cartridge rifles, and handguns shall be loaded with no more than six rounds of ammunition (five in the magazine, one in the chamber) while hunting deer.

a. Legal straight wall cartridge rifle calibers for hunting deer in Iowa must meet all of the following criteria:

(1) Be center-fired;

(2) Be straight-walled;

(3) Have a diameter of 0.357 inches to 0.500 inches;

(4) Have a case length no greater than 1.800 inches; and

(5) For rimless cartridges, have a case length of no less than 0.850 inches, and for rimmed cartridges, have a case length of no less than 1.285 inches.

b. Notwithstanding 106.7(2)*"a,"* the following calibers are considered legal straight wall cartridge rifle calibers:

(1) .375 Winchester;

(2) .444 Marlin; or

(3) .45-70 Gov't.

c. Legal centerfire handguns for hunting deer in Iowa must meet all of the following criteria:

(1) Have a 4-inch minimum barrel length;

(2) Have no modifications that would allow the gun to be fired from the shoulder;

(3) Be designed to be shot with one hand using a pistol grip and have either:

1. A cylinder of several chambers brought successively into line with the barrel and discharged with the same hammer; or

2. A magazine feeding a single chamber integral with the barrel and using either the action of a slide or a bolt action to eject the casing, or having a break action capable of only holding one round.

d. Legal centerfire handgun calibers for hunting deer in Iowa must meet all of the following criteria:

(1) Be center-fired;

(2) Be straight-walled;

(3) Have a diameter of 0.357 inches to 0.500 inches;

(4) Have a case length no greater than 1.800 inches; and

(5) For rimless cartridges, have a case length of no less than 0.850 inches, or for rimmed cartridges, have a case length of no less than 1.285 inches.

e. Notwithstanding 106.7(2)*"d,"* the following calibers are considered legal centerfire handgun calibers:

(1) .375 Winchester;

(2) .444 Marlin; or

(3) .45-70 Gov't.

ITEM 11. Amend subrule 106.7(3) as follows:

106.7(3) *Muzzleloader seasons.* Only muzzleloading rifles and muzzleloading pistols will be permitted for taking deer during the early muzzleloader season. During the late muzzleloader season, deer may be taken with a muzzleloading rifle, muzzleloading pistol, ~~centerfire handgun,~~ crossbow as described in 106.7(1)*"b,"* or bow as described in 106.7(1).

a. Muzzleloading rifles are defined as flintlock or percussion cap lock muzzleloaded rifles and muskets of not less than .44 caliber and not larger than .775 caliber, shooting single projectiles only.

~~*b.* Centerfire handguns must be .357 caliber or larger shooting straight wall cartridges propelling an expanding-type bullet (no full-metal jacket) and complying with all other requirements provided in Iowa Code section 481A.48. In addition, centerfire handguns must be designed to be shot with one hand using a pistol grip and have either:~~

~~(1) A cylinder of several chambers brought successively into line with the barrel and discharged with the same hammer; or~~

~~(2) A magazine feeding a single chamber integral with the barrel and using either the action of a slide or a bolt action to eject the casing, or having a break action capable of only holding one round.~~

~~*c.*~~ *b.* Muzzleloading pistols must be .44 caliber or larger, ~~shooting~~ shoot single projectiles only, and have a 4-inch minimum barrel length.

~~*d.* Crossbow means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire a bolt, arrow, or quarrel by the release of the bow string, which is controlled by a mechanical trigger and a working safety. Crossbows equipped with pistol grips and designed to be fired with one hand are illegal for taking or attempting to take deer. All projectiles used in conjunction with a crossbow for deer hunting must be equipped with a broadhead.~~

~~*e.* Legal handgun calibers for hunting deer in Iowa are listed in the department of natural resources' hunting and trapping regulations booklet published each summer and adopted by reference herein. Centerfire handguns and black powder handguns must have a 4-inch minimum barrel length, and centerfire handguns shall not have any parts that extend beyond the back of the pistol grip. There can be no shoulder stock or long-barrel modifications to any handgun.~~

ITEM 12. Amend subrule 106.7(5) as follows:

106.7(5) *January antlerless-deer-only season.* ~~Rescinded IAB 8/6/14, effective 9/10/14.~~ Bows, crossbows, shotguns, muzzleloaders, and handguns as described in this rule, and centerfire rifles .24 caliber or larger, may be used during the January antlerless-deer-only season.

ITEM 13. Amend subrule 106.7(6) as follows:

106.7(6) *Prohibited weapons and devices.* The use of dogs, domestic animals, bait, rifles other than muzzleloaded or straight wall cartridge as provided in 106.7(2), 106.7(3), 106.7(5), and 106.10(5), handguns except as provided in 106.7(2) and ~~106.7(3)~~ 106.7(5), crossbows except as provided in 106.7(1) and 106.7(3), automobiles, aircraft, or any mechanical conveyance or device, including electronic calls, is prohibited, except that paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Bait" means grain, fruit, vegetables, nuts, hay, salt, mineral blocks, or any other natural food materials; commercial products containing natural food materials; or by-products of such materials transported to or placed in an area for the intent of attracting wildlife. Bait does not include food placed during normal agricultural activities. "Paraplegic" means an individual with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord. It shall be unlawful for a person, while hunting deer, to carry or have in possession a rifle except as provided in 106.7(2), 106.7(3), 106.7(5), and 106.10(5). A

person in possession of a valid permit to carry weapons may carry a handgun while hunting. However, only ~~the~~ handguns ~~listed~~ as described in ~~106.7(3) shall~~ 106.7(2) may be used to hunt deer and only when a handgun is a lawful method of take.

ARC 3729C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rule making related to wild turkey hunting and providing an opportunity for public comment

The Natural Resource Commission hereby proposes to amend Chapter 98, "Wild Turkey Spring Hunting," and Chapter 99, "Wild Turkey Fall Hunting," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(6), 481A.38, 481A.39 and 481A.48.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 481A.38, 481A.39 and 481A.48(1).

Purpose and Summary

Chapter 98 regulates spring wild turkey hunting for both residents and nonresidents, and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation tag requirements.

Several changes to Chapter 98 are proposed. First, because the shotgun shot sizes approved for hunting wild turkey are out of date with shot types currently available on the market, the ammunition lists for both residents and nonresidents are being updated.

Second, the start of the first shotgun-and-archery season for spring wild turkey hunting is pushed back by several days and permanently established in narrative form ("second Monday of April").

Third, the youth-only season is being reduced from nine days to three days because, pursuant to Iowa Code section 483A.7(4), youth are now allowed to hunt with an unfilled youth license and tag during any other established wild turkey season. In other words, this reduction does not limit youth opportunity and enables an earlier start to the first shotgun-and-archery season. Furthermore, the youth-only season had long been three days but was expanded in 2011 to afford youth more opportunity. Subsequently, in 2014 the Iowa Code was amended to allow unfilled youth licenses and tags to be valid in any other season, rendering the need for a longer youth-only season unnecessary, as previously noted. Thus, this proposed amendment is a return to the original youth-only, three-day season.

Finally, references to the Iowa Code and to Chapter 98 are updated to reflect current law.

Chapter 99 regulates fall wild turkey hunting for residents, and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation tag requirements. (It should be noted that there is no fall wild turkey season for nonresidents in Iowa, except for nonresidents who are under 21 years old and have a severe physical disability or have been diagnosed with a terminal illness, as set forth in Iowa Code section 483A.24(12) and subrule 99.2(4)).

A proposed amendment to Chapter 99 is intended to adjust the approved shotgun shot sizes for hunting wild turkeys to reflect the materials and sizes available on the current market. This amendment is identical to that proposed in Chapter 98. In addition, an Iowa Code reference is updated to reflect current law.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the impact statement is available upon request from the Department.

Jobs Impact

After analysis and review of this rule making, the Department does not expect any impact to private sector jobs as a result of this proposed rule making, nor does the Department expect any impact to wild turkey hunting participation or license sales. The following types of jobs are positively impacted by turkey hunting in Iowa generally and should see no noticeable change due to this rule making: hunting equipment retailers (firearms, ammunition, clothing, chairs, stands, binoculars, and other supporting equipment); field guides and outfitters; taxidermists; and restaurants, hotels, and gas stations for hunters traveling around the state. A copy of the impact statement is available upon request from the Department.

Waivers

This rule is subject to the waiver provisions of 561—Chapter 10. Any person who believes that the application of the discretionary provisions of this rule making 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 comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on May 1, 2018. Comments should be directed to:

James Coffey
Department of Natural Resources
Chariton Research Station
24570 U.S. Hwy. 34
Chariton, Iowa 50049
Phone: 641.774.2958
Email: James.Coffey@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held. Upon arrival, attendees should proceed to the fourth floor Department reception desk to sign in and be directed to the appropriate hearing location:

May 1, 2018	Conference Room 4E
12 noon	Wallace State Office Building
	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 rule making.

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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend subrule 98.2(1) as follows:

98.2(1) *Permitted weapons.* Wild turkey may be taken in accordance with the type of license issued as follows:

a. Combination shotgun-or-archery license. Wild turkey may be taken by shotgun or muzzleloading shotgun not smaller than 20-gauge and shooting only shot sizes ~~number 2 or 3 nontoxic shot or~~ number 4~~, 5, 6, 7½, or~~ through 8 lead or nontoxic shot; and by bow and arrow as defined in paragraph 98.2(1)*"b."* A person shall not have ~~shot shells~~ shotshells containing shot of any size other than ~~number 2 or 3 nontoxic shot or~~ number 4~~, 5, 6, 7½, or~~ through 8 lead or nontoxic shot on the person while hunting wild turkey.

b. Archery-only license. Except for crossbows for persons with certain afflictions of the upper body, as provided in ~~571—15.5(481A)~~ 571—15.22(481A), only longbow, compound, or recurve bows shooting broadhead arrows are permitted. Blunthead arrows with a minimum diameter of 9/16 inch may also be used. Arrows must be at least 18 inches long. No explosive or chemical devices may be attached to the arrow, broadhead, or blunthead.

ITEM 2. Amend paragraph **98.2(4)"a"** as follows:

a. Combination shotgun-or-archery licenses. Consecutive seasons are 4, 5, 7, and 19 days, respectively, with the first season beginning on the second Monday ~~closest to~~ of April ~~15~~. These seasons shall be designated as seasons 1, 2, 3 and 4, respectively.

ITEM 3. Amend subrule 98.6(2) as follows:

98.6(2) *Youth season dates.* The youth turkey hunting license shall be valid during the ~~nine~~ three days immediately before the first turkey season. A person who is issued a youth spring wild turkey hunting license and does not take a wild turkey during the youth spring wild turkey hunting season may use the wild turkey hunting license and unused tag during any remaining spring wild turkey hunting season in the year in which the youth license was issued.

ITEM 4. Amend subrule 98.9(5) as follows:

98.9(5) *Special licenses.* The commission shall issue licenses in conformance with Iowa Code section ~~483A.24(10)~~ 483A.24(12) to nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant has a severe physical disability or a terminal illness using the criteria listed in 571—Chapter 15. A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½″ × 11″ letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

ITEM 5. Amend subrule 98.12(1) as follows:

98.12(1) *Permitted weapons.* Wild turkey may be taken only with shotguns and muzzleloading shotguns not smaller than 20-gauge and shooting only shot sizes ~~2 or 3 nontoxic shot or~~ number 4~~, 5, 6, 7½, and~~ through 8 lead or nontoxic shot. No person may have ~~shot shells~~ shotshells containing shot of any size other than ~~2 or 3 nontoxic shot or~~ number 4~~, 5, 6, 7½, or~~ through 8 lead or nontoxic shot on

the person while hunting wild turkey. Except for crossbows for persons with certain afflictions of the upper body, as provided in ~~571—15.5(481A)~~ 571—15.22(481A), only longbow, compound, or recurve bows shooting broadhead arrows are permitted. Blunthead arrows with a minimum diameter of 9/16 inch may also be used. Arrows must be at least 18 inches long. No explosive or chemical devices may be attached to the arrow, broadhead, or blunthead.

ITEM 6. Amend subrule 99.2(4) as follows:

99.2(4) *Special licenses.* The commission shall issue licenses in conformance with Iowa Code section ~~483A.24(10)~~ 483A.24(12) to nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant has a severe physical disability or a terminal illness using the criteria listed in 571—Chapter 15. A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½″ × 11″ letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

ITEM 7. Amend subrule 99.8(1) as follows:

99.8(1) *Permitted weapons.* In accordance with the type of license issued, wild turkey may be taken by shotgun and muzzleloading shotgun not smaller than 20-gauge and shooting only shot sizes ~~2 or 3 nontoxic shot or~~ number ~~4, 5, 6, 7½, or~~ through 8 lead or nontoxic shot; and by longbow, recurve, or compound bow shooting broadhead or blunthead (minimum diameter 9/16 inch) arrows only. No person may carry or have in possession shotshells containing shot of any size other than ~~2 or 3 nontoxic shot or~~ number ~~4, 5, 6, 7½, or~~ through 8 lead or nontoxic shot while hunting wild turkey. Arrows with chemical or explosive pods are not permitted.

ARC 3724C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to tax incentives and providing an opportunity for public comment

The Department of Revenue hereby proposes to amend Chapter 12, "Filing Returns, Payment of Tax, Penalty and Interest," Chapter 42, "Adjustments to Computed Tax and Tax Credits," Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 15.119 and 15.352 to 15.355.

Purpose and Summary

Item 1 amends subrule 12.19(2) to correct an error in terminology. The current version of the rule lists "furniture and fixtures" as ineligible for the sales and use tax refund provided by Iowa Code section 15.331A. However, the relevant statute uses the terms "furniture and furnishings" rather than "furniture and fixtures." The amendment also establishes a definition of "furnishings" to provide a common definition of furnishings and to clarify what types of items are ineligible for the sales and use tax refund. Item 1 also amends subrule 12.19(3) to adopt by reference the definition of "project completion" as defined in Iowa Code section 15.355(2).

REVENUE DEPARTMENT[701](cont'd)

Items 2 and 3 amend rules 701—42.53(15) and 701—52.46(15), which implement the Workforce Housing Tax Incentives Program for individual income tax and corporation income tax, respectively, to comply with a change to the law enacted by 2017 Iowa Acts, Senate File 488, sections 1 to 8. The amendments to these rules also remove language that is duplicative of language provided in rules administered by the Iowa Economic Development Authority and clarify that there is no limit to the number of times a tax credit may be transferred, that the tax credit is transferable in variable denominations, and that the same carryforward rules apply to transferees. Additional amendments are proposed to improve readability.

Item 4 amends rule 701—58.23(15) to remove language that is duplicative of language elsewhere in the Department's rules.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on May 1, 2018. Comments should be directed to:

Joe Fraioli
Department of Revenue
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50306
Phone: 515.725.4057
Email: joe.fraioli@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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).

REVENUE DEPARTMENT[701](cont'd)

The following rule-making actions are proposed:

ITEM 1. Amend subrules 12.19(2) and 12.19(3) as follows:

12.19(2) *Sales and use tax ineligible for refund.* The sales and use tax for which the eligible business cannot receive a refund consists of the following:

a. Any local option sales tax paid is not eligible for the refund. The refund is limited to the state sales and use tax paid.

b. Any sales and use tax attributable to intangible property, ~~and~~ furniture ~~and fixtures~~, or furnishings is not eligible for the refund. "Furnishings" means any furniture, appliances, equipment, and accessories that are movable and with which a room or building is furnished for comfort, convenience, or aesthetic value. Examples include rugs, décor, and window coverings. "Furnishings" does not include installed flooring such as hardwood, carpet, ceramic, stone, laminate, or vinyl.

12.19(3) *Claiming the refund.* To receive the refund, the eligible business must file a claim for refund within one year of project completion. For a manufacturing facility, project completion is the first date upon which the average annualized production of finished project for the preceding 90-day period at the manufacturing facility is at least 50 percent of the initial design capacity of the facility. For purposes of the workforce housing tax incentives program, "project completion" means the same as defined in Iowa Code section 15.355(2). For all other facilities, project completion is the date of completion of all improvements necessary for the start-up, location, expansion or modernization of the business.

a. to *c.* No change.

ITEM 2. Amend rule 701—42.53(15) as follows:

701—42.53(15) Workforce housing tax incentives program. ~~Effective July 1, 2014, a~~ A business which qualifies under the workforce housing tax incentives program is eligible to receive tax incentives for individual income tax. The workforce housing tax incentives program ~~replaces~~ replaced the eligible housing business enterprise zone program. An eligible business under the workforce housing tax incentives program must be approved by the economic development authority ~~and must meet the requirements of 2014 Iowa Acts, House File 2448, section 15~~. The administrative rules for the workforce housing tax incentives program for the economic development authority may be found at 261—Chapter 48. The general assembly has mandated that the economic development authority and the department of revenue adopt rules to jointly administer Iowa Code sections 15.351 to 15.356. In general, the economic development authority is responsible for evaluating whether projects meet the requirements for a workforce housing tax incentives program while the department of revenue administers tax credit claims and transfers.

42.53(1) *Definitions.*

"Costs directly related" means ~~expenditures that are incurred for construction of a housing project to the extent that they are attributable directly to the improvement of the property or its structures. "Costs directly related" includes expenditures for property acquisition, site preparation work, surveying, construction materials, construction labor, architectural services, engineering services, building permits, building inspection fees, and interest accrued on a construction loan during the time period allowed for project completion under an agreement entered into pursuant to the program. "Costs directly related" does not include expenditures for furnishings, appliances, accounting services, legal services, loan origination and other financing costs, syndication fees and related costs, developer fees, or the costs associated with selling or renting the dwelling units whether incurred before or after completion of the housing project~~ the same as defined in rule 261—48.3(15).

"Qualifying new investment" means ~~costs that are directly related to the acquisition, repair, rehabilitation, or redevelopment of a housing project in this state. For purposes of this rule, "costs directly related to acquisition" includes the costs associated with the purchase of real property or other structures. "Qualifying new investment" includes costs that are directly related to new construction of dwelling units if the new construction occurs in a distressed workforce housing community. The amount of costs that may be used to compute "qualifying new investment" shall not exceed the costs~~

~~used for the first $150,000 of value for each dwelling unit that is part of a housing project~~ the same as defined in rule 261—48.3(15).

~~"Qualifying new investment" does not include the following:~~

~~1. The portion of the total cost of a housing project that is financed by federal, state, or local government tax credits, grants, forgivable loans, or other forms of financial assistance that do not require repayment, excluding the tax incentives provided under this program.~~

~~2. If a housing project includes the rehabilitation, repair, or redevelopment of an existing multi-use building, the portion of the total acquisition costs of the multi-use building, including a proportionate share of the total acquisition costs of the land upon which the multi-use building is situated, that are attributable to the street-level ground story that is used for a purpose that is other than residential.~~

~~3. Any costs, including acquisition costs, incurred before the housing project is approved by the economic development authority.~~

42.53(2) *Workforce housing tax incentives.* The economic development authority will allocate no more than $20 million in tax incentives for this program for any fiscal year, $5 million of which shall be reserved for allocation to qualified housing projects in small cities, as defined in Iowa Code section 15.352(10), that are registered on or after July 1, 2017. A housing business that has entered into an agreement with the economic development authority is eligible to receive the tax incentives described in the following paragraphs:

a. Sales tax refund. A housing business may claim a refund of the sales and use tax described in rule ~~701—12.9(15)~~ 701—12.19(15).

b. Investment tax credit.

(1) Computation of the credit. A housing business may claim a tax credit in an amount not to exceed 10 percent of the qualifying new investment in a housing project not located in a small city, or 20 percent of the qualifying new investment in a housing project located in a small city.

(2) Allocation of the tax credit to the individual owners of the entity or beneficiaries of an estate or trust. An individual may claim a tax credit if the housing business is a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

(3) Refundability. Any tax credit in excess of the taxpayer's liability for the tax year is not refundable ~~but~~.

(4) Carryforward. Any tax credit in excess of the taxpayer's liability may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

42.53(3) *Claiming the tax credit—information required.* The taxpayer must receive a tax credit certificate from the economic development authority to claim the eligible housing business tax credit. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the date the project was completed, the amount of the eligible housing business tax credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.53(5). The tax credit certificate must be included with the income tax return for the tax period in which the housing is ready for occupancy.

42.53(4) *Basis adjustment.* The increase in the basis of the property that would otherwise result from the qualifying new investment shall be reduced by the amount of the investment tax credit. For example, if a new housing project had qualifying new investment of $1 million which resulted in a $100,000 investment tax credit for Iowa tax purposes, the basis of the property for Iowa income tax purposes would be $900,000.

42.53(5) *Transfer of the credit.*

a. Submission of transferred tax credit certificate to the department—information required. Tax credit certificates issued under an agreement entered into pursuant to subrule 42.53(3) may be transferred to any person. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any

other information required by the department of revenue. However, tax credit certificate amounts of less than the minimum amount established in rule by the economic development authority shall not be transferable.

b. Issuance of replacement certificate by the department. Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.

c. Claiming the transferred tax credit. A tax credit shall not be claimed by a transferee under this rule until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income, or franchise tax purposes.

d. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than the minimum amount established in rule by the economic development authority.

e. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in paragraph 42.53(2)*"b"*(4) shall apply.

42.53(6) *Repayment of benefits.* If the housing business fails to maintain the requirements of Iowa Code section 15.353, the taxpayer may be required to repay all or a portion of the tax incentives the taxpayer received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure of the taxpayer to maintain the requirements of ~~2014 Iowa Acts, House File 2448, section 15~~ Iowa Code section 15.353. This repayment is required because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

This rule is intended to implement ~~2014 Iowa Acts, House File 2448~~ Iowa Code sections 15.354 and 15.355.

ITEM 3. Amend rule 701—52.46(15) as follows:

701—52.46(15) Workforce housing tax incentives program. ~~Effective July 1, 2014, a~~ A business which qualifies under the workforce housing tax incentives program is eligible to receive tax incentives for corporation income tax. The workforce housing tax incentives program ~~replaces~~ replaced the eligible housing enterprise zone program. An eligible business under the workforce housing tax incentives program must be approved by the economic development authority ~~and must meet the requirements of 2014 Iowa Acts, House File 2448, section 15~~. The administrative rules for the workforce housing tax incentives program for the economic development authority may be found at 261—Chapter 48. The general assembly has mandated that the economic development authority and the department of revenue adopt rules to jointly administer Iowa Code sections 15.351 to 15.356. In general, the economic development authority is responsible for evaluating whether projects meet the requirements for a workforce housing tax incentives program while the department of revenue administers tax credit claims and transfers.

REVENUE DEPARTMENT[701](cont'd)

52.46(1) *Definitions.*

"Costs directly related" means ~~expenditures that are incurred for construction of a housing project to the extent that they are attributable directly to the improvement of the property or its structures. "Costs directly related" includes expenditures for property acquisition, site preparation work, surveying, construction materials, construction labor, architectural services, engineering services, building permits, building inspection fees, and interest accrued on a construction loan during the time period allowed for project completion under an agreement entered into pursuant to the program. "Costs directly related" does not include expenditures for furnishings, appliances, accounting services, legal services, loan origination and other financing costs, syndication fees and related costs, developer fees, or the costs associated with selling or renting the dwelling units whether incurred before or after completion of the housing project~~ the same as defined in rule 261—48.3(15).

"Qualifying new investment" means ~~costs that are directly related to the acquisition, repair, rehabilitation, or redevelopment of a housing project in this state. For purposes of this rule, "costs directly related to acquisition" includes the costs associated with the purchase of real property or other structures. "Qualifying new investment" includes costs that are directly related to new construction of dwelling units if the new construction occurs in a distressed workforce housing community. The amount of costs that may be used to compute "qualifying new investment" shall not exceed the costs used for the first $150,000 of value for each dwelling unit that is part of a housing project~~ the same as defined in rule 261—48.3(15).

~~"Qualifying new investment" does not include the following:~~

~~1. The portion of the total cost of a housing project that is financed by federal, state, or local government tax credits, grants, forgivable loans, or other forms of financial assistance that do not require repayment, excluding the tax incentives provided under this program.~~

~~2. If a housing project includes the rehabilitation, repair, or redevelopment of an existing multi-use building, the portion of the total acquisition costs of the multi-use building, including a proportionate share of the total acquisition costs of the land upon which the multi-use building is situated, that are attributable to the street-level ground story that is used for a purpose that is other than residential.~~

~~3. Any costs, including acquisition costs, incurred before the housing project is approved by the economic development authority.~~

52.46(2) *Workforce housing tax incentives.* The economic development authority will allocate no more than $20 million in tax incentives for this program for any fiscal year, $5 million of which shall be reserved for allocation to qualified housing projects in small cities, as defined in Iowa Code section 15.352(10), that are registered on or after July 1, 2017. A housing business that has entered into an agreement with the economic development authority is eligible to receive the tax incentives described in the following paragraphs:

a. Sales tax refund. A housing business may claim a refund of the sales and use tax described in rule ~~701—12.9(15)~~ 701—12.19(15).

b. Investment tax credit.

(1) Computation of the credit. A housing business may claim a tax credit in an amount not to exceed 10 percent of the qualifying new investment in a housing project not located in a small city, or 20 percent of the qualifying new investment in a housing project located in a small city.

(2) Allocation of the tax credit to the individual owners of the entity or beneficiaries of an estate or trust. An individual may claim a tax credit if the housing business is a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

(3) Refundability. Any tax credit in excess of the taxpayer's liability for the tax year is not refundable ~~but~~.

(4) Carryforward. Any tax credit in excess of the taxpayer's liability may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

52.46(3) *Claiming the tax credit—information required.* The taxpayer must receive a tax credit certificate from the economic development authority to claim the eligible housing business tax credit.

The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the date the project was completed, the amount of the eligible housing business tax credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 52.46(5). The tax credit certificate must be included with the income tax return for the tax period in which the housing is ready for occupancy.

52.46(4) *Basis adjustment.* The increase in the basis of the property that would otherwise result from the qualifying new investment shall be reduced by the amount of the investment tax credit. For example, if a new housing project had qualifying new investment of $1 million which resulted in a $100,000 investment tax credit for Iowa tax purposes, the basis of the property for Iowa income tax purposes would be $900,000.

52.46(5) *Transfer of the credit.*

a. Submission of transferred tax credit to the department—information required. Tax credit certificates issued under an agreement entered into pursuant to subrule 52.46(3) may be transferred to any person. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue. However, tax credit certificate amounts of less than the minimum amount established in rule by the economic development authority shall not be transferable.

b. Issuance of replacement certificate by the department. Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.

c. Claiming the transferred tax credit. A tax credit shall not be claimed by a transferee under this rule until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income, or franchise tax purposes.

d. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than the minimum amount established in rule by the economic development authority.

e. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in paragraph 52.46(2)*"b"*(4) shall apply.

52.46(6) *Repayment of benefits.* If the housing business fails to maintain the requirements of Iowa Code section 15.353, the taxpayer may be required to repay all or a portion of the tax incentives the taxpayer received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure of the taxpayer to maintain the requirements of Iowa Code section 15.353. This repayment is required because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in ~~subrule~~ 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax

incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.,* Docket No. 11DORF 042-044, June 11, 2012.

This rule is intended to implement ~~2014 Iowa Acts, House File 2448~~ Iowa Code sections 15.354 and 15.355.

ITEM 4. Amend rule 701—58.23(15) as follows:

701—58.23(15) Workforce housing tax incentives program. ~~Effective July 1, 2014, a~~ A business which qualifies under the workforce housing tax incentives program is eligible to receive tax incentives for franchise tax. ~~The workforce housing tax incentives program replaces the eligible housing enterprise zone program. An eligible business under the workforce housing tax incentives program must be approved by the economic development authority and must meet the requirements of 2014 Iowa Acts, House File 2448, section 15.~~ For information on how the workforce housing tax incentives can be claimed, how the investment tax credit can be transferred and other details about the workforce housing tax incentives, see rule 701—52.46(15). The administrative rules for the workforce housing tax incentives program for the economic development authority may be found at 261—Chapter 48.

This rule is intended to implement ~~2014 Iowa Acts, House File 2448~~ Iowa Code sections 15.354 and 15.355.

ARC 3725C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to assessor and deputy assessor examination and providing an opportunity for public comment

The Department of Revenue hereby proposes to amend Chapter 72, "Examination and Certification of Assessors and Deputy Assessors," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14 and 441.5(4).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 441.5.

Purpose and Summary

The purpose of this rule making is to prescribe the preliminary education requirements that must be completed before a person may sit for an assessor or deputy assessor examination.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 701—7.28(17A).

REVENUE DEPARTMENT[701](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on May 1, 2018. Comments should be directed to:

Legal Services
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.725.2294
Email: tim.reilly@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend subrule 72.1(1) as follows:

72.1(1) The application for the examination shall be made on a form prescribed by the director and shall constitute an integral part of the examination. The application form shall require information as to the education, training, and experience of the applicant, including evidence of successful completion of the preliminary education requirements required in subrule 72.3(2), and such other information as the director may deem pertinent. Applications must be received by the department at least three days prior to the date of the examination. Applications filed ~~on or~~ after ~~the effective date of this rule~~ February 9, 1976, shall be considered public records pursuant to Iowa Code chapter 22 (*City of Dubuque v. Telegraph Herald, Inc.,* 297 N.W.2d 523 (Iowa 1980); 1982 O.A.G. 3).

ITEM 2. Amend rule 701—72.3(441) as follows:

701—72.3(441) ~~Equivalent of high school diploma~~ Eligibility requirements to take the examination.

72.3(1) *High school diploma or its equivalent.* Only persons who possess a high school diploma or its equivalent are eligible to take the examination. The equivalent of high school diploma shall consist of a high school equivalency ~~certificate~~ diploma issued by the department of ~~public instruction~~ education pursuant to Iowa Code chapter 259A, a similar document issued by the U.S. armed forces, or a similar document issued by another state.

72.3(2) *Preliminary education requirements.*

a. Only persons who have successfully completed the preliminary education requirements are eligible to take the examination. These requirements may be met by achieving one of the following:

REVENUE DEPARTMENT[701](cont'd)

(1) Successful completion of a department-approved course on Iowa assessment and taxation that includes coursework on Iowa laws within the time frame defined in paragraph 72.3(2)*"b"*;

(2) Successful completion of a department-approved course on general appraisal and assessment practice in addition to a department-approved course on Iowa laws. Both courses must be successfully completed within the time frame defined in paragraph 72.3(2)*"b"*; or

(3) Receipt of a currently active department-approved professional appraisal designation from a recognized appraisal organization in conjunction with successful completion of a department-approved course on Iowa laws within the time frame defined in paragraph 72.3(2)*"b"* if the appraisal designation is not already specific to Iowa.

b. All required coursework must be completed within five years prior to the date of the examination.

c. For the purposes of this subrule, "successful completion" shall mean answering a minimum of 70 percent of questions correctly on the test given at the completion of the course.

d. The department will publish a list of approved courses and professional designations on its official website.

This rule is intended to implement Iowa Code section 441.5.

ARC 3730C

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

Notice of Intended Action

Proposing rule making related to agricultural drainage wells and providing an opportunity for public comment

The Soil Conservation and Water Quality Division hereby proposes to amend Chapter 30, "Agricultural Drainage Wells—Alternative Drainage System Assistance Program," and to rescind Chapter 101, "Organization and Purpose," Chapter 102, "Rules of Practice," Chapter 103, "Appointment and Terms of Members," Chapter 104, "Local Watershed Improvement Committees," Chapter 105, "Watershed Improvement Grant Program," Chapter 106, "Watershed Improvement Fund," and Chapter 107, "Public Records and Fair Information Practices," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 161A.4(1) and 460.303(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 460.304(2)"a"(1)(b) and 2017 Iowa Acts, Senate File 510, sections 24 and 25.

Purpose and Summary

The proposed amendments allow for the closure of the last remaining registered agricultural drainage wells through the construction of wetlands with permanent easements as authorized by the Iowa Code. This option could be used if the wetland project would be more cost-effective than alternative drainage and if all project landowners agree. The 75 percent cost-share requirement authorized by rule would not apply. The proposed amendments also rescind the rules for the Watershed Improvement Review Board. The statutory provisions for the Board were repealed effective January 1, 2018.

Fiscal Impact

This rule making may have a positive fiscal impact to the State of Iowa because it could provide a more cost-effective alternative to closing a registered agricultural drainage well.

SOIL CONSERVATION AND WATER QUALITY DIVISION[27](cont'd)

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 27—Chapter 8.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on May 1, 2018. Comments should be directed to:

Margaret Thomson
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: margaret.thomson@Iowaagriculture.org

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend subrule 30.50(1) as follows:

30.50(1) *Cost-share rate.* ~~Cost-share~~ Except for the cost of wetland restoration projects with permanent easements, cost-share payments from the fund shall not exceed 75 percent of the estimated cost or 75 percent of the actual cost of the project, whichever is less.

ITEM 2. Adopt the following **new** paragraphs **30.50(2)"g"** and **"h"**:

g. Costs for the purchase of permanent easements for the wetland restoration if the easements are more cost-effective than the construction of alternative drainage systems and all directly impacted landowners agree to grant permanent easements.

h. Construction costs for wetland restoration projects with permanent easements include, but are not limited to:

(1) Tile modifications.
(2) Installation of water level maintenance structures.
(3) Associated excavation, grading and seeding activities.

SOIL CONSERVATION AND WATER QUALITY DIVISION[27](cont'd)

ITEM 3. Amend subrules 30.50(3) and 30.50(4) as follows:

30.50(3) *Project design and construction.* The alternative drainage system of the drainage district or the wetland restoration shall be designed to meet standard engineering practice ~~for drainage district improvements~~ and be approved by the division. Construction shall be in accordance with the design and standard construction practice for drainage district improvements or the wetland restoration.

30.50(4) ~~*Noncrop acres*~~ *Easement purchases*. ~~Noncrop acres within a designated agricultural drainage well area shall not be eligible to benefit from the program.~~ For projects where wetland restoration is completed, a permanent easement restricting active disturbance of the easement area including cropland and pasture uses shall be granted to the applicable soil and water conservation district. The value of the easement is determined by using the average farmland value per acre for all soil types as determined by the most recently published county land value survey developed by Iowa State University adjusted by the value of any existing easements on the land.

ITEM 4. Rescind and reserve **27—Chapter 101**.

ITEM 5. Rescind and reserve **27—Chapter 102**.

ITEM 6. Rescind and reserve **27—Chapter 103**.

ITEM 7. Rescind and reserve **27—Chapter 104**.

ITEM 8. Rescind and reserve **27—Chapter 105**.

ITEM 9. Rescind and reserve **27—Chapter 106**.

ITEM 10. Rescind and reserve **27—Chapter 107**.

ARC 3723C

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

Notice of Intended Action

Proposing rule making related to ICN authorized use and users and providing an opportunity for public comment

The Iowa Telecommunications and Technology Commission hereby proposes to amend Chapter 7, "Authorized Use and Users," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 8D.3(3)"b."

State or Federal Law Implemented

This rule making implements, in whole or in part, 2017 Iowa Acts, House File 467.

Purpose and Summary

This rule making implements the statutory change made by 2017 Iowa Acts, House File 467, and authorizes the Iowa Communications Network to provide law enforcement communications systems should an appropriate authorized user of the network request such services.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 751—Chapter 9.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on May 1, 2018. Comments should be directed to:

Mark Johnson
Iowa Telecommunications and Technology Commission
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.725.4608
Email: mark.johnson@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making action is proposed:

Amend rule **751—7.1(8D)**, definition of "State communications," as follows:

"State communications" refers to the transmission of voice, data, video, the written word or other visual signals by electronic means but does not include radio and television facilities and other educational telecommunications systems and services including narrowcast and broadcast systems under the public broadcasting division of the department of education, or the department of transportation distributed data processing and mobile radio network~~, or law enforcement communications systems~~.

ARC 3726C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rule making related to electric utility services and providing an opportunity for public comment

The Utilities Board hereby proposes to amend Chapter 20, "Service Supplied by Electric Utilities," Iowa Administrative Code.

UTILITIES DIVISION[199](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 474.5 and 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 476.2, 476.6, 476.8, 476.20, 476.54, 476.66, 478.18 and 546.7.

Purpose and Summary

The Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2). The purpose of this review is to identify and update or eliminate rules that are outdated or inconsistent with statutes and other administrative rules. Additionally, the Board is proposing to amend Chapter 20 by adding provisions regarding meter testing to eliminate the need for future waivers, updating its customer service rules, and addressing issues regarding master metering.

The Board issued an order commencing rule making on February 23, 2018. The order is available on the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0008.

Fiscal Impact

After analysis and review of this rule making, the Board tentatively concludes that the amendments will have no effect on the expenditure of public moneys within the State of Iowa.

Jobs Impact

After analysis and review of this rule making, the Board tentatively concludes that the amendments will not have a detrimental effect on employment in Iowa.

Waivers

Chapter-specific waiver provisions are unnecessary since any person may apply for waiver of any Board rule under rule 199—1.3(17A,474,476).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on May 1, 2018. Comments should be directed to:

Iowa Utilities Board
Electronic Filing System (EFS) at efs.iowa.gov
Phone: 515.725.7337
Email: efshelpdesk@iub.iowa.gov

Public Hearing

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

May 16, 2018	Utilities Board Hearing Room
9 a.m. to 12 noon	1375 East Court Avenue
	Des Moines, Iowa

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 rule making.

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 Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule-making actions are proposed:

ITEM 1. Amend subrule 20.1(2) as follows:

20.1(2) *Application of rules.* The rules shall apply to any electric utility operating within the state of Iowa subject to Iowa Code chapter 476, and to the construction, operation and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and shall supersede all tariffs on file with the board which are 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.

A request to waive the application of any rule on a permanent or temporary basis may be made in accordance with ~~199—1.3(17A,474,476,78GA,HF2206)~~ 199—1.3(17A,474,476).

The adoption of these rules shall in no way preclude the board from altering or amending them pursuant to statute or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions.

These rules shall in no way relieve any utility from any of its duties under the laws of this state.

ITEM 2. Amend subrule 20.1(3) as follows:

20.1(3) *Definitions.* The following words and terms, when used in these rules, shall have the meaning indicated below:

"Acid Rain Program" means the sulfur dioxide and nitrogen oxides air pollution control program established pursuant to Title IV of the Act under 40 CFR Parts 72-78.

"Act" means the Clean Air Act, 42 U.S.C. Section 7401, et seq.~~, as amended by Pub. L. 101-549, November 15, 1990.~~

"Affected unit" means a unit or source that is subject to any emission reduction requirement or limitation under the Acid Rain Program, the Clean Air Interstate Rule (CAIR), ~~or the Clean Air Mercury Rule (CAMR)~~ the Cross-State Air Pollution Rule (CSAPR), or the Mercury and Air Toxics Standards (MATS), or a unit or source that opts in under 40 CFR Part 74.

"Allowance" means an authorization, allocated by the United States Environmental Protection Agency (EPA), to emit sulfur dioxide (SO_2) under the Acid Rain Program~~, to emit sulfur dioxide (SO_2), any~~ or SO_2 and nitrogen oxide (NO_X) ~~emissions subject to~~ under the Clean Air Interstate Rule (CAIR)~~, or mercury (Hg) emissions subject to the Clean Air Mercury Rule (CAMR),~~ and the Cross-State Air Pollution Rule (CSAPR) during or after a specified calendar year.

~~*"Allowance forward contract"* is an agreement between a buyer and seller to transfer an allowance on a specified future date at a specified price.~~

"Allowance futures contract" is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.

~~*"Allowance option contract"* is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.~~

"Board" means the utilities board.

"Clean Air Interstate Rule" or *"CAIR"* means the requirements EPA published in the Federal Register (70 Fed. Reg. 25161) on May 12, 2005.

~~*"Clean Air Mercury Rule"* or *"CAMR"* means the requirements EPA published in the Federal Register (70 Fed. Reg. 28605) on May 18, 2005.~~

"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 obligation.

"Compliance plan" means the document submitted for an affected source to the EPA which specifies the methods by which each affected unit at the source will meet the applicable emissions limitation and emissions reduction requirements.

"Cross-State Air Pollution Rule" or *"CSAPR"* means the requirements established by EPA in 40 CFR 97 Subparts AAAAA, BBBBB, CCCCC, and DDDDD as amended by 81 FR 13275 (March 14, 2016).

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

"Distribution line" means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 26,000 volts between ungrounded conductors or 1,155 to 15,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

"Economy energy" is energy bought or sold in a transaction wherein the supplier's incremental cost is less than the buyer's decremental cost, and the differential in cost is shared in an equitable manner by the supplier and buyer.

"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" is furnishing to the public for compensation any electricity, heat, light, power, or energy.

"Emission for emission trade" is an exchange of one type of emission for another type of emission. For example, the exchange of SO_2 emission allowances for NO_X emission allowances.

"Energy" means electric energy measured in kilowatt hours.

"Firm power" is power and associated energy intended to be available at all times during the period covered by the commitment.

"Gains and losses from allowance sales" are calculated as the difference between the sale price of allowances sold during the month and the weighted average unit cost of inventoried allowances.

"Mercury and Air Toxics Standards" or *"MATS"* means the requirements established by EPA in 40 CFR Parts 60 and 63 regarding limits of power plant emissions of toxic air pollutants (February 16, 2012).

"Meter" means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

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

"Operating reserve" is a reserve generating capacity required to ensure reliability of generation resources.

"Operational control energy" is energy supplied by a selling utility to a buying utility for the improvement of electric system operation.

"Outage energy" is energy purchased during emergency or scheduled maintenance outages of generation or transmission facilities, or both.

"Participation power" means power and associated energy or energy which is purchased or sold from a specific unit or units on the basis that its availability is subject to ~~prorate~~ proration or other specified reduction if the units are not operated at full capacity.

"Peaking power" is power and associated energy intended to be available at all times during the commitment and ~~which is~~ anticipated to have low load factor use.

"Power" means electric power measured in kilowatts.

"Price hedging" means using futures contracts or options to guard against unfavorable price changes.

"Rate-regulated utility" means any utility, as defined in 20.1(3),which is subject to board rate regulation under Iowa Code chapter 476.

"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 on the customer's meter.

"Service limiter" or *"service limitation device"* means a device that limits a residential customer's power consumption to 3,600 watts (or some higher level of usage approved by the board) and that resets itself automatically, or can be reset manually by the customer, and may also be reset remotely by the utility at all times.

"Speculation" means using futures contracts or options to profit from expectations of future price changes.

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

"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 which 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 providing electric service or heat to the public for compensation.

"Vintage trade" is an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

"Weighted average unit cost of inventoried allowances" equals the dollars in inventory at the end of the month divided by the total allowances available for use at the end of the month.

"Wheeling service" is the service provided by a utility in consenting to the use of its transmission facilities by another party for the purpose of scheduling delivery of power or energy, or both.

ITEM 3. Amend subrule 20.2(2) as follows:

20.2(2) *Tariffs to be filed with the board.* The schedules of rates and rules of rate-regulated electric utilities shall be filed with the board and shall be classified, designated, arranged and submitted so as to conform to the requirements of this chapter. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification and content of tariffs shall be in accordance with these rules. A rate-regulated electric utility's current tariff will be made available through the board's electronic filing system.

Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not be required to file schedules of rates, rules, or contracts primarily concerned with a rate schedule with the board and shall not be subject to the provisions related to rate regulations, but nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules or contracts which are needed by the board in the performance of the board's duties upon request to do so by the board.

ITEM 4. Amend subrule 20.2(3) as follows:

20.2(3) *Form and identification.* All tariffs shall conform to the following rules:

UTILITIES DIVISION[199](cont'd)

a. The tariff shall be ~~printed, typewritten or otherwise~~ filed electronically using the board's electronic filing system. The filed tariff shall be capable of being reproduced on 8½- × 11- inch ~~sheets of durable white~~ paper so ~~as to result in a clear and permanent record~~ consumers may readily view and reproduce copies of the tariff. ~~The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding. In the case of utilities subject to regulation by any federal agency the format of sheets of~~ A tariff ~~as~~ filed with the board may be the same format as is required by ~~the~~ a federal agency provided that the rules of the board as to title page; identity of superseding, replacing or revision sheets; identity of amending sheets~~:~~; identity of the filing utility, issuing official, date of issue, effective date; and the words "Tariff with board" shall apply in the modification of the federal agency format for the purposes of filing with this board.

b. The title page of every tariff and supplement shall show:

(1) The first page shall be the title page which shall show:

(Name of Public Utility)
Electric Tariff
Filed with
Iowa Utilities Board

(Date)

~~(This requirement does not apply to tariffs or amendments filed with the board prior to July 1, 1981.)~~

(2) When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on the upper right corner of its title page that it supersedes a tariff on file and the number being superseded or replaced, for example:

TARIFF NO. _____
SUPERSEDES TARIFF NO. _____

~~(This requirement does not apply to tariffs or amendments filed with the board prior to July 1, 1981.)~~

(3) When a new part of a tariff eliminates an existing part of a tariff it shall so state and clearly indicate the part eliminated.

(4) Any tariff modifications as defined above shall be marked in the right-hand margin of the replacing tariff sheet with symbols as here described to indicate the place, nature and extent of the change in text.

—Symbols—

(C)—Changed regulation
(D)—Discontinued rate or regulation
(I)—Increase in rate or new treatment resulting in increased rate
(N)—New rate, treatment or regulation
(R)—Reduction in rate or new treatment resulting in reduced rate
(T)—Change in text only

c. All sheets except the title page shall have, in addition to the above-stated requirements, the following information:

(1) Name of utility under which shall be set forth the words "Filed with board." If the utility is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

(2) Issuing official and issue date.

(3) Effective date (to be left blank by rate-regulated utilities).

d. All sheets except the title page shall have the following form:

UTILITIES DIVISION[199](cont'd)

(Company Name)	(Part identification)
Electric Tariff	(This sheet identification)
Filed with board	(Canceled sheet identification, if any)
	(Content or tariff)
Issued: (Date)	Effective:
Issued by: (Name, title)	(Proposed Effective Date:)

The issued date is the date the tariff or the amended sheet content was adopted by the utility.

The effective date will be left blank by rate-regulated utilities and shall be determined by the board. The utility may propose an effective date.

ITEM 5. Amend subrule 20.2(5) as follows:

20.2(5) *Annual, periodic and other reports to be filed with the board.*

a. System map verification. The utility shall file annually a verification that it has a currently correct set of utility system maps in accordance with ~~general requirement~~ the general requirements of subrule 20.3(11) and a statement as to the location of the utility's offices where such maps, except those deemed confidential by the board, are accessible and available for examination by the board or its agents. The verification and map location information shall also be reported to the board upon other occasions when significant changes occur in either the maps or location of the maps.

b. to *e.* No change.

f. ~~A copy of the~~ The utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, electrical contractors, etc., covering meter and service installations shall be ~~filed with~~ maintained and made available to the board upon request.

g. to *k.* No change.

ITEM 6. Amend subparagraph **20.3(1)"a"(2)** as follows:

(2) For temporary service installations not otherwise metered.

ITEM 7. Amend paragraph **20.3(1)"b"** as follows:

b. The amount of all electricity delivered to multioccupancy premises within a single building, where units are separately rented or owned, shall be measured on the basis of individual meter measurement for each unit, except in the following instances:

(1) Where electricity is used in centralized heating, cooling, water-heating, or ventilation 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 in the multioccupancy building that would make individual meters unsafe or physically impossible to install; (2) where the cost of providing individual metering exceeds the long-term benefits of individual metering; or (3) where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.~~

1. Conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; or

2. The cost of providing individual metering exceeds the long-term benefits of individual metering; or

(5) Where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement in which the predicted annual energy use for a new multioccupancy building would result in at least a 30 percent energy savings compared to the predicted annual energy use of a new building meeting the requirements of the State of Iowa Energy Code and operating with equipment, fixtures, and appliances meeting federal energy standards for manufactured devices for a new building. An existing multioccupancy building qualifies for master metering under this subparagraph when the predicted annual energy use would result in at least a 30 percent energy savings compared to the building's current annual energy usage levels. Credits for on-site

renewable energy generation shall not be taken into account when determining the predicted energy savings.

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

ITEM 8. Rescind and reserve subrule **20.3(4)**.

ITEM 9. Amend subrule 20.3(5) as follows:

20.3(5) *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~~ 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 such energy conservation initiatives as they desire, except in the individual locations where the utility has experienced vandalism to windows in the protective enclosures. Where remote meter reading is used, whether outdoor on premises or off premises automated, the customer shall also have readable meter registers at the meter. A utility may comply with the requirements of this subrule by making the required information available via the Internet or other equivalent means.

Where ~~magnetic tape or other~~ a delayed processing means is used, the utility may comply by having readable kWh registers only, visually accessible.

In instances in which the utility has determined that readable access, to locations existing July 1, 1981, will create a safety hazard, the utility is exempted from the access provisions above.

In instances when a building owner has determined that unrestricted access to tenant metering installation would create a vandalism or safety hazard, the utility is exempted from the access provision above.

Continuing efforts should be made to eliminate or minimize the number of restricted locations. The utility should assist affected customers in obtaining meter register information.

ITEM 10. Amend subrule 20.3(6) as follows:

20.3(6) *Meter reading and billing interval.* 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 ~~rendered~~ 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 board. A waiver request must include sufficient information to comply with ~~199—1.3(17A,474,476,78GA,HF2206)~~ 199—1.3(17A,474,476). If the board denies a waiver, or if a waiver is not sought with respect to a ~~high demand~~ high-demand customer after the initial month, that customer's meter shall be read 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.

An effort shall be made to obtain readings of the meters on corresponding days of each ~~meter-reading~~ meter reading period. When 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 bills shall be prorated on a daily basis.

The utility may permit the customer to supply the meter readings by telephone, by electronic means, or on a form supplied by the utility. The utility may arrange for customer meter reading forms to be delivered to the utility by United States mail, electronically, or by hand delivery. The utility may arrange for the meter to be read by electronic means. 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.

In the event that the utility leaves a meter reading form with the customer when access to meters cannot be gained and the form is not returned in time for the billing operation, an estimated bill may be ~~rendered~~ provided.

If an actual meter reading cannot be obtained, the utility may ~~render~~ 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 ~~rendered~~ provided.

ITEM 11. Amend subrule 20.3(8) as follows:

20.3(8) *Service areas.* Service areas are defined by the boundaries on service area maps~~,~~. Paper maps are available for viewing during regular business hours at the board's offices~~,~~ and available for purchase at the cost of reproduction. Maps are also available for viewing on the board's website. These service area maps are adopted as part of this rule and are incorporated in this rule by this reference.

ITEM 12. Amend paragraph **20.3(11)"b"** as follows:

b. All maps, except those deemed confidential by the board, shall be available for examination at the utility's designated offices during the utility's regular office hours. The maps shall be drawn with clean, uniform lines to a scale of one inch per mile. A large scale shall be used where it is necessary to clarify areas where there is a heavy concentration of facilities. All cartographic details shall be clean cut, and the background shall contain little or no coloration or shading.

ITEM 13. Adopt the following **new** subrule 20.3(12):

20.3(12) *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 board.

ITEM 14. Amend paragraph **20.3(13)"a,"** definition of "Contribution in aid of construction," as follows:

"Contribution in aid of construction," as used in this subrule, means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of ~~an electrical line extension or~~ 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.

ITEM 15. Amend subparagraph **20.3(13)"c"(5)** as follows:

(5) Refunds. When the customer is required to make an advance for construction, the utility shall refund 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 electrical line extension. The pro-rata refund shall be computed in the following manner:

1. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the electrical line extension and each service line attached to the electrical line extension exceeds the total estimated ~~constriction~~ construction cost to provide the electrical line extension, the entire amount of the advance for construction provided shall be refunded.

2. and 3. No change.

ITEM 16. Amend paragraph **20.3(13)"e"** as follows:

e. Extensions not required. Utilities shall not be required to make electrical line extensions or install service lines as described in this subrule, unless the electrical line 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 the cost of installing and removing the service in excess of any salvage realized.

ITEM 17. Amend subrule 20.4(1) as follows:

20.4(1) *Customer information.* Each utility shall:

a. and *b.* No change.

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 board. ~~[199—7.4(476) IAC]~~ (199—26.5(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 board, are available for public inspection. If the utility has provided access to its

rate schedules and rules for service on its ~~Web site~~ website, the notice ~~should~~ shall include the ~~Web site~~ website address.

e. No change.

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 bill form should include the website address.

g. and *h.* No change.

ITEM 18. Amend subrule 20.4(2) as follows:

20.4(2) *Customer contact employee qualifications.* Each utility shall promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls 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 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. 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 Board by calling (515)725-7321, or toll-free 1-877-565-4450, or by writing to 1375 E. Court Avenue, ~~Room 69,~~ Des Moines, Iowa 50319-0069, or by ~~E-mail~~ email to customer@iub.iowa.gov."

The bill insert or notice for municipal utilities shall include the following statement: "If your complaint is related to service disconnection, safety, or renewable energy, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, ~~Room 69,~~ Des Moines, Iowa 50319-0069, or by ~~E-mail~~ email to customer@iub.iowa.gov."

The bill insert or notice for non-rate-regulated rural electric cooperatives shall include the following statement: "If your complaint is related to the (utility name) service rather than its rates, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, ~~Room 69,~~ Des Moines, Iowa 50319-0069, or by ~~E-mail~~ email to customer@iub.iowa.gov."

The bill insert or notice on the bill shall be provided monthly by utilities serving more than 50,000 Iowa retail customers and no less than annually by all other electric utilities. Any utility which does not use the standard statement described in this subrule shall file its proposed statement in its tariff for 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 set forth above.

ITEM 19. Amend subrule 20.4(9) as follows:

20.4(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 ~~rendered~~ provided.

b. and *c.* No change.

d. The applicable rate schedule, ~~or~~ with the identification of the applicable rate ~~schedule~~ classification.

e. No change.

f. The last date for timely payment shall be clearly shown and shall be not less than 20 days after the bill is ~~rendered~~ provided.

g. to *j.* No change.

ITEM 20. Amend subrule 20.4(11) as follows:

20.4(11) *Payment agreements.*

a. and *b.* No change.

c. Terms of payment agreements.

(1) *First payment agreement.* ~~The utility shall offer customers who have received a disconnection notice or have been disconnected 120 days or less and who are not in default of a payment agreement the option of spreading payments evenly over at least 12 months by paying specific amounts at scheduled times. The utility shall offer customers who have been disconnected more than 120 days and who are not in default of a payment agreement the option of spreading payments evenly over at least 6 months by paying specific amounts at scheduled times.~~ 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. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules. The utility may also require the customer to enter into a level payment plan to pay the current bill.~~

~~2. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.~~

~~3. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall render 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. The document will be considered rendered 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 shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, 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. By making the first payment, the customer confirms acceptance of the terms of the oral agreement or electronic agreement.~~

~~4. Each customer entering into a first payment agreement shall be granted at least one late payment that is made four days or less beyond the due date for payment and the first payment agreement shall remain in effect.~~

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 6 even monthly payments. The utility shall inform customers they may pay off the delinquency early without incurring any prepayment penalties.

2. The agreement shall also include a 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 paid. If delivery is by other than U.S. mail, the document shall be considered provided to the customer when delivered to the last-known address of the person responsible for payment for the service.

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 stated in the written document. The document stating the terms and conditions of the agreement 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.

(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 ~~the same term as or longer than~~ a term at least as long as the term of the first payment agreement.

2. The customer shall be required to 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 ~~level payment~~ 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 ~~render~~ provide a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered ~~rendered~~ 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 ~~rendered~~ provided to the customer when handed to the customer or when delivered to the last-known address of the person responsible for the payment for the service.

A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance must be made to the board within ten days after ~~the rendering of~~ the written refusal is provided. During the review of this request, the utility shall not disconnect the service.

ITEM 21. Amend subrule 20.4(12) as follows:

20.4(12) *Bill payment terms.* The bill shall be considered ~~rendered~~ 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 shall be considered ~~rendered~~ provided when delivered to the last-known address of the party responsible for payment. There shall not be less than 20 days between the ~~rendering~~ providing of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 20.3(6) may not be considered delinquent less than 5 days from the date ~~of rendering~~ 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 ~~rendered~~ provided.

a. The date of delinquency for all residential customers or other customers whose consumption is less than 3,000 kWh per month~~,~~ shall be changeable for cause ~~in writing~~; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

b. to *d.* No change.

e. ~~Level payment~~ Budget billing plan. Utilities shall offer a ~~level payment~~ budget billing plan to all residential customers or other customers whose consumption is less than 3,000 kWh per month. A ~~level payment~~ budget billing plan should be designed to limit the volatility of a customer's bill and

maintain reasonable account balances. The ~~level payment~~ budget billing plan shall 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 ~~level payment~~ 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 shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new ~~level payment~~ budget billing plan to a customer for six months after the customer has terminated from a ~~level payment~~ budget billing plan.

(4) Use a computation method that produces a reasonable monthly ~~level payment~~ budget billing amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements ~~in 20.4(12)"e"(4)~~ of this subrule. The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the ~~level payment~~ budget billing plan.

The amount to be paid at each billing interval by a customer on a ~~level payment~~ budget billing plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The ~~level payment~~ 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.

When the ~~level payment~~ budget billing amount is recomputed, the ~~level payment~~ budget billing plan account balance shall be divided by 12, and the resulting amount shall be added to the estimated monthly ~~level payment~~ budget billing amount. Except when a utility has a ~~level payment~~ budget billing plan that recomputes the ~~level payment~~ budget billing amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' ~~level payment~~ budget billing amounts due or of obtaining a refund of any credit in excess of $25.

Except when a utility has a ~~level payment~~ budget billing plan that recomputes the ~~level payment~~ budget billing amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing period 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.

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

ITEM 22. Amend subrule 20.4(13) as follows:

20.4(13) *Customer records.* The utility shall retain records as may be necessary to effectuate compliance with 20.4(14) and 20.6(6), but not less than ~~three~~ five years. Records for customer shall show where applicable:

a. kWh meter reading.

b. kWh consumption.

c. kW meter reading.

d. kW measured demand.

e. kW billing demand.

f. Total amount of bill.

ITEM 23. Amend paragraph **20.4(14)"d"** as follows:

d. Back billing. A 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, but may be greater 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.

Back billings shall be ~~rendered~~ provided no later than six months following the date of the metering installation test.

ITEM 24. Amend paragraph **20.4(15)"a"** as follows:

a. The utility shall give written notice of pending disconnection except as specified in paragraph 20.4(15)*"b."* The notice shall set forth the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice shall be considered ~~rendered~~ 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 shall be considered ~~rendered~~ provided when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall be not less than 12 days after the notice is ~~rendered~~ provided. The date for disconnection of service for customers on shorter billing intervals under subrule 20.3(6) 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.

ITEM 25. Amend subparagraph **20.4(15)"d"(3)** as follows:

(3) The summary of the rights and responsibilities must be approved by the board. Any utility providing electric service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below for customers billed monthly shall submit to the board ~~an original and six copies of~~ 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 "electric" with the words "gas and electric" in all instances.

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; or

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

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

d. Give the 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 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. Contact the local community action agency in your area (see attached list)~~;~~ or visit humanrights.iowa.gov/dcaa/where-apply.

~~b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, you must contact the utility prior to disconnection of your service.~~

~~c.~~ 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.

~~d.~~ c. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

d. If you have additional questions, contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-3861.

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 5 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 payment arrangements have 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 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 Board 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 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 of or another conspicuous place at 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 (see #2 above).

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 must do it by 11 a.m. the next day.

c. The utility may charge you a fee to turn your service back on. Those fees 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 Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 1375 E. Court Avenue, ~~Room 69,~~ Des Moines, Iowa 50319-0069, or by E-mail at customer@iub.iowa.gov. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 1-800-532-1275.

ITEM 26. Amend subparagraph **20.4(15)"d"(5)** as follows:

(5) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence 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, ~~shall be contacted~~ 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. The utility shall make a diligent attempt to inform the landlord 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.

ITEM 27. Amend subparagraph **20.4(15)"d"(6)** as follows:

(6) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for electric utility 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 ~~rendering~~ providing of the bill if the customer pays the undisputed amount. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board in compliance with 199—Chapter 6.

ITEM 28. Amend subparagraph **20.4(15)"d"(8)** as follows:

(8) Severe cold weather. A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at ~~the~~ a residence ~~on any day~~ when the actual temperature or the 24-hour forecast of the National Weather Service ~~forecast~~ for the ~~following 24 hours covering the area in which the residence is located includes a forecast that the temperature will~~ residence's area is predicted to be 20 degrees Fahrenheit or colder. ~~In any case where~~ If the utility has properly posted a disconnect notice ~~in compliance with subparagraph 20.4(15)*"d"*(5)~~ but is precluded from disconnecting service because of ~~a National Weather Service forecast~~ severe cold weather, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the residence's area ~~where the residence is located~~ rises above 20 degrees Fahrenheit and is forecasted to ~~be~~ 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 ~~under some other provision of paragraph 20.4(15)~~ *"d."*.

ITEM 29. Amend subparagraph **20.4(15)"d"(10)** as follows:

(10) Winter energy assistance (November 1 through April 1). If 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 board.

ITEM 30. Amend subrule 20.4(16) as follows:

20.4(16) *Insufficient reasons for denying service.* The following shall not constitute sufficient cause for refusal of service to a customer:

a. to *d.* No change.

e. Failure to pay the back bill ~~rendered~~ provided in accordance with paragraph 20.4(14)*"d"* (slow meters).

f. Failure to pay a bill ~~rendered~~ provided in accordance with paragraph 20.4(14)*"f."*

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. No change.

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.

j. Delinquency in payment for service that arose on or before September 4, 2010, pursuant to an oral contract, except in cases of fraud or deception that prevented the utility from timely addressing such delinquencies with the customer.

ITEM 31. Rescind and reserve subrule **20.4(21)**.

ITEM 32. Amend subrule 20.4(22), introductory paragraph, as follows:

20.4(22) *Change in type of service.* If a change in the type of service~~, such as from 25- to 60-cycle or from direct or alternating current,~~ or a change in voltage to a customer's substation~~,~~ is effected at the insistence of the utility and not solely by reason of increase in the customer's load or change in the character thereof, the utility shall share equitably in the cost of changing the equipment of the customer affected as determined by the board in the absence of agreement between utility and customer. In general, the customer should be protected against or reimbursed for the following losses and expenses to an appropriate degree:

ITEM 33. Rescind and reserve subrule **20.5(5)**.

ITEM 34. Amend paragraph **20.6(3)"a"** as follows:

a. American National Standard Code for Electricity Metering, ANSI C12.1-~~2008~~ 2014.

ITEM 35. Adopt the following **new** subrule 20.6(8):

20.6(8) *Comprehensive meter upgrade programs.*

a. A utility may forego the meter testing procedures required under the utility's own inspection and testing program and subrule 20.6(2) if:

(1) The meters are removed or scheduled to be removed as part of a comprehensive meter upgrade program;

(2) The meters being removed have not previously been shown to be inaccurate or otherwise faulty; and

(3) The utility either retains the removed meters for a period of one year from the removal date to allow customers the opportunity to challenge a meter's accuracy or tests a representative sample of 10 percent of each type of meter being removed as part of the program and maintains the removed meters for a period of at least six months.

b. A utility foregoing its testing procedures under this subrule shall notify the board that the utility is engaging in a comprehensive meter upgrade program and state the option the utility is electing to pursue under subparagraph 20.6(8)*"a"*(3).

c. A utility shall continue to follow the meter testing procedures for meters removed for any reason unrelated to the comprehensive meter upgrade program.

ITEM 36. Amend subrule 20.7(7) as follows:

20.7(7) Each utility shall make a sufficient number of voltage measurements~~, using recording voltmeters,~~ in order to determine if voltages are in compliance with the requirements as stated in 20.7(2), 20.7(3), and 20.7(4). All ~~voltmeter~~ records obtained under ~~20.7(7)~~ this subrule shall be retained by the utility for at least two years and shall be available for inspection by the board's representatives. Notations on each chart shall indicate the following:

a. The location where the voltage was taken.

b. The time and date of the test.

c. The results of the comparison with a working standard indicating voltmeter.

ITEM 37. Amend subrule 20.9(3) as follows:

20.9(3) *Optional energy clause for a rate-regulated utility which does not own generation.* A rate-regulated utility which does not own generation may adopt the energy adjustment clause of this subrule in lieu of that set forth in subrule 20.9(2). Prior to each billing cycle ~~it~~, the rate-regulated utility shall determine and file for board approval the adjustment amount to be charged for each energy unit consumed under rates set by the board. The filing shall include all journal entries, invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. ~~The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, and other costs.~~

~~The journal entries should reflect the following breakdown for each type of fuel: actual cost of fuel, transportation, and other costs. Items~~ The items identified as other costs should be described and their inclusion as ~~fuel~~ energy costs should be justified. The utility shall also file detailed supporting data:

1. To show the actual amount of sales of energy by month for which an adjustment was utilized, and

2. To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.

a. to *e.* No change.

ITEM 38. Amend subrule 20.9(4) as follows:

20.9(4) ~~*Annual review*~~ *Review of energy clause.* ~~On or before each May 1~~ At least biennially, but no more than annually, the board will ~~notify~~ require each utility ~~as to the~~ that owns generation and utilizes an energy adjustment clause to provide fuel, freight, and transportation invoices from two months of the previous calendar year ~~for which fuel, freight, and transportation invoices will be required~~. The board will notify each utility by May 1 as to which two months' invoices will be required. Two copies of these invoices shall be filed with the board no later than the subsequent November 1.

ITEM 39. Amend rule **199—20.9(476)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~476.6(11)~~ 476.6(12).

ITEM 40. Rescind rule 199—20.11(476) and adopt the following **new** rule in lieu thereof:

199—20.11(476) Customer notification of peaks in electric energy demand.

20.11(1) Pursuant to Iowa Code section 476.17, each investor-owned utility shall have available for board inspection upon request a plan to notify its customers of an approaching peak demand on the day when peak demand is likely to occur.

20.11(2) The plan shall include, at a minimum, the following:

a. A description and explanation of the condition(s) that will prompt a peak alert.

b. A provision for a general notice to be given to customers prior to the time when peak demand is likely to occur and an explanation of when and how notice of an approaching peak in electric demand will be given to customers.

c. The text of the message or messages to be given in the general notice to customers. The message shall include the name of the utility providing the notice, an explanation that conditions exist which indicate a peak in electric demand is approaching, and an explanation of the significance of reductions in electricity use during a period of peak demand and the potential benefits of energy efficiency.

ITEM 41. Rescind rule 199—20.13(476) and adopt the following **new** rule in lieu thereof:

199—20.13(476) Procurement plan. Pursuant to Iowa Code section 476.6(12), the board shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's practices related to procurement of and contracting for fuel used in generating electricity. When it determines to conduct a contested case proceeding, the board shall notify a rate-regulated utility that it will be required to file an electric fuel procurement plan. The notification to the utility shall include a detailed list of what the board will be examining as part of the review and what should be filed by the utility. The utility shall file its plan not later than 105 days after notification unless otherwise directed by the board.

ITEM 42. Amend paragraph **20.14(3)"c"** as follows:

c. The floor for the discount rate shall be equal to the energy costs and customer costs of serving the specific customer.

ITEM 43. Amend subrule 20.15(1) as follows:

20.15(1) *Applicability and purpose.* This rule applies to each electric public utility, as defined in Iowa Code sections 476.1, 476.1A, and 476.1B. ~~Each~~ 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.

ITEM 44. Rescind and reserve subrule **20.15(2)**.

ITEM 45. Amend subrule 20.15(3), introductory paragraph, as follows:

20.15(3) *Notification.* Each utility shall notify all customers of the customer contribution fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall 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 required notice may be published in a local newspaper(s) of general circulation within the utility's service territory. A utility serving fewer than 6,000 customers may publish ~~their~~ its semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum, the notice shall include:

ITEM 46. Amend subrule 20.15(4) as follows:

20.15(4) *Methods of contribution.* The utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. A pledge by a customer or other party shall 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.

ITEM 47. Rescind and reserve subrule **20.15(6)**.

ITEM 48. Amend subrule 20.17(1) as follows:

20.17(1) *Applicability and purpose.* This rule applies to all rate-regulated utilities providing electric service in Iowa. Under ~~Title IV of~~ the Clean Air Act ~~Amendments of 1990~~, each electric utility is required to hold sufficient emission allowances to offset emissions at all affected and new units. The acquisition and disposition of emission allowances will be treated for ratemaking purposes as defined in this rule.

ITEM 49. Amend subrule 20.17(2) as follows:

20.17(2) *Definitions.* The following words and terms, when used in this rule, shall have the meaning indicated below:

~~*"Allowance futures contract"* is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.~~

~~*"Allowance option contract"* is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.~~

"Auction allowances" are allowances acquired or sold through EPA's annual allowance auction.

"Boot" means something acquired or forfeited to equalize a trade.

"Direct sale allowances" are allowances purchased from the EPA in its annual direct sale.

~~*"Emission for emission trade"* is an exchange of one type of emission for another type of emission. For example, the exchange of SO_2 emission allowances for NO_x emission allowances.~~

"Fair market value" is the amount at which an allowance could reasonably be sold in a transaction between a willing buyer and a willing seller other than in a forced or liquidation sale.

"Historical cost" is the amount of cash or its equivalent paid to acquire an asset, including any direct acquisition expenses. Any commissions paid to brokers shall be considered a direct acquisition expense.

"Original cost" is the historical cost of an asset to the person first devoting the asset to public service.

"Statutory allowances" are allowances allocated by the EPA at no cost to affected units under the ~~Acid Rain Program~~ Clean Air Act either through annual allocations as a matter of statutory right and those for which a utility may qualify by using certain compliance options or effective use of conservation and renewables.

~~*"Vintage trade"* is an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.~~

ITEM 50. Amend subrule 20.18(1) as follows:

20.18(1) *Applicability.* ~~Rule 199—20.18(476,478)~~ This rule is applicable to investor-owned electric utilities and electric cooperative corporations and associations operating within the state of Iowa subject to Iowa Code chapter 476 and to the construction, operation, and maintenance of electric transmission lines by electric utilities as defined in subrule 20.18(4) to the extent provided in Iowa Code chapter 478.

ITEM 51. Amend subrule 20.18(2) as follows:

20.18(2) *Purpose and scope.* Reliable electric service is of high importance to the health, safety, and welfare of the citizens of Iowa. The purpose of this rule ~~199—20.18(476,478)~~ is to establish requirements for assessing the reliability of the transmission and distribution systems and facilities that are under the board's jurisdiction. This rule establishes reporting requirements to provide consumers, the board, and electric utilities with methodology for monitoring reliability and ensuring quality of electric service within an electric utility's operating area. This rule provides definitions and requirements for maintenance of interruption data, retention of records, and report filing.

ITEM 52. Amend paragraph **20.18(3)"g"** as follows:

g. Any electric utility unable to comply with applicable provisions of this rule ~~199—20.18(476,478)~~ may file a waiver request pursuant to rule ~~199—1.3(17A,474,476,78GA,HF2206)~~ 199—1.3(17A,474,476).

ITEM 53. Amend subrule 20.18(4), introductory paragraph, as follows:

20.18(4) *Definitions.* Terms and formulas when used in this rule ~~199—20.18(476,478)~~ are defined as follows:

ITEM 54. Amend subrule **20.18(4)**, definition of "Customer," as follows:

"Customer" means (1) any person, firm, association, or corporation, (2) any agency of the federal, state, or local government, or (3) any legal entity responsible by law for payment of the electric service from the electric utility which has a separately metered electrical service point for which a bill is ~~rendered~~ provided. Electrical service point means the point of connection between the electric utility's equipment and the customer's equipment. Each meter equals one customer. Retail customers are end-use customers who purchase and ultimately consume electricity.

ITEM 55. Amend subrule 20.18(7), introductory paragraph, as follows:

20.18(7) *Annual reliability and service quality report for utilities with more than 50,000 Iowa retail customers.* Each electric utility with over 50,000 Iowa retail customers shall submit to the board ~~and consumer advocate~~ on or before May 1 of each year an annual reliability report for the previous calendar year for the Iowa jurisdiction. The report shall include the following information:

ITEM 56. Amend paragraph **20.18(7)"f"** as follows:

f. Plans and status report.

~~(1)~~ A plan for service quality improvements, including costs, for the electric utility's transmission and distribution facilities that will ensure quality, safe, and reliable delivery of energy to customers.

~~1. The plan shall cover not less than the three years following the year in which the annual report was filed. A copy of the electric utility's documents and databases supporting capital investment and maintenance budget amounts required in 20.18(7)*"g"*(1) and 20.18(7)*"h"*(1), respectively, (including but not limited to transmission and distribution facilities, transmission and distribution control and communication facilities, and transmission and distribution planning, maintenance, and reliability-related computer hardware and software) shall be maintained in the utility's principal Iowa business location and shall be available for inspection by the board and office of consumer advocate. The utility's plan may reference said budget documents and databases, instead of duplicating or restating the detail therein. Copies of capital budgeting documents shall be maintained for five years.~~

~~2. The plan shall identify reliability challenges and may describe specific projects and projected costs. The filing of the plan shall not be considered as evidence of the prudence of the utility's reliability expenditures.~~

~~3. The plan shall provide an estimate of the timing for achievement of the plan's goals.~~

~~(2) A progress report on plan implementation. The report shall include identification of significant changes to the prior plan and the reasons for the changes.~~

ITEM 57. Amend paragraph **20.18(7)"i"** as follows:

i. The annual reliability report~~, starting with the reliability report for calendar year 2008,~~ shall include the number of poles inspected, the number rejected, and the number replaced.

ITEM 58. Amend subrule 20.18(8) as follows:

20.18(8) *Annual report for all electric utilities not reporting pursuant to 20.18(7).*

a. ~~By July 1, 2003, each~~ Each electric utility shall adopt and have approved by its board of directors or other governing authority a reliability plan ~~and shall file an informational copy of the plan with the board~~. The plan shall be updated not less than annually ~~and shall describe the following:~~.

~~(1) The utility's current reliability programs, including:~~

~~1. Tree trimming cycle, including descriptions and explanations of any changes to schedules and procedures reportable in accordance with 199 IAC 25.3(3)*"c"*;~~

~~2. Animal contact reduction programs, if applicable;~~

~~3. Lightning outage mitigation programs, if applicable; and~~

~~4. Other programs the electric utility may identify as reliability-related.~~

~~(2) Current ability to track and monitor interruptions.~~

~~(3) How the electric utility plans to communicate its plan with customers/consumer owners.~~

b. By April 1~~, 2004, and each April 1 thereafter~~ of each year, each electric utility shall prepare for its board of directors or other governing authority a reliability report. A copy of the annual report shall be filed with the board for informational purposes, shall be made publicly available in its entirety

UTILITIES DIVISION[199](cont'd)

to customers/consumer owners, and shall report on ~~at least the following:~~ the reliability indices in 20.18(5)*"b"*(3) for each of the five previous calendar years.

~~(1) Measures of reliability for each of the five previous calendar years, including reliability indices if required in 20.18(5)*"b"*(3). These measures shall start with data from the year covered by the first Annual Reliability Report so that by the fifth Annual Reliability Report submittal reliability measures will be based upon five years of data.~~

~~(2) Progress on any reliability programs identified in its plan, but not less than the applicable programs listed in 20.18(8)*"a"*(1).~~

ITEM 59. Adopt the following **new** paragraph **20.19(2)"c"**:

c. The utility shall notify the board once service is fully restored to all customers after an outage meeting the requirements of subrule 20.19(1).

ARC 3733C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency After Notice

Rule making related to electricians and electrical contractors and electrical inspections

The Electrical Examining Board hereby amends Chapter 502, "Electrician and Electrical Contractor Licensing Program—Licensing Requirements, Procedures, and Fees," Chapter 551, "Electrical Inspection Program—Definitions," and Chapter 552, "Electrical Inspection Program—Permits and Inspections," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 103.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 103.1A and 103.22(15).

Purpose and Summary

These amendments remove the provisions in Chapters 502, 551, and 552 which authorized the inspections of electrical installations on farm buildings and conform the rules to 2017 Iowa Acts, Senate File 357. These amendments also address the objection to the rules filed by Governor Branstad on January 23, 2012. In summary, a license is not required for a person performing an electrical installation on a farm or farm building if the farm building is not regularly open to the public as a retail place of business and if the electrical installation is done by a person who has a legal or equitable interest in the farm, who is a relative or employee of that person, or who is an operator or manager. Inspections and permits are also not required for these installations. Residences are excluded, meaning that a licensed person must do the work and that a permit and inspection are required, unless the work is done by the owner on the owner's principal residence.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 17, 2018, as **ARC 3580C**. A public hearing was held on February 6, 2018, at 10 a.m. in the First Floor Public Conference Room 125, Oran Pape State Office Building, 215 East 7th Street, Des Moines, Iowa. There were 219 written public comments received from farmers and members of the Iowa Farm Bureau. Those comments unanimously supported the adoption of the amendments to rescind provisions for electrical inspections for farm buildings as provided for in the rules. The Iowa Farm Bureau provided written comments, and the representative of the Iowa Farm Bureau also provided oral comments in support of the amendments. No comments were received which opposed the amendments or which requested changes. Many of the comments urged the adoption of the final rules as rapidly as possible, so that the legislation can be implemented. 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 Board finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on March 26, 2018, because the rule removes a restriction on the public, specifically, it rescinds provisions for electrical inspections of farm buildings, and the rescission of these provisions confers a benefit on farmers.

Adoption of Rule Making

This rule making was adopted by the Board on March 20, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Board does not have authority to waive requirements established by statute. Pursuant to the provisions of rule 661—501.5(103), the Board has the authority to grant waivers from the rules.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making became effective on March 26, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 502.1(3) as follows:

502.1(3) A person who does not have a current valid license shall not perform work as an electrician or as an unclassified person. A person shall not perform work which requires licensing and which is not specifically authorized under the license issued.

EXCEPTION 1: A person who holds a current valid license issued by a political subdivision may perform work as an electrician or unclassified person within the corporate limits of the political subdivision which issued the license.

EXCEPTION 2: A person may work for up to 100 continuous days as an unclassified person prior to obtaining a license. Any documented time during which a person has worked as an unclassified person prior to January 1, 2008, or any time during which a person has worked as a licensed unclassified person shall be credited to any applicable experience requirement. Any time during which a person works as an unclassified person without a license on or after January 1, 2008, shall not be counted toward any such experience requirement, except that a person may receive credit for time worked as an unclassified person on or after January 1, 2008, without a license if the person has applied for a license.

EXCEPTION 3: Electrical installations in buildings, including residences or facilities which are being constructed as part of a course of instruction by an accredited educational institution, may be performed by a person who is not licensed. Such installations are subject to the requirements for permits and inspections pursuant to 661—Chapter 552.

EXCEPTION 4: A license is not required for a person who performs any electrical installation on a farm or a farm building if the farm building is not regularly open to the public as a place of business for the retail sale of goods, wares, services, or merchandise and if the person performing the installation is associated with the farm as a holder of a legal or equitable interest, a relative or employee of the holder, or an operator or manager of the farm. This exception does not apply to a residential installation located on a farm.

ITEM 2. Rescind the definition of "Commercial installation" in rule **661—551.2(103)**.

ITEM 3. Adopt the following **new** definition of "Commercial" in rule **661—551.2(103)**:

"Commercial" means a use, installation, structure, or premises associated with a place of business where goods, wares, services, or merchandise are stored or offered for sale on a wholesale or retail basis. "Commercial" includes a residence only if the residence is regularly open to the public as a place of business as provided in this definition. "Commercial" does not include any use, installation, structure, or premises associated with a farm or an industrial installation.

ITEM 4. Amend rule 661—552.1(103) as follows:

661—552.1(103) Required permits and inspections.

552.1(1) Permits and inspections are required for any of the following electrical installations that are initiated on or after February 1, 2009:

a. All new electrical installations for commercial or industrial applications, including installations both inside and outside buildings, and for public-use buildings and facilities and any installation at the request of the owner.

b. All new electrical installations for residential applications in excess of single-family residential applications.

c. All new electrical installations for single-family residential applications requiring new electrical service equipment.

d. Any existing electrical installation observed during inspection which constitutes an electrical hazard. Existing installations shall not be deemed to constitute electrical hazards if the wiring was originally installed in accordance with the electrical code in force at the time of installation and has been maintained in that condition.

e. Inspections of alarm system installations, rules for which are intended to be adopted as new 661—Chapter 560.

EXCEPTION 1:~~[See Objection at end of chapter]~~ Installations in political subdivisions which perform electrical inspections and which are inspected by the political subdivision are not required to be inspected by the state electrical inspection program. Any installation which is subject to inspection and is on property owned by the state or an agency of the state shall be inspected by the state electrical inspection program. An electrical installation on a farm which is located outside the corporate limits of any municipal corporation (city) shall not be inspected by a political subdivision~~, shall require a state electrical permit, and may be subject to a state electrical inspection, unless the installation is subject to Exception 2 or Exception 3~~.

EXCEPTION 2: Any electrical work which is limited to routine maintenance shall not require an inspection.

EXCEPTION 3: Neither a permit nor an inspection is required for an electrical installation which meets all of the following criteria:

1. The installation is legally performed by a master electrician, journeyman electrician, or apprentice electrician working under the direct supervision of a master or journeyman electrician.
2. The installation to be performed does not in any way involve work within an existing or new switchboard or panel board.
3. The installation to be performed does not involve over-current protection of more than 30 amperes.
4. The installation to be performed does not involve any electrical line-to-ground circuit of more than 277 volts, single phase.

EXCEPTION 4: Neither a permit nor an inspection is required for any electrical installation on a farm or a farm building if the farm building is not regularly open to the public as a place of business for the retail sale of goods, wares, services, or merchandise. This exception does not apply to a residential installation located on a farm.

552.1(2) The owner of a property on which multiple electrical installations may be performed during a 12-month period may apply for an annual permit to cover all such installations. The holder of an annual

permit shall maintain a log of all installations performed pursuant to the annual permit. The owner shall cause the electrical inspection program to be notified of any such installation requiring an inspection and shall be subject to fees for such inspections as though an individual permit had been issued for each installation requiring an inspection. The fee for an annual permit shall be $100. The log shall be available to an electrical inspector on the request of the inspector.

[Filed Emergency After Notice 3/22/18, effective 3/26/18]
[Published 4/11/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3734C

CREDIT UNION DIVISION[189]

Adopted and Filed

Rule making related to votes of the membership and investment and deposit activities for credit unions

The Credit Union Division hereby amends Chapter 12, "Votes of the Membership," and Chapter 17, "Investment and Deposit Activities for Credit Unions," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 533.107(6).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 533.107, 533.203, 533.205(7), 533.301(5) and 533.301(25).

Purpose and Summary

The amendments in Chapter 12 reflect modifications to the board-of-directors nomination process allowing for nomination notification by newsletter or other written communication and include a reduction in the number of days required before the close of balloting to allow for more time for ballots to be submitted prior to the annual meeting. The amendments in Chapter 17 reflect recent changes made to permissible investments for federal credit unions which Iowa is adopting for its state-chartered credit unions with respect to charitable donation accounts and bank notes.

Public Comment and Changes to Rule Making

The proposed amendments were approved by the Credit Union Review Board on December 5, 2017. Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 31, 2018, as **ARC 3600C**. Two comments were received regarding the obligation of the credit union to notify its members of the opportunity to nominate an individual for the board of directors, the application of subrules 12.2(2) and 12.3(7), and the consequences for violating paragraph 189—17.21(533)"3."

Changes to the Adopted and Filed rule making include clarification regarding the obligation to notify each credit union member of the opportunity to nominate an individual for the board of directors and clarification regarding the application of subrules 12.2(2) and 12.3(7) to subrule 12.2(5). Additional changes include clarification regarding consequences for violating paragraph 189—17.21(533)"3."

Adoption of Rule Making

This rule making was adopted by the Credit Union Review Board on March 19, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Credit Union Division for a waiver of the discretionary provisions, if any, pursuant to rule 189—17.20(533) and 189—Chapter 23.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 12.2(5):

12.2(5) *Nomination notification by newsletter.* The board of directors may determine that the entire credit union membership will be notified via newsletter or other written communication of the opportunity to nominate an individual for the board of directors.

a. If the membership is notified of nominations via newsletter or other written communication at least 90 days before the annual meeting, the secretary shall:

(1) Send the newsletter or other written communication to the entire membership via U.S. mail or electronic mail to members who have opted to receive notices or statements electronically and indicate a physical location or email address where nominations can be sent;

(2) Indicate in the notice that there will be no nominations from the floor at the annual meeting; and

(3) Indicate in the notice that the nominating committee will vet the candidates and present a list of the eligible candidates prior to the voting period.

b. If the board of directors utilizes the nomination notification by newsletter pursuant to this rule, then nominations shall not be taken from the floor at the annual meeting as set forth in subrule 12.3(7) and nomination notifications made pursuant to this rule are not subject to the nomination-by-petition process in subrule 12.2(2).

ITEM 2. Amend subparagraph **12.3(3)"d"(1)** as follows:

(1) The close of balloting for ballots submitted other than in person during voting at the annual meeting shall be at least ~~five~~ two days prior to any meeting where voting will occur.

ITEM 3. Amend paragraph **17.14(6)"e"** as follows:

e. Bank notes with ~~original~~ weighted average maturities of less than ~~5~~ five years.

ITEM 4. Adopt the following **new** subrule 17.14(12):

17.14(12) *Charitable donation accounts.* An Iowa-chartered credit union may apply to the superintendent for authorization to fund a charitable donation account (CDA) as approved by the National Credit Union Administration. The request to the superintendent should address the items listed in 17.19(2)*"a"* to *"c."*

a. If the superintendent grants the request, the CDA must satisfy all of the conditions in 12 CFR 721.3(b)(2)(i) to (vii), including but not limited to the following:

(1) The book value of investments in all CDAs in the aggregate must be limited to 5 percent of a credit union's net worth at all times as measured at every call report.

(2) The assets must be held in a segregated custodial account and be specifically identified as a CDA.

(3) If a trust is chosen as the vehicle for the CDA, the trustee must be regulated by the Office of the Comptroller of the Currency (OCC), the U.S. Securities and Exchange Commission (SEC), another federal regulatory agency, or a state regulatory agency. A regulated trustee or other person or entity that is authorized to make investment decisions for a CDA, other than the credit union itself, must be either a registered investment adviser or regulated by the OCC.

(4) The parties to the CDA, typically the funding credit union and trustee or other manager of the account, must document the terms and conditions controlling the account in a written agreement. The terms of the agreement must be consistent with the federal rule. The credit union's board of directors must adopt written policies governing the creation, funding, and management of the CDA that are consistent with the federal rule, must review the policies annually, and may amend them from time to time. Charitable contributions and donations can only be made to organizations that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(5) Credit unions utilizing CDAs are required to distribute 51 percent of the total return on investment to one or more qualified charities no less frequently than every five years.

b. CDAs are investments that carry risk. It is expected that any credit union that makes this type of investment will conduct the necessary due diligence and retain the due diligence documentation for examiner review. The board must also document the investment strategies and risk tolerances and must account for the CDA in accordance with generally accepted accounting principles.

ITEM 5. Adopt the following **new** rule 189—17.21(533):

189—17.21(533) Director, officer, or employee overdraft. A state credit union may pay an overdraft of a director, officer, or employee of the state credit union on an account at the state credit union when the payment of funds is made in accordance with any of the following:

1. A written, preauthorized, interest-bearing extension of credit plan that specifies a method of repayment.

2. A written, preauthorized transfer of collected funds from another account of the account holder at the state credit union.

3. The overdraft is paid pursuant to an overdraft protection plan or courtesy pay program. Such payment is limited to one time per quarter, and the overdraft shall last no longer than ten days. Each credit union board of directors shall enact a policy regarding failure to comply with the provisions of this rule.

This rule is intended to implement Iowa Code section 533.205(7).

[Filed 3/19/18, effective 5/16/18]
[Published 4/11/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3735C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to water supply

The Environmental Protection Commission hereby amends Chapter 40, "Scope of Division—Definitions—Forms—Rules of Practice," Chapter 41, "Water Supplies," Chapter 42, "Public Notification, Public Education, Consumer Confidence Reports, Reporting, and Record Maintenance," Chapter 43, "Water Supplies—Design and Operation," Chapter 44, "Drinking Water State Revolving Fund," Chapter 81, "Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems," and Chapter 83, "Laboratory Certification," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 272 and sections 455B.105, 455B.113, 455B.173, 455B.222 and 455B.299.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 272C and sections 17A.3(1)"b," 455B.113 to 455B.115, 455B.171, 455B.172, 455B.173 to 455B.176, 455B.177 to 455B.183, 455B.184 to 455B.188, 455B.190, 455B.191, 455B.192, 455B.211 to 455B.224 and 455B.299.

Purpose and Summary

This rule making adopts the federal Groundwater Rule (GWR, November 2006), Lead and Copper Rule – Short-Term Revisions (LCR-STR, October 2007), and Revised Total Coliform Rule (RTCR, February 2013). The U.S. Environmental Protection Agency (EPA) also made other changes to existing federal drinking water rules between August 2004 and July 2016, primarily in analytical methods, which are included in this rule making. States are expected to incorporate these federal rule provisions into state program rules in order to maintain primacy in the drinking water program, which this rule making will accomplish. In addition, other changes to the Natural Resources Department's public drinking water, operator certification, and environmental laboratory rules are adopted.

Changes are summarized below by chapter.

- Chapter 40: amend definitions for "sanitary survey" and "Ten States Standards"; add new definitions for the following: "clean compliance history," "Level 1 assessment," "Level 2 assessment," "sanitary defect," and "seasonal system"; include the Department's website address; and update forms.
- Chapter 41: rescind the existing total coliform rule and replace it with the RTCR; update analytical methods; revise the existing lead and copper rule by adopting the LCR-STR; require use of an analytical method for an organic contaminant that meets the method detection limit requirements for compliance samples; include the GWR; and make other minor corrections.
- Chapter 42: include the public notification, consumer confidence report, lead consumer notice, and lead public education requirements for the GWR, LCR-STR, and RTCR; update the Department's environmental emergency reporting hotline telephone number; update the American National Standards Institute (ANSI)/National Sanitation Foundation (NSF) 60 certification requirement to allow for use of chemicals that are accredited via third-party conformance with the standard; allow noncommunity systems that only use a cation-exchange softener to have bacterial compliance history reviewed before continuous disinfection is required; require all systems using water to which chlorine has been added to monitor daily in the distribution system to ensure the minimum disinfectant residual concentration is met; require inactivation ratio to be calculated each day the surface water or influenced groundwater treatment plant is in operation and to notify the Department within 24 hours if the ratio is below 1.0; and make other minor corrections.
- Chapter 43: include the provisions for the GWR, LCR-STR, and RTCR; update the construction standards to the 2012 edition of Ten States Standards and 2016 American Water Works Standards; require new groundwater sources to be tested for ammonia; add the separation distances for ground heat exchange (GHEX) loop boreholes; update the ANSI/NSF 61 certification requirement to allow for use of drinking water system components that are accredited via third-party conformance with the standard; remove arsenic as an exception from the best available technology listing for inorganic compounds; require at least 0.5 log inactivation of *Giardia lamblia* cysts in treatment of surface or influenced groundwater sources to be from a chemical disinfectant; require notification by the surface water or influenced groundwater system to the Department within 24 hours if the daily total inactivation ratio is below 1.0; add the calibration and verification requirements for turbidity and residual disinfectant monitoring; update analytical methods; include federal language for the Long-Term

2 Enhanced Surface Water Treatment Rule for sample collection, analytical methods, and bank filtration credit; add CT virus inactivation tables for groundwater systems; and make other minor changes.

- Chapter 44: revise the provision relating to allowable costs to be funded through the Drinking Water State Revolving Fund to allow for funding of the replacement of lead service lines.
- Chapter 81: add new definitions of "operation shift" and "shift operator"; correct Iowa Code citations in the definition of "rural water district"; allow transient noncommunity systems to be classified as Grade A systems; rescind the sunset education credit; rescind the oral examination allowance and fee; change the reexamination time frame from 180 days to 30 days; remove the description of accommodations for examination; rescind temporary certification; and make other minor changes.
- Chapter 83: update the "Manual for Certification of Laboratories Analyzing Environmental Samples for the Iowa DNR" to 2017; remove reference to "fecal coliform" and replace with reference to "*E. coli*" when appropriate; rescind an outdated procedure for initial certification of solid waste and contaminated sites program parameters; update the Department's environmental emergency hotline telephone number; add a credit card fee payment option; include record-keeping requirements for a laboratory auditor; and make other minor changes.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 17, 2018, as **ARC 3568C**. A public hearing was held on February 8, 2018, at 10 a.m. in the Department's Conference Room 2 North, Wallace State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received.

The following two changes from the Notice have been made to correct one method that had an incorrect citation and to add two sentences regarding records retention that were inadvertently omitted.

In Item 8, "B-97" has been changed to "C-97" in the method citation in 41.2(1)"b"(6)(3), fourth bulleted paragraph, which now reads as follows:

"• Standard Methods Online 9222, 'Membrane Filter Technique for Members of the Coliform Group' (1997), C-97, 'Delayed-Incubation Total Coliform Procedure.'"

In Item 31, numbered paragraph "3" has been added to new subparagraph 41.7(6)"b"(5) and reads as follows:

"3. Records of department-specified compliance requirements for membrane filtration and of parameters specified by the department for department-approved alternative treatment and records of the date and duration of any failure to meet the membrane operating, membrane integrity, or alternative treatment operating requirements for more than four hours. Documentation shall be kept for a period of not less than five years."

Adoption of Rule Making

This rule making was adopted by the Environmental Protection Commission on March 20, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available upon request from the Department.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available upon request from the Department.

Waivers

There are no specific provisions for waivers in the rules, although there are considerations for system source water, size, and type in GWR and RTCR. There are general authorities to issue waivers for some rules, which are used when appropriate. Any person who believes that the application of the discretionary provisions of this rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule **567—40.2(455B)**, definitions of "Sanitary survey" and "Ten States Standards," as follows:

"Sanitary survey" means a review and on-site inspection conducted by the department of the water source, facilities, equipment, operation and maintenance and records of a public water supply system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water and identifying improvements necessary to maintain or improve drinking water quality, pursuant to 567—subrule 43.1(7).

"Ten States Standards" means the "Recommended Standards for Water Works," ~~2007~~ 2012 edition as adopted by the Great Lakes—Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers.

ITEM 2. Adopt the following **new** definitions of "Clean compliance history," "Level 1 assessment," "Level 2 assessment," "Sanitary defect" and "Seasonal system" in rule **567—40.2(455B)**:

"Clean compliance history" means, for the purposes of 567—paragraph 41.2(1)*"e"*(4)"2," a record of no monitoring violations and no coliform treatment technique trigger exceedances or treatment technique violations under 567—subrule 41.2(1).

"Level 1 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform bacteria monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 1 assessment is conducted by the system operator or owner. Minimum elements of the assessment include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a groundwater system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system owner or operator must conduct the assessment consistent with any department directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

"Level 2 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform bacteria monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and review of available

information, additional internal and external resources, and other relevant practices. A Level 2 assessment is conducted by a department water supply inspector and will typically include the system operator. Minimum elements of the assessment include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a groundwater system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The department may tailor specific assessment elements with respect to the size and type of the system and the size, type and characteristics of the distribution system. The system must comply with any expedited actions or additional actions required by the department in the case of an *E. coli* MCL violation.

"Sanitary defect" means a defect that could provide a pathway of entry for microbial contamination into the distribution system or that is indicative of a failure or imminent failure in a barrier that is already in place.

"Seasonal system" means a noncommunity water system that is not operated as a public water system on a year-round basis and starts up and shuts down at the beginning and end of each operating season.

ITEM 3. Amend rule 567—40.3(17A,455B), introductory paragraph, as follows:

567—40.3(17A,455B) Forms. The following forms are used by the public to apply for department approvals and to report on activities related to the public water supply program of the department. All forms may be obtained from the department's website at www.iowadnr.gov (water supply pages) or from the Environmental Services Division, Administrative Support Station, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319-0034. Properly completed application forms shall be submitted to the Water Supply Section, Environmental Services Division. Water Supply System Monthly and Other Operation Reporting forms shall be submitted to the appropriate field office (see 567—subrule 42.4(3)). Properly completed laboratory forms (reference 567—Chapter 83) shall be submitted to the State Hygienic Laboratory or as otherwise designated by the department.

ITEM 4. Amend the following two entries in the table in subrule **40.3(1)**:

Schedule No.	Name of Form	Form Number
~~"6b"~~	~~Distribution Pumping Station~~	~~542-3141~~
"13a"	Chemical Addition	~~542-3141~~ 542-3241

ITEM 5. Amend subrule 40.3(2) as follows:

40.3(2) *Operation permit application forms.*

~~*a.* Form 13-1 — community water supply~~

~~*b.*~~ *a.* Form 13-2 — ~~noncommunity~~ application for a new water supply 542-1300

b. Form 13-3 — renewal application for an existing water supply 542-1301

ITEM 6. Rescind subrule 40.3(3) and adopt the following **new** subrule in lieu thereof:

40.3(3) *Water supply reporting forms.* The monthly water supply operation report forms are available from the department's water supply operations section website. The laboratory analyses for compliance samples are reported via electronic means directly to the department by each certified laboratory.

ITEM 7. Amend rule 567—41.2(455B), catchwords, as follows:

567—41.2(455B) Biological maximum contaminant ~~levels~~ level (MCL), treatment technique (TT), and monitoring requirements.

ITEM 8. Rescind subrule 41.2(1) and adopt the following **new** subrule in lieu thereof:

41.2(1) *Coliform bacteria and E. coli.* The provisions of this subrule include both maximum contaminant level and treatment technique requirements. The provisions of this subrule apply to all public water systems. Failure to comply with the applicable requirements in this subrule is a violation of the national primary drinking water regulations.

a. Maximum contaminant level. A public water system must determine compliance with the MCL for *E. coli* for each month in which the system is required to monitor for total coliforms. A system is in compliance with the MCL for *E. coli* for samples taken under this subrule unless any of the following conditions occur. For purposes of the public notification requirements in 567—42.1(455B), violation of the MCL may pose an acute risk to health.

(1) *E. coli*-positive repeat sample. The system has an *E. coli*-positive repeat sample following a total coliform-positive routine sample.

(2) *E. coli*-positive routine sample. The system has a total coliform-positive repeat sample following an *E. coli*-positive routine sample.

(3) Failure to collect all required repeat samples following *E. coli*-positive routine samples. The system fails to take all required repeat samples following an *E. coli*-positive routine sample.

(4) Failure to test for *E. coli* on any total coliform-positive repeat sample. The system fails to test for *E. coli* when any repeat sample tests positive for total coliform.

b. Analytical methodology.

(1) Sample volume. The standard sample volume required for analysis is 100 mL, regardless of the analytical method used.

(2) Presence/absence required. Only the presence or absence of total coliforms and *E. coli* is required to be determined in any compliance sample; a determination of density is acceptable but is not required.

(3) Holding time and temperature. The time from sample collection to initiation of test medium incubation may not exceed 30 hours. Systems are encouraged but not required to hold samples below 10° C during transit.

(4) Dechlorinating agent required for chlorinated water. If water having a residual chlorine (measured as free, combined, or total chlorine) is to be analyzed, sufficient sodium thiosulfate ($Na_2S_2O_3$) must be added to the sample bottle before sterilization to neutralize any residual chlorine in the water sample. Dechlorination procedures are addressed in Section 9060A.2 of Standard Methods for the Examination of Water and Wastewater (20th and 21st editions).

(5) Systems must conduct total coliform and *E. coli* analyses in accordance with one of the analytical methods in the following table.

Methodology Category	Method[1]	Citation[1]
Total Coliform Bacteria Methods:		
Lactose Fermentation Methods	Standard Total Coliform Fermentation Technique	Standard Methods 9221 B.1, B.2 (20th, 21st, and 22nd ed.)[2, 3] Standard Methods Online 9221 B.1, B.2-99, B-06[2, 3]
	Presence-Absence (P-A) Coliform Test	Standard Methods 9221 D.1, D.2 (20th and 21st ed.)[2, 7] Standard Methods Online 9221 D.1, D.2-99[2, 7]
Membrane Filtration Methods	Standard Total Coliform Membrane Filter Procedure	Standard Methods 9222 B, C (20th and 21st ed.)[2, 4] Standard Methods Online 9222 B-97[2, 4], 9222 C-97[2, 4]
	Membrane Filtration using MI Medium	EPA Method 1604[2]
	m-ColiBlue24 Test[2, 4]	
	Chromocult[2, 4]	

Methodology Category	Method[1]	Citation[1]
Enzyme Substrate Methods	Colilert	Standard Methods 9223 B (20th, 21st and 22nd ed.)[2, 5] Standard Methods Online 9223 B-97, B-04[2, 5]
	Colilert-18	Standard Methods 9223 B (21st and 22nd ed.)[2, 5] Standard Methods Online 9223 B-04[2, 5]
	Colisure	Standard Methods 9223 B (20th, 21st and 22nd ed.)[2, 5, 6] Standard Methods Online 9223 B-97, B-04[2, 5, 6]
	E*Colite Test[2]	
	Readycult Test[2]	
	modified Colitag Test[2]	
	Tecta EC/TC Test[2]	
***Escherichia coli (E. coli)* Methods:**		
Escherichia coli Procedures (following Lactose Fermentation Methods)	EC-MUG Medium	Standard Methods 9221 F.1 (20th, 21st and 22nd ed.)[2] Standard Methods Online 9221 F-06[2]
Escherichia coli Partition Method	EC broth with MUG (EC-MUG)	Standard Methods 9222 G.1*c*(2) (20th and 21st ed.)[2, 8]
	NA-MUG Medium	Standard Methods 9222 G.1*c*(1) (20th and 21st ed.)[2]
Membrane Filtration Methods	Membrane Filtration using MI Medium	EPA Method 1604[2]
	m-ColiBlue24 Test[2, 4]	
	Chromocult[2, 4]	
Enzyme Substrate Methods	Colilert	Standard Methods 9223 B (20th, 21st and 22nd ed.)[2, 5] Standard Methods Online 9223 B-97, B-04[2, 5, 6]
	Colilert-18	Standard Methods 9223 B (21st and 22nd ed.)[2, 5] Standard Methods Online 9223 B-04[2, 5]
	Colisure	Standard Methods 9223 B (20th, 21st and 22nd ed.)[2, 5, 6] Standard Methods Online 9223 B-97, 04[2, 5, 6]
	E*Colite Test[2]	
	Readycult Test[2]	
	modified Colitag Test[2]	
	Tecta EC/TC Test[2]	

[1]The procedures must be done in accordance with the documents listed in 41.2(1)*"a"*(6). For Standard Methods, either the 20th (1998) or 21st (2005) edition may be used. For Standard Methods Online, the year in which each method was approved by the Standard Methods Committee is designated by the last two digits following the hyphen in the method number. The methods listed are the only online versions that may be used. For vendor methods, the date of the method listed in 41.2(1)*"a"*(6) is the date/version of the approved method. The methods listed are the only versions that may be used for compliance with this rule. Laboratories should be careful to use only the approved versions of the methods, as product package inserts may not be the same as the approved versions of the methods.

[2]Incorporated by reference. See 41.2(1)*"a"*(6).

[3]Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth if the system conducts at least 25 parallel tests between lactose broth and lauryl tryptose broth using the water normally tested and if the findings from this comparison demonstrate that the false-positive rate and the false-negative rate for total coliforms, using lactose broth, is less than 10 percent.

[4]All filtration series must begin with membrane filtration equipment that has been sterilized by autoclaving. Exposure of filtration equipment to UV light is not adequate to ensure sterilization. Subsequent to the initial autoclaving, exposure of the filtration equipment to UV light may be used to sanitize the funnels between filtrations within a filtration series. Alternatively, membrane filtration equipment that is presterilized by the manufacturer (i.e., disposable funnel units) may be used.

[5]Multiple-tube and multi-well enumerative formats for this method are approved for use in presence-absence determination under this subrule.

[6]Colisure results may be read after an incubation time of 24 hours.

[7]A multiple-tube enumerative format, as described in Standard Methods for the Examination of Water and Wastewater 9221, is approved for this method for use in presence-absence determination under this subrule.

[8]The following changes must be made to the EC broth with MUG (EC-MUG) formulation: Potassium dihydrogen phosphate, KH_2PO_4, must be 1.5 g, and 4-methylumbelliferyl-beta-D-glucuronide must be 0.05 g.

(6) Methods incorporated by reference. The standards required in this subrule are incorporated by reference with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR Part 51. All approved material is available for inspection either electronically at www.regulations.gov, in hard copy at the Water Docket, or from the sources indicated below. The Docket ID is EPA-HQ-OW-2008-0878. Hard copies of these documents may be viewed at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202)566-1744, and the telephone number for the Water Docket is (202)566-2426. Copyrighted materials are only available for viewing in hard copy. These documents are also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202)741-6030 or go to www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

1. American Public Health Association, 800 I Street, NW, Washington, DC 20001. Standard Methods for the Examination of Water and Wastewater, 20th edition (1998):

- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," B.1, B.2, "Standard Total Coliform Fermentation Technique."
- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," D.1, D.2, "Presence-Absence (P-A) Coliform Test."
- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," B, "Standard Total Coliform Membrane Filter Procedure."
- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," C, "Delayed-Incubation Total Coliform Procedure."
- Standard Methods 9223, "Enzyme Substrate Coliform Test," B, "Enzyme Substrate Test," Colilert and Colisure.
- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," F.1, "*Escherichia coli* Procedure: EC-MUG Medium."
- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," G.1*c*(2), "*Escherichia coli* Partition Method: EC Broth with MUG (EC-MUG)."
- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," G.1*c*(1), "*Escherichia coli* Partition Method: NA-MUG Medium."

2. American Public Health Association, 800 I Street, NW, Washington, DC 20001. Standard Methods for the Examination of Water and Wastewater, 21st edition (2005):

- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," B.1, B.2, "Standard Total Coliform Fermentation Technique."
- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," D.1, D.2, "Presence-Absence (P-A) Coliform Test."
- Standard Methods 9221, "Membrane Filter Technique for Members of the Coliform Group," B, "Standard Total Coliform Membrane Filter Procedure."
- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," C, "Delayed-Incubation Total Coliform Procedure."
- Standard Methods 9223, "Enzyme Substrate Coliform Test," B, "Enzyme Substrate Test," Colilert and Colisure.
- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," F.1, "*Escherichia coli* Procedure: EC-MUG Medium."

- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," G.1.*c*(2), "*Escherichia coli* Partition Method: EC Broth with MUG (EC-MUG)."
- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," G.1.*c*(1), "*Escherichia coli* Partition Method: NA-MUG Medium."

3. American Public Health Association, 800 I Street, NW, Washington, DC 20001. "Standard Methods Online" available at www.standardmethods.org:

- Standard Methods Online 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group" (1999), B.1, B.2-99, B-06, "Standard Total Coliform Fermentation Technique."
- Standard Methods Online 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group" (1999), D.1, D.2-99, "Presence-Absence (P-A) Coliform Test."
- Standard Methods Online 9222, "Membrane Filter Technique for Members of the Coliform Group" (1997), B-97, "Standard Total Coliform Membrane Filter Procedure."
- Standard Methods Online 9222, "Membrane Filter Technique for Members of the Coliform Group" (1997), C-97, "Delayed-Incubation Total Coliform Procedure."
- Standard Methods Online 9223, "Enzyme Substrate Coliform Test" (1997), B-97, "Enzyme Substrate Test," Colilert and Colisure.

4. Charm Sciences, Inc., 659 Andover Street, Lawrence, MA 01843-1032; telephone (800)343-2170: E*Colite—"Charm E*Colite Presence/Absence Test for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Drinking Water," January 9, 1998.

5. CPI International, Inc., 5580 Skylane Blvd., Santa Rosa, CA 95403; telephone (800)878-7654: modified Colitag, ATP D05-0035—"Modified Colitag Test Method for the Simultaneous Detection of *E. coli* and other Total Coliforms in Water," August 28, 2009.

6. EMD Millipore (a division of Merck KGaA, Darmstadt, Germany), 290 Concord Road, Billerica, MA 01821; telephone (800)645-5476:

- Chromocult—"Chromocult Coliform Agar Presence/Absence Membrane Filter Test Method for Detection and Identification of Coliform Bacteria and *Escherichia coli* for Finished Waters," November 2000, Version 1.0.
- Readycult—"Readycult Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters," January 2007, Version 1.1.

7. EPA's Water Resource Center (MC-4100T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone (202)566-1729: EPA Method 1604, EPA 821-R-02-024—"EPA Method 1604: Total Coliforms and *Escherichia coli* in Water by Membrane Filtration Using a Simultaneous Detection Technique (MI Medium)," September 2002, www.nemi.gov.

8. Hach Company, P.O. Box 389, Loveland, CO 80539; telephone (800)604-3493: m-ColiBlue24—"Membrane Filtration Method m-ColiBlue24 Broth," Revision 2, August 17, 1999.

9. American Public Health Association, 800 I Street, NW, Washington, DC 20001. Standard Methods for the Examination of Water and Wastewater, 22nd edition (2012):

- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," B.1, B.2, "Standard Total Coliform Fermentation Technique."
- Standard Methods 9223, "Enzyme Substrate Coliform Test," B, "Enzyme Substrate Test," Colilert and Colisure.
- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," F.1, "*Escherichia coli* Procedure: EC-MUG Medium."

10. Veolia Water Solutions and Technologies, Suite 4697, Biosciences Complex, 116 Barrie Street, Kingston, Ontario, Canada K7L 3N6: Tecta EC/TC. "Presence/Absence Method for Simultaneous Detection of Total Coliforms and *Escherichia coli* in Drinking Water," April 2014.

(7) Laboratory certification. Systems must have all compliance samples required under this subrule analyzed by a laboratory certified by the department in accordance with 567—Chapter 83 to analyze drinking water samples. The laboratory used by the system must be certified for each method and associated contaminant used for compliance monitoring analyses under this subrule.

c. Sampling plan.

(1) Written sampling plan required. Systems must collect total coliform samples according to the written sampling plan.

1. Systems must develop a written sampling plan that identifies sample locations and a sample collection schedule that are representative of water throughout the distribution system. Major elements of the plan shall include, but not be limited to, the following:

- Map of the distribution system served by the system;
- List of routine compliance sample locations for each sample period;
- List of repeat compliance sample locations for each routine compliance sample location;
- Any other sample locations necessary to meet the requirements of this subrule;
- Sample collection schedule;
- Proper sampling technique instructions;
- Log of samples taken; and
- For groundwater systems subject to 567—41.7(455B), triggered source water monitoring plan.

2. The system shall review the sampling plan every two years and update it as needed and shall retain the sampling plan on file at the facility. The plan must be made available to the department upon request and for review during sanitary surveys and must be revised by the system at the direction of the department.

3. Monitoring under this subrule may take place at a customer's premises, dedicated sampling station, or other designated compliance sampling location.

(2) Sampling schedule. Systems must collect routine samples at regular time intervals throughout the month. Systems that use only groundwater and serve 4,900 or fewer people, or regional water systems that use only groundwater and serve less than 121 miles of pipe, may collect all required routine samples on a single day if the samples are taken from different sites.

(3) Minimum number of required routine samples. Systems must take at least the minimum number of required routine samples even if the system has had an *E. coli* MCL violation or has exceeded the coliform treatment technique triggers in 41.2(1)*"l."* Such samples must be designated as "routine" when submitted to the laboratory.

(4) Additional compliance monitoring samples. A system may conduct more compliance monitoring than is required to investigate potential problems in the distribution system and may use monitoring as a tool to assist in uncovering problems. A system may take more than the minimum number of required routine samples and must include the results when calculating whether the coliform treatment technique trigger in 41.2(1)*"l"*(1)"1" and "2" has been exceeded only if the samples are taken in accordance with the existing sampling plan and are representative of water throughout the distribution system. Such samples must be designated as "routine" when submitted to the laboratory.

(5) Repeat samples. Systems must identify repeat monitoring locations in the sampling plan. Repeat samples must be analyzed at the same laboratory as the corresponding original routine sample(s), unless written approval for use of a different laboratory is granted by the department. The system must collect at least one repeat sample from the sampling tap where the original routine total coliform-positive sample was taken, at least one repeat sample at a tap within five service connections upstream of the original sample location, and at least one repeat sample at a tap within five service connections downstream of the original sample location. Such samples must be designated as "repeat" when submitted to the laboratory.

1. If the sampling location of a total coliform-positive sample is at or within one service connection from the end of the distribution system, the system must still take all required repeat samples. However, the department may allow an alternative sampling location in lieu of one of the upstream or downstream sampling locations.

2. A groundwater system with two or more wells that is required to conduct triggered source water monitoring under subrule 41.7(3) must collect groundwater source sample(s) in addition to the required repeat samples.

3. A groundwater system with a single well that is required to conduct triggered source water monitoring may, with written department approval, collect one of its required repeat samples at the triggered source water sample monitoring location. The system must demonstrate to the department's

satisfaction that the sampling plan remains representative of water quality in the distribution system. If approved, the sample result may be used to meet the requirements of subrule 41.7(3) and this subrule. If a repeat sample taken at the triggered source water monitoring location is *E. coli*-positive, the system has violated the *E. coli* MCL, and must also comply with the requirements for additional source water samples under 41.7(3)*"a"*(3).

4. The department may review, revise, and approve, as appropriate, repeat sampling proposed by the system under 41.2(1)*"c"*(5). The system must demonstrate that the sampling plan remains representative of the water quality in the distribution system.

(6) Special purpose samples. Special purpose samples, such as those taken to determine whether disinfection practices are sufficient following pipe placement, replacement, or repair, must not be used to determine whether the coliform treatment technique trigger has been exceeded. Repeat samples are not considered special purpose samples and must be used to determine whether the coliform treatment technique trigger has been exceeded. Such samples must be designated as "special" when submitted to the laboratory and cannot be used for compliance.

(7) Residual disinfectant measurement. Any system adding a chemical disinfectant to the water must meet the requirements specified in 567—subparagraph 42.4(3)*"b"*(1). The minimum required residual disinfectant measurements are as follows, unless otherwise directed by the department in writing:

1. Groundwater systems. A system that uses only groundwater and adds a chemical disinfectant or provides water that contains a disinfectant must measure and record the free and total chlorine residual disinfectant concentration at least at the same points in the distribution system and at the same time as routine and repeat total coliform bacteria samples are collected, as specified in 41.2(1)*"e"* through 41.2(1)*"j."* The system shall report the residual disinfectant concentration to the laboratory with the bacteria sample and comply with the applicable reporting requirements of 567—subrule 42.4(3).

2. Surface water and influenced groundwater systems.

- Any surface water or IGW PWS must meet the requirements for minimum residual disinfectant entering the distribution system pursuant to 567—paragraph 43.5(4)*"b"*(2)"1"; and
- A system that uses surface water or IGW must comply with the requirements specified in 567—paragraph 43.5(4)*"b"*(2)"2" for daily distribution system residual disinfectant monitoring. The system must measure and record the free and total chlorine residual disinfectant concentration at least at the same points in the distribution system and at the same time as routine and repeat total coliform bacteria samples are collected, as specified in 41.2(1)*"e"* through 41.2(1)*"j."* The residual disinfectant measurements required as a part of this subrule may be used to satisfy the requirement in 567—paragraph 43.5(4)*"b"*(2)"2" on the day(s) when a routine or repeat total coliform bacteria sample(s) is collected, in lieu of separate samples. The system shall report the residual disinfectant concentration to the laboratory with the bacteria sample and comply with the applicable reporting requirements of 567—subrule 42.4(3).

d. Invalidation of total coliform samples. A total coliform-positive sample invalidated under this paragraph does not count toward meeting the minimum monitoring requirements of this subrule.

(1) The department may invalidate a total coliform-positive sample only if the following conditions are met:

1. The laboratory establishes that improper sample analysis caused the total coliform-positive result.

2. The department, on the basis of the results of the required repeat samples, determines that the total coliform-positive sample resulted from a domestic or other non-distribution system plumbing problem. "Domestic or other non-distribution system plumbing problem" means a coliform contamination problem in a public water system with more than one service connection that is limited to the specific service connection from which the coliform-positive sample was taken. The department cannot invalidate a sample on the basis of repeat sample results unless all repeat samples collected at the same tap as the original total coliform-positive sample are also total coliform-positive and all repeat samples collected at a location other than the original tap are total coliform-negative. The department cannot invalidate a total coliform-positive sample on the basis of repeat samples if all the repeat samples are total coliform-negative or if the system has only one service connection.

3. The department has substantial grounds to believe that the total coliform-positive result is due to a circumstance or condition that does not reflect water quality in the distribution system. The system must still collect all repeat samples required under 41.2(1)*"j"* and use them to determine whether a coliform treatment technique trigger in 41.2(1)*"l"* has been exceeded.

The decision and supporting rationale for invalidating a total coliform-positive sample under 41.2(1)*"d"*(1) must be documented in writing, and approved and signed by the supervisor of the water supply operations section or water supply engineering section and the department official who recommended the decision. The department must make this document available to EPA and the public. The written documentation must state the specific cause of the total coliform-positive sample and what action the system has taken, or will take, to correct this problem. The department may not invalidate a total coliform-positive sample solely on the grounds that all repeat samples are total coliform-negative or because of poor sampling technique.

(2) Laboratory invalidation. A laboratory must invalidate a total coliform sample (unless total coliforms are detected, in which case the sample is valid) if the sample produces a turbid culture in the absence of gas production using an analytical method where gas formation is examined (e.g., the multiple-tube fermentation technique), produces a turbid culture in the absence of an acid reaction in the presence-absence (P-A) coliform test, or exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter (e.g., membrane filter technique). If a laboratory invalidates a sample because of such interference, the system must collect another sample from the same location as that of the original sample within 24 hours of being notified of the interference problem and must have the sample analyzed for the presence of total coliforms. The system must continue to resample within 24 hours and have the samples analyzed until a valid result is obtained. The department may waive the 24-hour time limit on a case-by-case basis.

e. Routine monitoring for specific groundwater noncommunity water systems serving 1,000 or fewer people. This paragraph applies to noncommunity water systems using only groundwater (not IGW) as a source and serving 1,000 or fewer people. Groundwater noncommunity water systems that serve schools, preschools, and child care facilities, and all public water systems owned or managed by state agencies, such as parks and rest areas, must monitor at the same frequency as a like-sized community water system, in accordance with 41.2(1)*"f,"* 41.2(1)*"g,"* or 41.2(1)*"h."*

(1) General. Following any total coliform-positive sample taken under 41.2(1)*"e,"* systems must comply with the repeat monitoring requirements and *E. coli* analytical requirements in 41.2(1)*"j."* Once all monitoring required by 41.2(1)*"e"* and 41.2(1)*"j"* for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in 41.2(1)*"l"* have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by 41.2(1)*"l."*

(2) Monitoring frequency for total coliforms. Systems must monitor each calendar quarter that the system provides water to the public, with the following exceptions:

1. A system on quarterly monitoring that experiences any of the following events must begin monthly monitoring in the month following the event. The system must continue on monthly monitoring until the system meets the requirements for returning to quarterly monitoring.

- The system has an *E. coli* MCL violation.
- The system triggers one Level 2 assessment under the provisions of 41.2(1)*"l"* in a rolling 12-month period.
- The system triggers two Level 1 assessments under the provisions of 41.2(1)*"l"* in a rolling 12-month period.
- The system has a coliform treatment technique violation.
- The system has two coliform monitoring violations in a rolling 12-month period.
- The system has one monitoring coliform violation and one Level 1 assessment under the provisions of 41.2(1)*"l"* in a rolling 12-month period.

2. A system on monthly monitoring for reasons other than those identified in 41.2(1)*"e"*(2)"1" is not considered to be on increased monitoring for the purposes of 41.2(1).

3. Seasonal systems must sample each month in which they are in operation. All seasonal systems must also demonstrate completion of a department-approved start-up procedure before serving water to the public, which includes a requirement for a coliform-negative start-up sample.

(3) Evaluation of sampling frequency during a sanitary survey. During each sanitary survey, the department must evaluate the status of the system including the distribution system, to determine whether the system is on an appropriate monitoring schedule. The department may modify the system's monitoring schedule, as necessary, or may allow the system to stay on its existing monitoring schedule, consistent with the provisions of 41.2(1)*"e."*

(4) Requirements for returning from monthly to quarterly sampling frequency for nonseasonal noncommunity systems. The department may reduce the monitoring frequency for a nonseasonal noncommunity system on monthly monitoring triggered under 41.2(1)*"e"*(2)"1" to quarterly monitoring if the system meets the following criteria. For the purposes of 41.2(1)*"e"*(4), "protected water source" means the well meets separation distances from sources of microbial contamination pursuant to 567—subrule 43.3(7), Table A; or the system has 4-log virus inactivation treatment that is approved by the department and is in continuous usage.

1. Within the previous 12 months, the system must have a completed sanitary survey or voluntary Level 2 assessment, be free of sanitary defects, and have a protected water source;

2. The system must have a clean compliance history for a minimum of the previous 12 months; and

3. The department must review the approved sampling plan, which must designate the time period(s) for monitoring based on site-specific considerations (e.g., during periods of highest demand or highest vulnerability to contamination). The system must collect compliance samples during these time periods.

(5) Additional routine monitoring for systems on quarterly sampling in the month following a total coliform-positive routine sample. Systems collecting samples on a quarterly frequency must conduct additional routine monitoring the month following one or more total coliform-positive samples (with or without a Level 1 treatment technique trigger). Systems must collect at least three routine samples during the next month. Systems may either collect samples at regular time intervals throughout the month or may collect all required routine samples on a single day if samples are taken from different sites. Systems must use the results of additional routine samples in coliform treatment technique trigger calculations under 41.2(1)*"l."*

f. Routine monitoring for groundwater community water systems serving 1,000 or fewer people. This paragraph applies to community water systems using only groundwater (not IGW) as a source and serving 1,000 or fewer people.

(1) General. Following any total coliform-positive sample taken under 41.2(1)*"f,"* systems must comply with the repeat monitoring requirements and *E. coli* analytical requirements in 41.2(1)*"j."* Once all monitoring required by 41.2(1)*"f"* and 41.2(1)*"j"* for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in 41.2(1)*"l"* have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by 41.2(1)*"l."*

(2) Monitoring frequency for total coliforms. The routine monitoring frequency for total coliforms is one sample per month.

g. Routine monitoring requirements for SW/IGW public water systems serving 1,000 or fewer people. This paragraph applies to all public water supply systems serving 1,000 or fewer people that use surface water/influenced groundwater sources, including consecutive systems.

(1) General. Following any total coliform-positive sample taken under 41.2(1)*"g,"* systems must comply with the repeat monitoring requirements and *E. coli* analytical requirements in 41.2(1)*"j."* Once all monitoring required by 41.2(1)*"g"* and 41.2(1)*"j"* for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in 41.2(1)*"l"* have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by 41.2(1)*"l."*

(2) Monitoring frequency for total coliforms. The routine monitoring frequency for total coliforms is one sample per month. Systems may not reduce monitoring frequency.

(3) Seasonal systems must sample each month in which they are in operation, and the monitoring frequency cannot be reduced. All seasonal systems must also demonstrate completion of a department-approved start-up procedure before serving water to the public, which includes a requirement for a coliform-negative start-up sample.

h. Routine monitoring requirements for public water systems serving more than 1,000 people. The provisions of this paragraph apply to all public water systems serving more than 1,000 people except regional water systems. The requirements for regional water systems are listed in 41.2(1)*"i."*

(1) General. Following any total coliform-positive sample taken under 41.2(1)*"h,"* systems must comply with the repeat monitoring requirements and *E. coli* analytical requirements in 41.2(1)*"j."* Once all monitoring required by 41.2(1)*"h"* and 41.2(1)*"l"* for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in 41.2(1)*"l"* have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by 41.2(1)*"l."*

(2) Monitoring frequency for total coliforms. The routine monitoring frequency for total coliforms is based upon the population served by the system, as follows:

Population Served	Minimum Number of Routine Samples per Month
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15
17,201 to 21,500	20
21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60
59,001 to 70,000	70
70,001 to 83,000	80
83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270
970,001 to 1,230,000	300

(3) Seasonal systems must sample each month in which they are in operation, and the monitoring frequency cannot be reduced. All seasonal systems must also demonstrate completion of a department-approved start-up procedure before serving water to the public, which includes a requirement for a coliform-negative start-up sample.

(4) Reduced monitoring. Community systems may not reduce the number of required routine samples.

(5) Increased monitoring. If the department, on the basis of a sanitary survey or monitoring results history, determines that some greater frequency of monitoring is more appropriate, that frequency shall be the frequency required under these rules. The increased frequency shall be confirmed or changed on the basis of subsequent surveys.

i. Routine monitoring requirements for regional public water systems. The provisions of 41.2(1)*"i"* apply to all regional water systems. The supplier of water for a regional water system as defined in 567—40.2(455B) shall sample for coliform bacteria at a frequency based upon the miles of pipe in its distribution system.

(1) General. Following any total coliform-positive sample taken under 41.2(1)*"i,"* systems must comply with the repeat monitoring requirements and *E. coli* analytical requirements in 41.2(1)*"j."* Once all monitoring required by 41.2(1)*"i"* and 41.2(1)*"j"* for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in 41.2(1)*"l"* have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by 41.2(1)*"l."*

(2) Monitoring frequency for total coliforms. The routine monitoring frequency for total coliforms is based upon the miles of pipe in the system's distribution system, as indicated in the following chart. In no case shall the sampling frequency for a regional water system be less than as set forth in 41.2(1)*"h"* based upon the population equivalent served. The following chart represents sampling frequency per miles of pipe in the distribution system and is determined by calculating one-half the square root of the miles of pipe.

Miles of Pipe	Minimum Number of Routine Samples per Month
0 – 9	1
10 – 25	2
26 – 49	3
50 – 81	4
82 – 121	5
122 – 169	6
170 – 225	7
226 – 289	8
290 – 361	9
362 – 441	10
442 – 529	11
530 – 625	12
626 – 729	13
730 – 841	14
842 – 961	15
962 – 1,089	16
1,090 – 1,225	17
1,226 – 1,364	18

Miles of Pipe	Minimum Number of Routine Samples per Month
1,365 – 1,521	19
1,522 – 1,681	20
1,682 – 1,849	21
1,850 – 2,025	22
2,026 – 2,209	23
2,210 – 2,401	24
2,402 – 2,601	25
2,602 – 2,809	26
2,810 – 3,025	27
3,026 – 3,249	28
3,250 – 3,481	29
3,482 – 3,721	30
3,722 – 3,969	31
3,970 – 4,225	32
4,226 – 4,489	33
4,490 – 4,671	34
4,672 – 5,041	35
5,042 – 5,329	36
5,330 – 5,625	37
5,626 – 5,929	38
5,930 – 6,241	39
6,242 – 6,561	40
6,562 and greater	41

(3) Reduced monitoring. Regional water systems may not reduce the number of required routine samples.

(4) Increased monitoring. If the department, on the basis of a sanitary survey or monitoring results history, determines that some greater frequency of monitoring is more appropriate, that frequency shall be the frequency required under these rules. The increased frequency shall be confirmed or changed on the basis of subsequent surveys.

j. Repeat monitoring. If a routine sample taken under 41.2(1)*"e"* through 41.2(1)*"i"* is total coliform-positive, the system must collect a set of repeat samples. The department cannot waive the requirement for a system to collect repeat samples.

(1) The system must collect no fewer than three repeat samples for each total coliform-positive routine sample found.

(2) The system must collect the repeat samples within 24 hours of being notified of the positive routine sample result. The department may extend the 24-hour limit on a case-by-case basis if the system has a logistical problem in collecting the repeat samples within 24 hours that is beyond its control. In the case of an extension, the department must specify how much time the system has to collect the repeat samples.

(3) The system must collect all repeat samples on the same day, except that the department may allow a system with a single service connection to collect the required set of repeat samples over a three-day period. "System with a single service connection" means a system which supplies drinking water to consumers through a single service line.

(4) The system must collect an additional set of repeat samples in the manner specified in 41.2(1)*"j"*(1) to (3) if one or more repeat samples in the current set of repeat samples is total coliform-positive. The system must collect the additional set of repeat samples within 24 hours of being notified of the positive result, unless the department extends the limit as provided in 41.2(1)*"j"*(2). The system must continue to collect additional sets of repeat samples until either total coliforms are not detected in one complete set of repeat samples or the system determines that a coliform treatment technique trigger specified in 41.2(1)*"l"* has been exceeded as a result of a total coliform-positive repeat sample and notifies the department. If a trigger identified in 41.2(1)*"l"* is exceeded as a result of a total coliform-positive routine sample, systems are required to conduct only one round of repeat monitoring for each total coliform-positive routine sample.

(5) Results of all routine and repeat samples taken under 41.2(1)*"e"* through 41.2(1)*"i"* that are not invalidated by the department must be used to determine whether a coliform treatment technique trigger specified in 41.2(1)*"l"* has been exceeded.

k. E. coli testing requirements.

(1) If any routine or repeat sample is total coliform-positive, the system must analyze that total coliform-positive culture medium to determine the presence of *E. coli*. If *E. coli* are present, the system must notify the department by the end of the same day when the system is notified of the test result. If the notification is outside of the department's routine office hours, the system shall call the department's Environmental Emergency Reporting Hotline at (515)725-8694.

(2) The department has the discretion to allow a system, on a case-by-case basis, to forgo *E. coli* testing on a total coliform-positive sample if that system assumes that the total coliform-positive sample is *E. coli*-positive. Accordingly, the system must notify the department as specified in 41.2(1)*"k"*(1), and the provisions of 41.2(1)*"a"* apply.

l. Coliform treatment technique triggers. Systems must conduct assessments in accordance with 41.2(1)*"m"* after exceeding any treatment technique trigger.

(1) Level 1 treatment technique triggers.

1. For systems taking 40 or more samples per month, the system exceeds 5.0 percent total coliform-positive samples for the month.

2. For systems taking fewer than 40 samples per month, the system has two or more total coliform-positive samples in the same month.

3. The system fails to take every required repeat sample after any single total coliform-positive sample.

(2) Level 2 treatment technique triggers.

1. An *E. coli* MCL violation, as specified in 41.2(1)*"p"*(1).

2. A second Level 1 trigger as defined in 41.2(1)*"l"*(1) within a rolling 12-month period, unless the department has determined a likely reason that the samples that caused the first Level 1 treatment technique trigger were total coliform-positive and has established that the system has corrected the problem.

m. Assessment requirements. Systems must ensure that Level 1 and 2 assessments are conducted in order to identify the possible presence of sanitary defects and defects in distribution system coliform monitoring practices. Level 1 assessments may be conducted by the system owner or operator. Level 2 assessments must be conducted by the department with the assistance of the system owner or operator.

(1) General. When conducting assessments, systems must ensure that the assessor evaluates minimum elements that include review and identification of inadequacies in sample sites; sampling protocol; sample processing; atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., small groundwater systems); and existing water quality monitoring data. The system must conduct the assessment consistent with any department directives that tailor specific assessment elements with respect to the size and type of the system, and the size type, and characteristics of the distribution system.

(2) Level 1 assessment. A system must conduct a Level 1 assessment consistent with the department requirements if the system exceeds one of the treatment technique triggers in 41.2(1)*"l"*(1).

1. The system must complete the Level 1 assessment as soon as practical after any trigger in 41.2(1)*"l"*(1). In the completed assessment form, the system must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The system may also note on the assessment form that no sanitary defects were identified. The system must submit the completed Level 1 assessment form to the department within 30 days after the system learns that it has exceeded a trigger.

2. If the department reviews the completed Level 1 assessment and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the department must consult with the system. If the department requires revisions after consultation, the system must submit a revised assessment form to the department on an agreed-upon schedule not to exceed 30 days from the date of the consultation.

3. Upon completion and submission of the assessment form by the system, the department must determine if the system has identified the likely cause for the Level 1 trigger and, if so, establish that the system has corrected the problem or has included a schedule acceptable to the department for correction of the problem.

(3) Level 2 assessment. A system must ensure that a Level 2 assessment is conducted if the system exceeds one of the treatment technique triggers in 41.2(1)*"l"*(2). The system must comply with any expedited actions or additional actions required by the department in the case of an *E. coli* MCL violation.

1. The system must ensure that a Level 2 assessment is completed by the department as soon as practical after any trigger in 41.2(1)*"l"*(2). The system must submit a completed Level 2 assessment form to the department within 30 days after the system learns that it has exceeded a trigger. The assessment form must contain a description of the sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. It may also be noted on the assessment form that no sanitary defects were identified.

2. If the department reviews the completed Level 2 assessment and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the department must consult with the system. If the department requires revisions after consultation, the system must submit a revised assessment form to the department on an agreed-upon schedule not to exceed 30 days.

3. Upon completion and submission of the assessment form by the system, the department must determine if the system has identified the likely cause for the Level 2 trigger and determine whether the system has corrected the problem or has included a schedule acceptable to the department for correction of the problem.

(4) Corrective actions. A system must correct sanitary defects found through either a Level 1 or 2 assessment conducted under 41.2(1)*"l."* For corrections not completed by the time of submission of the assessment form, the system must complete the corrective action(s) in compliance with a timetable approved by the department in consultation with the system. The system must notify the department when each scheduled corrective action is completed.

(5) Consultation. At any time during the assessment or corrective actions phase, either the water system or the department may request a consultation with the other party to determine the appropriate actions to be taken. The system may consult with the department on all relevant information that may impact on its ability to comply with a requirement of this subrule, including the method of accomplishment, an appropriate time frame, and other relevant information.

n. Reporting requirements.

(1) *E. coli.*

1. The system must notify the department by the end of the same day when the system learns of an *E. coli*-positive violation. If the notification is outside of the department's routine office hours, the system shall call the department's Environmental Emergency Reporting Hotline at (515)725-8694.

2. The system must notify the department by the end of the same day when the system learns of the *E. coli*-positive routine sample. If the notification is outside of the department's routine office hours, the system shall call the department's Environmental Emergency Reporting Hotline at (515)725-8694.

(2) A system that has violated the treatment technique for coliforms in 41.2(1)*"l"* must report the violation to the department no later than the end of the next business day after it learns of the violation, and must notify the public in accordance with rule 567—42.1(455B).

(3) A system required to conduct an assessment under the provisions of 41.2(1)*"l"* must submit the assessment report within 30 days. The system must notify the department in accordance with 41.2(1)*"m"*(4) when each scheduled corrective action is completed for any corrections that were not completed by the time of submission of the assessment form.

(4) A system that has failed to comply with a coliform monitoring requirement must report the monitoring violation to the department within 10 days after the system discovers the violation, and must notify the public in accordance with rule 567—42.1(455B).

(5) A seasonal system must certify, prior to serving water to the public, that it has complied with the department-approved start-up procedure.

o. Record-keeping requirements. Additional record-keeping requirements are listed in 567—paragraph 42.5(1)*"j."*

p. Violations.

(1) *E. coli* MCL violation. A system is in violation of the MCL for *E. coli* when any of the following occurs, and must conduct public notice in accordance with rule 567—42.1(455B):

1. The system has an *E. coli*-positive repeat sample following a total coliform-positive routine sample.

2. The system has a total coliform-positive repeat sample following an *E. coli*-positive routine sample.

3. The system fails to take all required repeat samples following an *E. coli*-positive routine sample.

4. The system fails to test for *E. coli* when any repeat sample tests positive for total coliform.

(2) Treatment technique violation. A system is in violation of a treatment technique trigger when any of the following occurs, and must conduct public notice in accordance with rule 567—42.1(455B):

1. A system exceeds a treatment technique trigger specified in 41.2(1)*"l"* and then fails to conduct the required assessment within the time frame specified in 41.2(1)*"m."*

2. A system exceeds a treatment technique trigger specified in 41.2(1)*"l"* and then fails to conduct the required corrective actions within the time frame specified in 41.2(1)*"m"*(4).

3. A seasonal system fails to complete a department-approved start-up procedure prior to serving water to the public, including collection of a finished water sample that tests total coliform-negative.

(3) Monitoring violation. A system is in violation of monitoring requirements when any of the following occurs, and must conduct public notice in accordance with rule 567—42.1(455B):

1. Failure to take every required routine or additional routine sample in a compliance period.

2. Failure to analyze for *E. coli* following a total coliform-positive routine sample.

(4) Reporting violation. A system is in violation of reporting requirements when any of the following occurs, and must conduct public notice in accordance with rule 567—42.1(455B):

1. Failure to submit a monitoring report after a system properly conducts monitoring in a timely manner.

2. Failure to submit a completed assessment form after a system properly conducts an assessment in a timely manner.

3. Failure to notify the department following an *E. coli*-positive sample as required by 41.2(1)*"k"*(1) in a timely manner.

4. Failure to submit the certification of completion of department-approved start-up procedure by a seasonal system.

q. Best available technology (BAT). The U.S. Environmental Protection Agency (EPA) identifies, and the department has adopted, the following as the best technology, treatment techniques, or other means available for all systems in achieving compliance with the maximum contaminant level for *E. coli* in 41.2(1)*"a."* The following is also identified as affordable technology, treatment techniques, or

other means available to systems serving 10,000 or fewer people for achieving compliance with the *E. coli* maximum contaminant level.

(1) Well protection. Protection of wells from fecal contamination by appropriate placement and construction.

(2) Disinfectant residual. Maintenance of a disinfectant residual throughout the distribution system.

(3) Distribution system maintenance. Proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, cross-connection control, and continual maintenance of a minimum positive water pressure of 20 psi in all parts of the distribution system at all times.

(4) Filtration or disinfection. Filtration and disinfection of surface water or groundwater under the direct influence of surface water in accordance with 567—43.5(455B), 567—43.9(455B), and 567—43.10(455B), or disinfection of groundwater in accordance with rule 567—41.7(455B) using strong oxidants such as, but not limited to, chlorine, chlorine dioxide, or ozone.

(5) Wellhead protection program. For groundwater systems, compliance with the requirements of the department's wellhead protection program.

ITEM 9. Amend subparagraph **41.2(3)"e"(1)** as follows:

(1) Method. The heterotrophic plate count shall be performed in accordance with one of the following methods:

1. Method 9215B Pour Plate Method, Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992, 19th edition, 1995, ~~or~~ 20th edition, 1998, 21st edition, 2005, and 22nd edition, 2012. The cited method in any of ~~the three~~ these editions may be used. Standard Methods Online method 9215 B-04 may be used.

2. No change.

ITEM 10. Amend the following footnote in subparagraph **41.3(1)"b"(1)**:

**The recommended fluoride level is ~~1.1~~ 0.7 milligrams per liter ~~or the level as calculated from "Water Fluoridation, a Manual for Engineers and Technicians" Table 2-4~~ as published by the U.S. Department of Health and Human Services, Public Health Service (~~September 1986~~ July-August 2015). At this optimum level in drinking water, fluoride has been shown to have beneficial effects in reducing the occurrence of tooth decay.

ITEM 11. Amend subparagraph **41.3(1)"e"(1)** as follows:

(1) Analytical methods for IOCs. Analysis for the listed inorganic contaminants shall be conducted using the following methods, or their equivalent as determined by EPA. Criteria for analyzing arsenic, barium, beryllium, cadmium, chromium, copper, lead, nickel, selenium, sodium, and thallium with digestion or directly without digestion, and other analytical test procedures are contained in Technical Notes on Drinking Water Methods, EPA-600/R-94-173, October, 1994. This document is available from the National Technical Information Service, NTIS PB95-104766, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. The toll-free number is (800)553-6847.

INORGANIC CONTAMINANTS ANALYTICAL METHODS

Contaminant	Methodology[15]	EPA	ASTM[3]	SM	SM Online[26]	Other	Detection Limit, mg/L
Antimony	Atomic absorption; furnace			3113B[4, 27, 33]	3113 B-04, B-10		0.003
	Atomic absorption; platform	200.9[2]					0.0008[12]
	ICP-Mass spectrometry	200.8[2]					0.0004
	Atomic absorption; hydride		D3697-92, 02, 07, 12				0.001
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Arsenic[16]	ICP-Mass spectrometry	200.8[2]					0.0014[17]
	Atomic absorption; platform	200.9[2]					0.0005[15]

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Contaminant	Methodology[15]	EPA	ASTM[3]	SM	SM Online[26]	Other	Detection Limit, mg/L
	Atomic absorption; furnace		D2972-97C, 03C, 08C	3113B[4, 27, 33]	3113 B-04, B-10		0.001
	Atomic absorption; hydride		D2972-97B, 03B, 08B	3114B[4, 27, 33]	3114 B-09		0.001
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Asbestos	Transmission electron microscopy	100.1[9]					0.01 MFL
	Transmission electron microscopy	100.2[10]					
Barium	Inductively coupled plasma	200.7[2]		3120B[18, 27, 33]	3120 B-99		0.002
	ICP-Mass spectrometry	200.8[2]					
	Atomic absorption; direct			3111D[4, 27, 33]	3111 D-99		0.1
	Atomic absorption; furnace			3113B[4, 27, 33]	3113 B-04, B-10		0.002
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Beryllium	Inductively coupled plasma	200.7[2]		3120B[18, 27, 33]	3120 B-99		0.0003
	ICP-Mass spectrometry	200.8[2]					0.0003
	Atomic absorption; platform	200.9[2]					0.00002[12]
	Atomic absorption; furnace		D3645-97B, 03B, 08B	3113B[4, 27, 33]	3113 B-04, B-10		0.0002
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Cadmium	Inductively coupled plasma	200.7[2]					0.001
	ICP-Mass spectrometry	200.8[2]					
	Atomic absorption; platform	200.9[2]					
	Atomic absorption; furnace			3113B[4, 27, 33]	3113 B-04, B-10		0.0001
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Chromium	Inductively coupled plasma	200.7[2]		3120B[18, 27, 33]	3120 B-99		0.007
	ICP-Mass spectrometry	200.8[2]					
	Atomic absorption; platform	200.9[2]					
	Atomic absorption; furnace			3113B[4, 27, 33]	3113 B-04, B-10		0.001
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Cyanide	Manual distillation (followed by one of the following four analytical methods:)		D2036-98A, D2036-06A	4500-CN-C[18, 27, 33]			
	Spectrophotometric; amenable[14]		D2036-98B, D2036-06B	4500-CN-G[18, 27, 33]	4500-CN-G-99		0.02
	Spectrophotometric; manual[13]		D2036-98A, D2036-06A	4500-CN-E[18, 27, 33]	4500-CN-E-99	I-3300-85[5]	0.02
	Spectrophotometric; semi-automated[13]	335.4[6]					0.005
	Selective electrode[13]			4500-CN-F[18, 27, 33]	4500-CN-F-99		0.05
	~~UV/Distillation/Spectrophotometric~~ UV, distillation, spectrophotometric[22]					Kelada 01[20]	0.0005

Contaminant	Methodology[15]	EPA	ASTM[3]	SM	SM Online[26]	Other	Detection Limit, mg/L
	~~Distillation/Spectrophotometric~~ Micro distillation, flow injection, spectrophotometric[13]					QuikChem 10-204-00-1-X[21]	0.0006
	Ligand exchange with amperometry[14]		D6888-04			OIA-1677, DW[25]	0.0005
	Gas chromatography/mass spectrometry headspace					ME355.01[29]	
Fluoride	Ion chromatography	300.0[6], 300.1[23]	D4327-97, 03, 11	4110B[18, 27, 33]	4110 B-00		
	Manual distillation; colorimetric; SPADNS			4500F-B,D[18, 27, 33]	4500 F-B,D-97		
	Manual electrode		D1179-93B, 99B, D1179-04B, 10B	4500F-C[18, 27, 33]	4500 F-C-97		
	Automated electrode					380-75WE[11]	
	Automated alizarin			4500F-E[18, 27, 33]	4500 F-E-97	129-71W[11]	
	Capillary ion electrophoresis					D6508, Rev.2[24]	
	Arsenite-free colorimetric; SPADNS					Hach SPADNS 2 Method 10225[31]	
Magnesium	Atomic absorption; direct		D511-93~~B~~, 03B, 09B, 14B	3111B[4, 27, 33]	3111 B-99		
	ICP	200.7[1]		3120B[18, 27, 33]	3120 B-99		
	Complexation Titrimetric Methods		D511-93~~A~~, 03A, 09A, 14B	3500-Mg E[4]			
				3500-Mg B[19, 27, 33]	3500-Mg B-97		
	Ion chromatography		D6919-03, 09				
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Mercury	Manual, cold vapor	245.1[2]	D3223-97, 02, 12	3112B[4, 27, 33]	3112 B-09		0.0002
	Automated, cold vapor	245.2[1]					0.0002
	ICP-Mass spectrometry	200.8[2]					
Nickel	Inductively coupled plasma	200.7[2]		3120B[18, 27, 33]	3120 B-99		0.005
	ICP-Mass spectrometry	200.8[2]					0.0005
	Atomic absorption; platform	200.9[2]					0.0006[12]
	Atomic absorption; direct			3111B[4, 27, 33]	3111 B-99		
	Atomic absorption; furnace			3113B[4, 27, 33]	3113 B-04, 10		0.001
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Nitrate	Ion chromatography	300.0[6], 300.1[23]	D4327-97, 03, 11	4110B[18, 27, 33]	4110 B-00	B-1011[8]	0.01
	Automated cadmium reduction	353.2[6]	D3867-90A	4500-NO_3-F[18, 27, 33]	4500-NO_3-F-00		0.05
	Ion selective electrode			4500-NO_3-D[18, 27, 33]	4500-NO_3-D-00	601[7]	1
	Manual cadmium reduction		D3867-90B	4500-NO_3-E[18, 27, 33]	4500-NO_3-E-00		0.01

Contaminant	Methodology[15]	EPA	ASTM[3]	SM	SM Online[26]	Other	Detection Limit, mg/L
	Capillary ion electrophoresis					D6508, Rev.2[24]	0.076
	Reduction/colorimetric					Systea Easy (1-Reagent)[30] NECi Nitrate-Reductase[34]	
	Colorimetric; direct					Hach TNTplus™ 835/836 Method 10206[32]	
Nitrite	Ion chromatography	300.0[6], 300.1[23]	D4327-97, 03, 11	4110B[18, 27, 33]	4110 B-00	B-1011[8]	0.004
	Automated cadmium reduction	353.2[6]	D3867-90A	4500-NO_3-F[18, 27, 33]	4500-NO_3-F-00		0.05
	Manual cadmium reduction		D3867-90B	4500-NO_3-E[18, 27, 33]	4500-NO_3-E-00		0.01
	Spectrophotometric			4500-NO_2-B[18, 27, 33]	4500-NO_2-B-00		0.01
	Capillary ion electrophoresis					D6508, Rev. 2[24]	0.103
	Reduction/colorimetric					Systea Easy (1-Reagent)[30] NECi Nitrate-Reductase[34]	
Selenium	Atomic absorption; hydride		D3859-98~~A~~, 03A, 08A	3114B[4, 27, 33]	3114 B-09		0.002
	ICP-Mass spectrometry	200.8[2]					
	Atomic absorption; platform	200.9[2]					
	Atomic absorption; furnace		D3859-98~~B~~, 03B, 08B	3113B[4, 27, 33]	3113 B-04, 10		0.002
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Sodium	Inductively coupled plasma	200.7[2]					
	Atomic absorption; direct			3111B[4, 27, 33]	3111 B-99		
	Ion chromatography		D6919-03, 09				
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Thallium	ICP-Mass spectrometry	200.8[2]					
	Atomic absorption; platform	200.9[2]					0.0007[12]

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at (800)426-4791. Documents may be inspected at EPA's Drinking Water Docket, EPA West, 1301 Constitution Avenue, NW, Room B102, Washington, DC 20460 (telephone: (202)566-2426); or at the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

[1]"Methods for Chemical Analysis of Water and Wastes," EPA-600/4-79-020, March 1983. Available at NTIS, PB84-128677.

[2]"Methods for the Determination of Metals in Environmental Samples—Supplement I," EPA-600/R-94-111, May 1994. Available at NTIS, PB95-125472.

[3]Annual Book of ASTM Standards, 1994, 1996, ~~or~~ 1999 or 2003, Vols. 11.01 and 11.02, American Society for Testing and Materials (ASTM) International; ~~any year containing the cited version of the method may be used~~ the methods listed are the only versions that may be used. Copies may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[4]18th and 19th editions of Standard Methods for the Examination of Water and Wastewater, 1992 and 1995, respectively, American Public Health Association; either edition may be used. Copies may be obtained from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[5]Techniques of Water Resources Investigation of the U.S. Geological Survey, Book 5, Chapter A-1, 3rd edition, 1989, Method I-3300-85. Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225-0425.

[6]"Methods for the Determination of Inorganic Substances in Environmental Samples," EPA-600-R-93-100, August 1993. Available at NTIS, PB94-120821.

[7]The procedure shall be done in accordance with the Technical Bulletin 601, "Standard Method of Test for Nitrate in Drinking Water," July 1994, PN221890-001, Analytical Technology, Inc. Copies may be obtained from ATI Orion, 529 Main Street, Boston, MA 02129.

[8]Method B-1011, "Waters Test Method for Determination of Nitrite/Nitrate in Water Using Single Column Ion Chromatography," August 1987. Copies may be obtained from Waters Corporation, Technical Services Division, 34 Maple Street, Milford, MA 01757; telephone: (508)482-2131.

[9]Method 100.1, "Analytical Method for Determination of Asbestos Fibers in Water," EPA-600/4-83-043, EPA, September 1983. Available at NTIS, PB83-260471.

[10]Method 100.2, "Determination of Asbestos Structure Over 10 Microns in Length in Drinking Water," EPA-600/R-94-134, June 1994. Available at NTIS, PB94-201902.

[11]Industrial Method No. 129-71W, "Fluoride in Water and Wastewater," December 1972, and Method No. 380-75WE, "Fluoride in Water and Wastewater," February 1976, Technicon Industrial Systems. Copies may be obtained from Bran & Luebbe, 1025 Busch Parkway, Buffalo Grove, IL 60089.

[12]Lower MDLs are reported using stabilized temperature graphite furnace atomic absorption.

[13]Screening method for total cyanides.

[14]Measures "free" cyanides when distillation, digestion, or ligand exchange is omitted.

[15]Because MDLs reported in EPA Methods 200.7 and 200.9 were determined using a 2X preconcentration step during sample digestion, MDLs determined when samples are analyzed by direct analysis (i.e., no sample digestion) will be higher. For direct analysis of cadmium by Method 200.7, sample preconcentration using pneumatic nebulization may be required to achieve lower detection limits. ~~Method 200.9 is capable of obtaining an arsenic MDL of 0.0001 mg/L using multiple depositions.~~ Preconcentration may also be required for direct analysis of antimony and thallium by Method 200.9, and antimony by Method 3113B, unless multiple in-furnace depositions are made.

[16]If ultrasonic nebulization is used in the determination of arsenic by Method 200.8, the arsenic must be in the pentavalent state to provide uniform signal response. For direct analysis of arsenic with Method 200.8 using ultrasonic nebulization, samples and standards must contain 1 mg/L of sodium hypochlorite.

[17]~~Using selective ion monitoring, EPA Method 200.8 (ICP-MS) is capable of obtaining an MDL of 0.0001 mg/L~~ Reserved.

[18]The 18th, 19th, and 20th editions of Standard Methods for the Examination of Water and Wastewater, 1992, 1995, and 1998, respectively, American Public Health Association; any edition may be used, except that the versions of 3111B, 3111D, 3113B, and 3114B in the 20th edition may not be used. Copies may be obtained from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[19]The 20th edition of Standard Methods for the Examination of Water and Wastewater, 1998, American Public Health Association. Copies may be obtaining from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[20]The description for the Kelada 01 Method, "Kelada Automated Test Methods for Total Cyanide, Acid Dissociable Cyanide, and Thiocyanate," Revision 1.2, August 2001, EPA #821-B-01-009 for cyanide is available from NTIS PB 2001-108275. NOTE: A 450W UV lamp may be used in this method instead of the 550W lamp specified if it provides performance within the quality control acceptance criteria of the method in a given instrument. Similarly, modified flow cell configurations and flow conditions may be used in the method, provided that the quality control acceptance criteria are met.

[21]The description for the QuikChem Method 10-204-00-1-X, "Digestion and distillation of total cyanide in drinking water and wastewaters using MICRO DIST and determination of cyanide by flow injection analysis," Revision 2.1, November 30, 2000, for cyanide is available from Lachat Instruments, 6645 W. Mill Road, Milwaukee, WI 53218, telephone (414)358-4200.

[22]Measures total cyanides when UV-digestor is used, and "free" cyanides when UV-digestor is bypassed.

[23]"Methods for the Determination of Organic and Inorganic Compounds in Drinking Water," Volume 1, EPA 815-R-00-014, August 2000. Available at NTIC, PB2000-106981.

[24]Method D6508, Rev. 2, "Test Method for Determination of Dissolved Inorganic Anions in Aqueous Matrices Using Capillary Ion Electrophoresis and Chromate Electrolyte," available from Waters Corp., 34 Maple Street, Milford, MA 01757; telephone: (508)482-2131; fax: (508)482-3625.

[25]Method OIA-1677, DW "Available Cyanide by Flow Injection, Ligand Exchange, and Amperometry," January 2004. EPA-821-R-04-001. Available from ALPKEM, a division of OI Analytical, P.O. Box 9010, College Station, TX 77542-9010.

[26]Standard Methods Online is available at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[27]Standard Methods for the Examination of Water and Wastewater, 21st edition (2005). Available from American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[28]EPA Method 200.5, Revision 4.2: "Determination of Trace Elements in Drinking Water by Axially Viewed Inductively Coupled Plasma-Atomic Emission Spectrometry," 2003. EPA/600/R-06/115. Available at www.nemi.gov.

[29]Method ME355.01, Revision 1.0, "Determination of Cyanide in Drinking Water by GC/MS Headspace," May 26, 2009. Available at www.nemi.gov or from H & E Testing Laboratory, 221 State Street, Augusta, ME 04333; telephone: (207)287-2727.

[30]Systea Easy (1-Reagent), "Systea Easy (1-Reagent) Nitrate Method," February 4, 2009. Available at www.nemi.gov or from Systea Scientific, LLC, 900 Jorie Blvd., Suite 35, Oak Brook, IL 60523.

[31]Hach Company Method, "Hach Company SPADNS 2 (Arsenic-free) Fluoride Method 10225 – Spectrophotometric Measurement of Fluoride in Water and Wastewater," January 2011. 5600 Lindbergh Drive, P.O. Box 389, Loveland, CO 80539. Available at www.hach.com.

[32]Hach Company Method, "Hach Company TNTplus™ 835/836 Nitrate Method 10206 – Spectrophotometric Measurement of Nitrate in Water and Wastewater," January 2011. 5600 Lindbergh Drive, P.O. Box 389, Loveland, CO 80539. Available at www.hach.com.

[33]Standard Methods for the Examination of Water and Wastewater, 22nd edition (2012), American Public Health Association. Available from the American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[34]Nitrate Elimination Company, Inc. (NECi). "Method for Nitrate Reductase Nitrate-Nitrogen Analysis of Drinking Water," February 2016. Superior Enzymes, Inc., 334 Hecla Street, Lake Linden, MI 49945.

ITEM 12. Amend subrule 41.4(1), introductory paragraph, as follows:

41.4(1) *Lead, copper, and corrosivity regulation by the setting of a treatment technique requirement.* The lead and copper rules ~~do not set an MCL, although this could be changed in the future. The rules set two enforceable action levels, which trigger tap monitoring, corrosion control, source water treatment, lead service line replacement, and public education if exceeded.~~ establish a treatment technique that includes requirements for corrosion control treatment, source water treatment, lead service line replacement, and public education. These requirements are triggered, in some cases, by lead and copper action levels measured in samples collected at consumers' taps.

ITEM 13. Amend subparagraph **41.4(1)"b"(3)** as follows:

(3) Calculation of 90th percentile. The 90th percentile lead and copper levels shall be computed as follows:

1. The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number 1 for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken.

2. The number of samples taken during the monitoring period shall be multiplied by 0.9.

3. The contaminant concentration in the numbered sample yielded by this calculation is the 90th percentile contaminant level.

4. For water systems serving fewer than 100 people that collect five samples per monitoring period, the 90th percentile is computed by taking the average of the highest and second highest concentrations.

5. For a public water system that has been allowed by the department to collect fewer than five samples in accordance with 41.4(1)*"c"*(3), the sample result with the highest concentration is considered the 90th percentile value.

ITEM 14. Amend subparagraph **41.4(1)"c"(2)** as follows:

(2) Sample collection methods.

1. to 4. No change.

5. An NTNC system, or a CWS system that meets the criteria of ~~567—paragraphs 42.2(4)*"h"*(1)"1" and "2,"~~ 567—subparagraph 42.2(2)*"b"*(7) that does not have enough taps that can supply first-draw samples, as defined in 567—40.2(455B), may apply to the department in writing to substitute non-first-draw samples. Such systems must collect as many first-draw samples from appropriate taps as possible and identify sampling times and locations that would likely result in the longest standing time for the remaining sites. The department may waive the requirement for prior department approval of non-first-draw sample sites selected by the system, through written notification to the system.

ITEM 15. Amend subparagraph **41.4(1)"c"(3)**, introductory paragraph, as follows:

(3) Number of samples. Water systems shall collect at least one sample during each monitoring period specified in 41.4(1)*"c"*(4) from the number of sites as listed in the column below titled "standard monitoring." A system conducting reduced monitoring under 41.4(1)*"c"*(4) shall collect at least one sample from the number of sites specified in the column titled "reduced monitoring" during each monitoring period specified in 41.4(1)*"c"*(4). Such reduced monitoring sites shall be representative of the sites required for standard monitoring. A public water system that has fewer than five drinking water taps that can be used for human consumption meeting the sample site criteria of 41.4(1)*"c"*(1) to reach the required number of sample sites listed in 41.4(1)*"c"*(3) must collect at least one sample from each tap and then must collect additional samples from those taps on different days during the monitoring period to meet the required number of sites. Alternatively, the department may allow these systems to collect a number of samples less than the number of sites specified in 41.4(1)*"c"*(1), provided that 100 percent of all taps that can be used for human consumption are sampled. The department must approve this reduction of the minimum number of samples in writing based upon a request from the system or on-site verification by the department. The department may specify sampling locations when a system is conducting reduced monitoring.

ITEM 16. Amend subparagraph **41.4(1)"c"(4)** as follows:

(4) Timing of monitoring.

1. Initial tap sampling. The first six-month monitoring period for small, medium-size and large systems shall begin on the following dates:

System Size (Number of People Served)	First Six-month Monitoring Period Begins on:
greater than 50,000 (large system)	January 1, 1992
3,301 to 50,000 (medium system)	July 1, 1992
less than or equal to 3,300 (small system)	July 1, 1993

All large systems shall monitor during two consecutive six-month periods. All small and medium-size systems shall monitor during each six-month monitoring period until the system exceeds the lead or copper action level and is, therefore, required to implement the corrosion control treatment requirements under 567—paragraph 43.7(1)*"a,"* in which case the system shall continue monitoring in accordance with 41.4(1)*"c"*(4), or the system meets the lead and copper action levels during two consecutive six-month monitoring periods, in which case the system may reduce monitoring in accordance with 41.4(1)*"c"*(4).

2. Monitoring after installation of corrosion control and source water treatment. Large systems which install optimal corrosion control treatment pursuant to 567—subparagraph 43.7(1)*"d"*(4) shall monitor during two consecutive six-month monitoring periods by the date specified in 567—subparagraph 43.7(1)*"d"*(5). Small or medium-size systems which install optimal corrosion control treatment pursuant to 567—subparagraph 43.7(1)*"e"*(5) shall monitor during two consecutive six-month monitoring periods as specified in 567—subparagraph 43.7(1)*"e"*(6). Systems which install

source water treatment shall monitor during two consecutive six-month monitoring periods by the date specified in 567—subparagraph 43.7(3)*"a"*(4).

3. Monitoring after the department specifies water quality parameter values for optimal corrosion control. After the department specifies the values for water quality control parameters under 567—paragraph 43.7(2)*"f,"* the system shall monitor during each subsequent six-month monitoring period, with the first monitoring period to begin on the date the department specifies the optimal values under 567—paragraph 43.7(2)*"f."*

4. Reduced monitoring.

- A small or medium-size water system that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of lead and copper samples according to 41.4(1)*"c"*(3) and reduce the frequency of sampling to once per year. A small or medium-size water system collecting fewer than five samples as specified in 41.4(1)*"c"*(3) that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the frequency of sampling to once per year. The system may not ever reduce the number of samples required below the minimum of one sample per available tap. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

- Any public water supply system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the department under 567—paragraph 43.7(2)*"f"* during each of two consecutive six-month monitoring periods may reduce the monitoring frequency to once per year and reduce the number of lead and copper samples according to 41.4(1)*"c"*(3), upon written approval by the department. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. The department shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with 567—subrule 42.4(2), and shall notify the system in writing when it determines that the system is eligible to commence reduced monitoring. ~~Where appropriate, the~~ The department will review and, where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

- A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the department under 567—paragraph 43.7(2)*"f"* during three consecutive years of monitoring may reduce the frequency of monitoring from annually to once every three years if it receives written approval by the department. Samples collected once every three years shall be collected no later than every third calendar year. The department shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with 567—subrule 42.4(2), and shall notify the system in writing when it determines that the system is eligible to reduce the monitoring frequency to once every three years. ~~Where appropriate, the~~ The department will review and, where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

- A water system that reduces the number and frequency of sampling shall collect these samples from sites included in the pool of targeted sampling sites identified in 41.4(1)*"c"*(1). Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of June through September, unless the department, at its discretion, has approved a different sampling period. If approved by the department, the period shall be no longer than four consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. The department shall designate a period that represents a time of normal operation for an NTNC system that does not operate during the months of June through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known. This sampling shall begin during the period approved or designated by the department in the calendar year immediately

following the end of the second consecutive six-month monitoring period for systems initiating annual monitoring and during the three-year period following the end of the third consecutive calendar year of annual monitoring for systems initiating triennial monitoring.

Systems monitoring annually that have been collecting samples during the months of June through September and that receive department approval to alter their sample collection period must collect their next round of samples during a time period that ends no later than 21 months after the previous round of sampling.

Systems monitoring triennially that have been collecting samples during the months of June through September and that receive department approval to alter the sampling collection period must collect their next round of samples during a time period that ends no later than 45 months after the previous round of sampling.

Subsequent rounds of sampling must be collected annually or triennially, as required by 41.4(1)*"c."*

Small systems that have been granted waivers pursuant to 41.4(1)*"c"*(7), that have been collecting samples during the months of June through September and that receive department approval to alter their sample collection period as previously stated, must collect their next round of samples before the end of the nine-year period.

- Any water system that demonstrates for two consecutive six-month monitoring periods that the 90th percentile tap water level computed under 41.4(1)*"b"*(3) is less than or equal to 0.005 mg/L for lead and is less than or equal to 0.65 mg/L for copper may reduce the number of samples in accordance with 41.4(1)*"c"*(3) and reduce the frequency of sampling to once every three calendar years, if approved by the department.
- A small or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling according to 41.4(1)*"c"*(4)"3" and collect the number of samples specified for standard monitoring in 41.4(1)*"c"*(3). Any such system shall also conduct water quality parameter monitoring in accordance with 41.4(1)*"d"*(2), (3), or (4), as appropriate, during the monitoring period in which it exceeded the action level. Any such system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in 41.4(1)*"c"*(3) after it has completed two subsequent consecutive six-month rounds of monitoring that meet the criteria of 41.4(1)*"c"*(4)"4," first bulleted paragraph, and may resume triennial monitoring for lead and copper at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either 41.4(1)*"c"*(4)"4," third bulleted paragraph or fifth bulleted paragraph, and has received department approval.

Any water system subject to reduced monitoring frequency that fails to meet the lead action level during any four-month monitoring period or that fails to operate at or above the minimum value or within the range of values for the water quality control parameters specified by the department under 567—paragraph 43.7(2)*"f"* for more than nine days in any six-month period specified in 41.4(1)*"d"*(4) shall resume tap water sampling according to 41.4(1)*"c"*(4)"3," collect the number of samples specified for standard monitoring in 41.4(1)*"c"*(3), and resume monitoring for water quality parameters within the distribution system in accordance with 41.4(1)*"d"*(4). This standard tap water sampling shall begin no later than the six-month period beginning January 1 of the calendar year following the lead action level exceedance or water quality parameter excursion. The system may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions:

The system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in 41.4(1)*"c"*(3) after it has completed two subsequent six-month rounds of monitoring that meet the criteria of 41.4(1)*"c"*(4)"4," second bulleted paragraph, and upon written approval from the department to resume reduced annual monitoring. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

The system may resume triennial monitoring for lead and copper at the tap at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either 41.4(1)*"c"*(4)"4," third bulleted paragraph or fifth bulleted paragraph, and upon written approval from the department to resume triennial monitoring.

The system may reduce the number of water quality parameter tap water samples required in 41.4(1)*"d"*(5)"1" and the sampling frequency required in 41.4(1)*"d"*(5)"2." Such a system may not resume triennial monitoring for water quality parameters at the tap until it demonstrates that it has requalified for triennial monitoring, pursuant to 41.4(1)*"d"*(5)"2."

- Any water system subject to a reduced monitoring frequency under 41.4(1)*"c"*(4)"4" ~~that either adds a new source of water or changes any water treatment shall inform~~ must notify the department in writing in accordance with 567—subparagraph 42.4(2)*"a"*(3) of any upcoming long-term change in treatment or addition of a new source as described in that subparagraph. The department must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the system. The department may require the system to resume sampling pursuant to 41.4(1)*"c"*(4)"3" and collect the number of samples specified for standard monitoring under 41.4(1)*"c"*(3), or take other appropriate steps such as increased water quality parameter monitoring or reevaluation of its corrosion control treatment given the potentially different water quality considerations.

ITEM 17. Amend subparagraph **41.4(1)"c"(7)** as follows:

(7) Monitoring waivers for small systems. Any small system that meets the criteria of this subparagraph may apply to the department to reduce the frequency of monitoring for lead and copper under subrule 41.4(1) to once every nine years if it meets all of the materials criteria specified in 41.4(1)*"c"*(7)"1" and the monitoring criteria specified in 41.4(1)*"c"*(7)"2."

1. Materials criteria. The system must demonstrate that its distribution system and service lines and all drinking water supply plumbing, including plumbing conveying drinking water within all residences and buildings connected to the system, are free of lead-containing materials and copper-containing materials, as defined below:

- Lead. The water system must provide certification and supporting documentation to the department that the system is free of all lead-containing materials. The system does not contain any plastic pipes which contain lead plasticizers, or plastic service lines which contain lead plasticizers. The system must be free of lead service lines, lead pipes, lead soldered pipe joints, and leaded brass or bronze alloy fittings and fixtures, unless such fittings and fixtures meet the specifications of any standard established pursuant to 42 U.S.C. 300-g-6(e).
- Copper. The water system must provide certification and supporting documentation to the department that the system contains no copper pipes or copper service lines.

2. Monitoring criteria. The system must have completed at least one six-month round of standard tap water monitoring for lead and copper at sites approved by the department and from the number of sites required by 41.4(1)*"c"*(3), and demonstrate that the 90th percentile levels for any and all rounds of monitoring conducted since the system became free of all lead-containing and copper-containing materials meet the following criteria:

- Lead levels. The system must demonstrate that the 90th percentile lead level does not exceed 0.005 mg/L.
- Copper levels. The system must demonstrate that the 90th percentile copper level does not exceed 0.65 mg/L.

3. Department approval of waiver application. The department shall notify the system of its waiver determination in writing, including the basis of its decision and any condition of the waiver. The department may require as a waiver condition that the system conduct specific activities, such as limited monitoring and periodic outreach to customers to remind them to avoid installation of materials that would void the waiver. The system must continue monitoring for lead and copper at the tap as required by 41.4(1)*"c"*(4)"1" through "4," as appropriate, until the system receives written approval for the waiver from the department.

4. Monitoring frequency of systems with waivers.

- A system must conduct tap water monitoring for lead and copper in accordance with 41.4(1)*"c"*(4)"4" at the reduced number of sampling sites identified in subparagraph 41.4(1)*"c"*(3) at least once every nine years and provide the materials certification specified in 41.4(1)*"c"*(7)"1" for

both lead and copper to the department along with the monitoring results. Samples collected every nine years shall be collected no later than every ninth calendar year.

- ~~If a~~ A system with a waiver ~~adds a new source of water or changes any water treatment, the system~~ must notify the department in writing pursuant to 567—subparagraph 42.4(2)*"a"*(3) of any upcoming long-term change in treatment or addition of a new source, as described in that subparagraph. The department must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the system. The department has the authority to require the system to add or modify waiver conditions, such as to require recertification that the system is free of lead-containing and copper-containing materials or to require additional monitoring, if the department deems such modifications are necessary to address treatment or source water changes at the system.
- If a system with a waiver becomes aware that it is no longer free of lead-containing or copper-containing materials, such as from new construction or repairs, the system shall notify the department in writing no later than 60 days after becoming aware of such a change.

5. Continued eligibility. If the system continues to satisfy the requirements of 41.4(1)*"c"*(7)"4," the waiver will be renewed automatically, unless any of the conditions listed below occur. A system whose waiver has been revoked may reapply for a waiver at such time as it again meets the appropriate materials and monitoring criteria of 41.4(1)*"c"*(7)"1" and 41.4(1)*"c"*(7)"2."

- A system no longer satisfies the materials criteria of 41.4(1)*"c"*(7)"1," or has a 90th percentile lead level greater than 0.005 mg/L or a 90th percentile copper level greater than 0.65 mg/L.
- The department notifies the system in writing that the waiver has been revoked, including the basis of its decision.

6. Requirements following waiver revocation. A system whose waiver has been revoked by the department is subject to the corrosion control treatment and lead and copper tap water monitoring requirements as follows:

- If the system exceeds the lead or copper action level, the system must implement corrosion control treatment in accordance with the deadlines specified in 567—paragraph 43.7(1)*"e,"* and any other applicable parts of 567—41.4(455B).
- If the system meets both the lead and copper action levels, the system must monitor for lead and copper at the tap no less frequently than once every three years using the reduced number of sample sites specified in subparagraph 41.4(1)*"c"*(3).

ITEM 18. Amend subparagraph **41.4(1)"d"(1)"2,"** second bullet, as follows:

- Except as provided in 41.4(1)*"d"*(3)*"*3," systems shall collect two samples for each applicable water quality parameter at each entry point to the distribution system during each six-month monitoring period specified in 41.4(1)*"d"*(2). ~~During each monitoring period specified in 41.4(1)*"d"*(2).~~ During each monitoring period specified in 41.4(1)*"d"*(3) through (5), systems shall collect one sample for each applicable water quality parameter at each entry point to the distribution system.

ITEM 19. Amend subparagraph **41.4(1)"d"(4)** as follows:

(4) Monitoring after the department specifies water quality parameter values for optimal corrosion control. After the department specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment, all large systems shall measure the applicable water quality parameters according to 41.4(1)*"d"*(3) and determine compliance with the requirements of 567—paragraph 43.7(2)*"g"* every six months, with the first six-month period to begin on ~~the date~~ either January 1 or July 1, whichever comes first, after the department specifies the optimal values under 567—paragraph 43.7(2)*"f."* Any small or medium-size system shall conduct such monitoring during each monitoring period specified in 41.4(1)*"c"*(4)"3" in which the system exceeds the lead or copper action level. For any such small and medium-size system that is subject to a reduced monitoring frequency pursuant to 41.4(1)*"c"*(4)"4" at the time of the action level exceedance, the ~~end~~ start of the applicable six-month monitoring period under this paragraph shall coincide with the end of the applicable monitoring period under 41.4(1)*"c"*(4)"4." Compliance with department-designated optimal water quality parameter values shall be determined as specified in 567—paragraph 43.7(2)*"g."*

ITEM 20. Amend subparagraph **41.4(1)"d"(5)** as follows:

(5) Reduced monitoring.

1. Public water supply systems that maintain the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of two consecutive six-month monitoring periods under 41.4(1)*"c"*(4) shall continue monitoring at the entry point(s) to the distribution system as specified in 567—paragraph 43.7(2)*"f."* Such system may collect two tap samples for applicable water quality parameters from the following reduced number of sites during each six-month monitoring period.

REDUCED WATER QUALITY PARAMETER MONITORING

System Size (Number of People Served)	Reduced Number of Sites for Water Quality Parameters
greater than 100,000	10
10,001 to 100,000	7
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
less than or equal to 100	1

2. A public water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the department under 567—paragraph 43.7(2)*"f"* during three consecutive years of monitoring may reduce the frequency with which the system collects the number of tap samples for applicable water quality parameters specified in 41.4(1)*"d"*(5) from every six months to annually. This sampling shall begin during the calendar year immediately following the end of the monitoring period in which the third consecutive year of six-month monitoring occurs. Any system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the department under 567—paragraph 43.7(2)*"f"* during three consecutive years of annual monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in 41.4(1)*"d"*(5) from annually to every three years. This sampling shall begin no later than the third calendar year following the end of the monitoring period in which the third consecutive year of monitoring occurs.

A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters specified in 41.4(1)*"d"*(5)"1" to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to 0.005 mg/L, that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/L, and that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the department under 567—paragraph 43.7(2)*"f."* Monitoring conducted every three years shall be done no later than every third calendar year.

3. No change.

4. No change.

ITEM 21. Amend subparagraph **41.4(1)"e"(2)** as follows:

(2) Monitoring after system exceeds tap water action level. Any system which exceeds the lead or copper action level at the tap shall collect one source water sample from each entry point to the distribution system ~~within~~ no later than six months after the ~~exceedance~~ end of the monitoring period during which the lead or copper action level was exceeded. For monitoring periods that are annual or less frequent, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs or, if the department has established an alternate monitoring period, the last day of that period.

ITEM 22. Amend subparagraph **41.4(1)"e"(4)** as follows:

(4) Monitoring frequency after the department specifies maximum permissible source water levels or determines that source water treatment is not needed.

1. A system shall monitor at the frequency specified below in cases where the department specifies maximum permissible source water levels under 567—subparagraph 43.7(3)*"b"*(4) or determines that the system is not required to install source water treatment under 567—subparagraph 43.7(3)*"b"*(2). A water system using only groundwater shall collect samples once during the three-year compliance period in effect when the department makes this determination. Such systems shall collect samples once during each subsequent compliance period. Triennial samples shall be collected every third calendar year. A public water system using surface water (or a combination of surface and groundwater) shall collect samples once during each year, the first annual monitoring period to begin ~~on the date on~~ during the year in which the department ~~makes this~~ determination is made under this subparagraph.

2. No change.

ITEM 23. Amend subparagraph **41.4(1)"e"(5)** as follows:

(5) Reduced monitoring frequency.

1. A water system using only groundwater may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and if the system meets one of the following criteria:

- The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead or copper concentrations specified by the department in 567—subparagraph 43.7(3)*"b"*(4) during at least three consecutive compliance periods under 41.4(1)*"e"*(4)"1"; or
- The department has determined that source water treatment is not needed and the system demonstrates that, during at least three consecutive compliance periods in which sampling was conducted under 41.4(1)*"e"*(4)"1," the concentration of lead in source water was less than or equal to 0.005 mg/L and the concentration of copper in source water was less than or equal to 0.65 mg/L.

2. A water system using surface water (or a combination of surface water and groundwater) may reduce the monitoring frequency in 41.4(1)*"e"*(4)"1" to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and if that system meets one of the following criteria:

- The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the department in 567—subparagraph 43.7(3)*"b"*(4) for at least three consecutive years; or
- The department has determined that source water treatment is not needed and the system demonstrates that, during at least three consecutive years, the concentration of lead in source water was less than or equal to 0.005 mg/L and the concentration of copper in source water was less than or equal to 0.65 mg/L.

3. No change.

ITEM 24. Amend subparagraph **41.4(1)"f"(4)** as follows:

(4) Corrosivity indices methodology. The following methods must be used to calculate the corrosivity indices:

1. No change.

2. Langelier Index—"Standard Methods for the Examination of Water and Wastewater," 14th edition, American Public Health Association, ~~1015 15th Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710, (1975), Method 203, pp. 61-63.

ITEM 25. Amend subparagraph **41.4(1)"g"(1)**, table, as follows:

LEAD, COPPER AND WATER QUALITY PARAMETER ANALYTICAL METHODS

Contaminant	~~EPA Contaminant Code~~	Methodology[9]	Reference (Method Number)				
			EPA	ASTM[3]	SM	SM Online[16]	USGS[5] or Other
Alkalinity	~~1927~~	Titrimetric		D1067-92B, 02B, 06B, 11B	2320 B[11, 15, 18]	2320 B-97	
		Electrometric titration					I-1030-85
Calcium	~~1919~~	EDTA titrimetric		D511-93A, 03A, 09A, 14A	3500-Ca D[4]	3500-Ca B-97	
					3500-Ca B[12, 15, 18]	3500-Ca B-97	
		Atomic absorption; direct aspiration		D511-93B, 03B, 09B, 14B	3111 B[4, 15, 18]	3111 B-99	
		Inductively coupled plasma	200.7[2]		3120 B[11, 15, 18]	3120 B-99	
		Ion chromatography		D6919-03, 09			
		Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Rev. 4.2[17]				
Chloride	~~1017~~	Ion chromatography	300.0[8], 300.1[13]	D4327-97, 03	4110 B[11, 15]	4550 B-00	
		Potentiometric titration			4500-Cl- D[11, 15]	4500-Cl- D-97	
		Argentometric titration		D512-89B (reapproved 1999), D512-04B	4500-Cl- B[11, 15]	4500-Cl- B-97	
		Capillary ion electrophoresis					D6508, Rev. 2[14]
Conductivity	~~1064~~	Conductance		D1125-95A (reapproved 1999), 14A	2510 B[11, 15, 18]	2510 B-97	
Copper[6]	~~1022~~	Atomic absorption; furnace technique		D1688-95C, 02C, 07C, 12C	3113 B[4, 15, 18]	3113 B-99, 04, 10	
		Atomic absorption; direct aspiration		D1688-95A, 02A, 07A, 12A	3111 B[4, 15, 18]	3111 B-99	
		Inductively coupled plasma	200.7[2]		3120 B[11, 15, 18]	3120 B-99	
		Inductively coupled plasma; mass spectrometry	200.8[2]				
		Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Rev. 4.2[17]				
		Atomic absorption; platform furnace	200.9[2]				
		Colorimetric					Hach Method 8026[19], Hach Method 10272[20]

Contaminant	~~EPA Contaminant Code~~	Methodology[9]	Reference (Method Number)				
			EPA	ASTM[3]	SM	SM Online[16]	USGS[5] or Other
Lead[6]	~~1030~~	Atomic absorption; furnace technique		D3559-96D, 03D, 08D	3113 B[4, 15, 18]	3113 B-99, 04, 10	
		Inductively coupled plasma; mass spectrometry	200.8[2]				
		Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Rev. 4.2[17]				
		Atomic absorption; platform furnace technique	200.9[2]				
		Differential pulse anodic stripping ~~voltammatry~~ voltammetry					Method 1001[10]
pH	~~1925~~	Electrometric	150.1[1]	D1293-95, 99, 12	4500-H^+ B[11, 15, 18]	4500-H^+ B-00	
			150.2[1]				
Orthophosphate (Unfiltered, no digestion or hydrolysis)	~~1044~~	Colorimetric, automated, ascorbic acid	365.1[8]		4500-P F[11, 15, 18]	4500-P F-99	Thermo Fisher Discrete Analyzer[21]
		Colorimetric, ascorbic acid, single reagent		D515-88A	4500-P E[11, 15, 18]	4500-P E-99	
		Colorimetric, phosphomolybdate;					I-1602-85
		Automated-segmented flow					I-2601-90[8]
		Automated discrete					I-2598-85
		Ion chromatography	300.0[7], 300.1[13]	D4327-97, 03, 11	4110 B[11, 15, 18]	4110 B-00	
		Capillary ion electrophoresis					D6508, Rev. 2[14]
Silica	~~1049~~	Colorimetric, molybdate blue					I-1700-85
		Automated-segmented flow					I-2700-85
		Colorimetric		D859-95, 00, 05, 10			
		Molybdosilicate			4500-Si D[4]	4500-SiO_2 C-97	
					4500-SiO_2 C[12, 15, 18]	4500-SiO_2 C-97	
		Heteropoly blue			4500-Si E[15]	4500-SiO_2 D-97	
					4500-SiO_2 D[12, 15, 18]	4500-SiO_2 D-97	
		Automated method for molybdate-reactive silica			4500-Si F 4500-SiO_2 E[12, 15, 18]	4500-SiO_2 E-97	
		Inductively coupled plasma[6]	200.7[2]		3120 B[11, 15, 18]	3120 B-99	
		Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Rev. 4.2[17]				
Sulfate	~~1055~~	Ion chromatography	300.0[7], 300.1[13]	D4327-97, 03	4110[11, 15, 18]	4110 B-00	

Contaminant	~~EPA Contaminant Code~~	Methodology[9]	Reference (Method Number)				
			EPA	ASTM[3]	SM	SM Online[16]	USGS[5] or Other
		Automated methylthymol blue	375.2[7]		4500-SO_4 F[11, 15]	4500-SO_4-2 F-97	
		Gravimetric			4500-SO_4 C[11, 15]	4500-SO_4-2 C-97	
					4500-SO_4 D[11, 15]	4500-SO_4-2 D-97	
		Turbidimetric		D516-90, 02, 07	4500-SO_4 E[11, 15]	4500-SO_4-2 E-97	
		Capillary ion electrophoresis					D6508, Rev. 2[14]
Temperature	~~1996~~	Thermometric			2550 B[11, 15, 18]	2550-00, 10	
Total Filterable Residue (TDS)	~~1930~~	Gravimetric			2540 C[11, 15]	2540 C-97	

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at (800)426-4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street, SW, Washington, DC 20460 (telephone: (202)260-3027); or at the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

[1]"Methods for Chemical Analysis of Water and Wastes," EPA-600/4-79-020, March 1983. Available at NTIS as PB84-128677.

[2]"Methods for the Determination of Metals in Environmental Samples," EPA-600/4-91-010, June 1991. Available at NTIS as PB91-231498.

[3]Annual Book of ASTM Standards, 1994, 1996, ~~or~~ 1999, or 2003, Vols. 11.01 and 11.02, American Society for Testing and Materials, International; ~~any year containing the cited version of the method~~ the methods listed are the only versions that may be used. The previous versions of D1688-95A and D1688-95C (copper), D3559-95D (lead), D1293-95 (pH), D1125-91A (conductivity), and D859-94 (silica) are also approved. These previous versions, D1688-90A, C, D3559-90D, D1293-84, D1125-91A and D859-88, respectively, are located in the Annual Book of ASTM Standards, 1994, Volume 11.01. Copies may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428 or www.astm.org.

[4]18th and 19th editions of Standard Methods for the Examination of Water and Wastewater, 1992 and 1995, respectively, American Public Health Association. Either edition may be used. Copies may be obtained from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[5]Techniques of Water Resources Investigation of the U.S. Geological Survey, Book 5, Chapter A-1, 3rd ed., 1989. Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225-0425.

[6]Samples may not be filtered. Samples that contain less than 1 NTU (Nephelometric turbidity unit) and are properly preserved (concentrated nitric acid to pH < 2) may be analyzed directly (without digestion) for total metals; otherwise, digestion is required. When digestion is required, the total recoverable technique as defined in the method must be used.

[7]"Methods for the Determination of Inorganic Substances in Environmental Samples," EPA/600/R-93/100, August 1993. Available at NTIS as PB94-120821.

[8]"Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments, Open File Report 93-125." Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225-0425.

[9]Because MDLs reported in EPA Methods 200.7 and 200.9 were determined using a 2X preconcentration step during sample digestion, MDLs determined when samples are analyzed by direct analysis (i.e., no sample digestion) will be higher. Preconcentration may be required for direct analysis of lead by Methods 200.9, 3113B, and 3559-90D unless multiple in-furnace depositions are made.

[10]The description for Method 1001 is available from Palintest, Ltd., 21 Kenton Lands Road, P.O. Box 18395, Erlanger, KY 41018; or from the Hach Company, P.O. Box 389, Loveland, CO 80538.

[11]The 18th, 19th, and 20th editions of Standard Methods for the Examination of Water and Wastewater, 1992, 1995, and 1998, respectively, American Public Health Association. Any edition may be used, except that the versions of 3111B and 3113B in the 20th edition may not be used. Copies may be obtained from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[12]The 20th edition of Standard Methods for the Examination of Water and Wastewater, 1998, American Public Health Association. Copies may be obtained from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[13]"Methods for the Determination of Organic and Inorganic Compounds in Drinking Water," Vol. 1, EPA 815-R-00-014, August 2000. Available at NTIS, PB2000-106981.

[14]Method D6508, Rev. 2, "Test Method for Determination of Dissolved Inorganic Anions in Aqueous Matrices Using Capillary Ion Electrophoresis and Chromate Electrolyte," available from Waters Corp., 34 Maple Street, Milford, MA 01757; telephone: (508)482-2131.

[15]Standard Methods for the Examination of Water and Wastewater, 21st edition (2005), American Public Health Association. Available from the American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[16]Standard Methods Online is available at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[17]EPA Method 200.5, Revision 4.2: "Determination of Trace Elements in Drinking Water by Axially Viewed Inductively Coupled Plasma-Atomic Emission Spectrometry," 2003. EPA/600/R-06/115. Available at www.nemi.gov.

[18]Standard Methods for the Examination of Water and Wastewater, 22nd edition (2012), American Public Health Association. Available from the American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[19]Hach Company. "Hach Method 8026 – Spectrophotometric Measurement of Copper in Finished Drinking Water," December 2015, Revision 1.2. Available from www.hach.com.

[20]Hach Company. "Hach Method 10272 – Spectrophotometric Measurement of Copper in Finished Drinking Water," December 2015, Revision 1.2. Available from www.hach.com.

[21]Thermo Fisher. "Thermo Fisher Scientific Drinking Water Orthophosphate Method for Thermo Scientific Gallery Discrete Analyzer," February 2016. Revision 5. Thermo Fisher Scientific, Ratastie 2 01620 Vantaa, Finland.

ITEM 26. Amend paragraph **41.5(1)"b"** as follows:

b. Maximum contaminant levels (MCLs) and analytical methodology for organic compounds. The maximum contaminant levels for organic chemicals are listed in the table in subparagraph 41.5(1)*"b"*(1). Analyses for the contaminants in this subrule shall be conducted using the following methods, or their equivalent as approved by EPA. For analysis of a compliance sample, a certified laboratory must be able to achieve at least the method detection limit for the specific contaminant as listed in the following table.

(1) Table:

ORGANIC CHEMICAL CONTAMINANTS, CODES, MCLS, ANALYTICAL METHODS, AND DETECTION LIMITS

Contaminant	EPA Contaminant Code	MCL (mg/L)	Methodology[1]	Detection Limit (mg/L)
Volatile Organic Chemicals (VOCs):				
Benzene	2990	0.005	502.2, 524.2, 524.3, 524.4[7]	0.0005
Carbon tetrachloride	2982	0.005	502.2, 524.2, 524.3, 524.4[7], 551.1	0.0005
Chlorobenzene (mono)	2989	0.1	502.2, 524.2, 524.3, 524.4[7]	0.0005
1,2-Dichlorobenzene (ortho)	2968	0.6	502.2, 524.2, 524.3, 524.4[7]	0.0005
1,4-Dichlorobenzene (para)	2969	0.075	502.2, 524.2, 524.3, 524.4[7]	0.0005
1,2-Dichloroethane	2980	0.005	502.2, 524.2, 524.3, 524.4[7]	0.0005
1,1-Dichloroethylene	2977	0.007	502.2, 524.2, 524.3, 524.4[7]	0.0005
cis-1,2-Dichloroethylene	2380	0.07	502.2, 524.2, 524.3, 524.4[7]	0.0005

Contaminant	EPA Contaminant Code	MCL (mg/L)	Methodology[1]	Detection Limit (mg/L)
trans-1,2-Dichloroethylene	2979	0.1	502.2, 524.2, 524.3, 524.4[7]	0.0005
Dichloromethane	2964	0.005	502.2, 524.2, 524.3, 524.4[7]	0.0005
1,2-Dichloropropane	2983*	0.005	502.2, 524.2, 524.3, 524.4[7]	0.0005
Ethylbenzene	2992	0.7	502.2, 524.2, 524.3, 524.4[7]	0.0005
Styrene	2996	0.1	502.2, 524.2, 524.3, 524.4[7]	0.0005
Tetrachloroethylene	2987	0.005	502.2, 524.2, 524.3, 524.4[7], 551.1	0.0005
Toluene	2991	1	502.2, 524.2, 524.3, 524.4[7]	0.0005
1,1,1-Trichloroethane	2981	0.2	502.2, 524.2, 524.3, 524.4[7], 551.1	0.0005
Trichloroethylene	2984	0.005	502.2, 524.2, 524.3, 524.4[7], 551.1	0.0005
1,2,4-Trichlorobenzene	2378	0.07	502.2, 524.2, 524.3, 524.4[7]	0.0005
1,1,2-Trichloroethane	2985	0.005	502.2, 524.2, 524.3, 524.4[7], 551.1	0.0005
Vinyl chloride	2976	0.002	502.2, 524.2, 524.3, 524.4[7]	0.0005
Xylenes (total)	2955*	10	502.2, 524.2, 524.3, 524.4[7]	0.0005
Synthetic Organic Chemicals (SOCs):				
Alachlor[3]	2051	0.002	505, 507, 508.1, 525.2, 525.3, 551.1	0.0002
Aldicarb	2047	0.003	531.1, 6610	0.0005
Aldicarb sulfone	2044	0.002	531.1, 6610	0.0008
Aldicarb sulfoxide	2043	0.004	531.1, 6610	0.0005
Atrazine[3]	2050	0.003	505, 507, 508.1, 523, 525.2, 525.3, 536, 551.1, Syngenta AG-625[5]	0.0001
Benzo(a)pyrene	2306	0.0002	525.2, 525.3, 550, 550.1	0.00002
Carbofuran	2046	0.04	531.1, 531.2, 6610, 6610B, 6610 B-04[2]	0.0009
Chlordane[3]	2959	0.002	505, 508, 508.1, 525.2, 525.3	0.0002
2,4-D[6] (as acids, salts, and esters)	2105	0.07	515.1, 515.2, 515.3, 515.4, 555, D5317-93, 98 (Reapproved 2003), 6610B, 6640-B, 6640 B-01, 6640 B-06	0.0001
Dalapon	2031	0.2	515.1, 515.3, 515.4, 552.1, 552.2, 552.3, 557, 6640, 6610B, 6640-B, 6640 B-01, 6640 B-06	0.001
1,2-Dibromo-3-chloropropane (DBCP)	2931	0.0002	504.1, 524.3, 551.1	0.00002
Di(2-ethylhexyl)adipate	2035	0.4	506, 525.2, 525.3	0.0006
Di(2-ethylhexyl)phthalate	2039	0.006	506, 525.2, 525.3	0.0006

Contaminant	EPA Contaminant Code	MCL (mg/L)	Methodology[1]	Detection Limit (mg/L)
Dinoseb[6]	2041	0.007	515.1, 515.2, 515.3, 515.4, 555, 6610B, 6640-B, 6640 B-01, 6640 B-06	0.0002
Diquat	2032	0.02	549.2	0.0004
Endothall	2033	0.1	548.1	0.009
Endrin[3]	2005	0.002	505, 508, 508.1, 525.2, 525.3, 551.1	0.00001
Ethylene dibromide (EDB)	2946	0.00005	504.1, 524.3, 551.1	0.00001
Glyphosate	2034	0.7	547, 6651, 6651B, 6651 B-00, 6640 B-05	0.006
Heptachlor[3]	2065	0.0004	505, 508, 508.1, 525.2, 525.3, 551.1	0.00004
Heptachlor epoxide[3]	2067	0.0002	505, 508, 508.1, 525.2, 525.3, 551.1	0.00002
Hexachlorobenzene[3]	2274	0.001	505, 508, 508.1, 525.2, 525.3, 551.1	0.0001
Hexachlorocyclopentadiene[3]	2042	0.05	505, 508, 508.1, 525.2, 525.3, 551.1	0.0001
Lindane (gamma BHC)[3]	2010	0.0002	505, 508, 508.1, 525.2, 525.3, 551.1	0.00002
Methoxychlor[3]	2015	0.04	505, 508, 508.1, 525.2, 525.3, 551.1	0.0001
Oxamyl	2036	0.2	531.1, 531.2, 6610, 6610B, 6610 B-04[2]	0.002
Pentachlorophenol	2326	0.001	515.1, 515.2, 515.3, 515.4, 525.2, 525.3, 555, D5317-93, 98 (Reapproved 2003), 6610B, 6640-B, 6640 B-01, 6640 B-06	0.00004
Picloram[3, 6]	2040	0.5	515.1, 515.2, 515.3, 515.4, 555, D5317-93, 98 (Reapproved 2003), 6610B, 6640-B, 6640 B-01, 6640 B-06	0.0001
Polychlorinated biphenyls[4] (as decachlorobiphenyl) (as Arochlors)[3]	2383	0.0005	508A 505, 508, 508.1, 525.2, 525.3	0.0001
Simazine[3]	2037	0.004	505, 507, 508.1, 523, 525.2, 525.3, 536, 551.1	0.00007
2,3,7,8-TCDD (dioxin)	2063	$3x10^{-8}$	1613	$5x10^{-9}$
2,4,5-TP[6] (Silvex)	2110	0.05	515.1, 515.2, 515.3, 515.4, 555, D5317-93, 98 (Reapproved 2003), 6610B, 6640-B, 6640 B-01, 6640 B-06	0.0002
Toxaphene[3]	2020	0.003	505, 508, 508.1, 525.2, 525.3	0.001

*As of January 1, 1999, the contaminant codes for the following compounds were changed from the Iowa Contaminant Code to the EPA Contaminant Code:

Contaminant	Iowa Contaminant Code (Old)	EPA Contaminant Code (New)
1,2 Dichloropropane	2325	2983
Xylenes (total)	2974	2955

[1]Analyses for the contaminants in this section shall be conducted using the following EPA methods or their equivalent as approved by EPA. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at EPA's Drinking Water Docket, EPA West, 1301 Constitution Avenue, NW, Room ~~B102~~ 3334, Washington, DC 20460 (telephone: (202) 566-2426); or at the ~~Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC~~ National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202)741-6030, or via Internet at www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

The following methods are available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161 (telephone: (800)553-6847).

Methods for the Determination of Organic Compounds in Drinking Water, EPA-600/4-88-039, December 1988, Revised July 1991 (NTIS PB91-231480): Methods 508A and 515.1.

Methods for the Determination of Organic Compounds in Drinking Water—Supplement I, EPA-600/4-90-020, July 1990 (NTIS PB91-146027): Methods 547, 550, 550.1.

Methods for the Determination of Organic Compounds in Drinking Water—Supplement II, EPA-600/R-92-129, August 1992 (NTIS PB92-207703): Methods 548.1, 552.1, 555.

Methods for the Determination of Organic Compounds in Drinking Water—Supplement III, EPA-600/R-95-131, August 1995 (NTIS PB95-261616): Methods 502.2, 504.1, 505, 506, 507, 508, 508.1, 515.2, 524.2, 525.2, 531.1, 551.1, 552.2.

EPA Method 523, "Determination of Triazine Pesticides and Their Degradates in Drinking Water by Gas Chromatography/Mass Spectrometry (GC/MS)," 2011. EPA-815-R-11-002. Available at www.nepis.epa.gov.

EPA Method 524.3, Version 1.0. "Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry," June 2009. EPA 815-B-09-009. Available at www.nemi.gov.

EPA Method 525.3, "Determination of Semivolatile Organic Chemicals in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatograph/Mass Spectrometry (GC/MS)," 2012. EPA/600/R-12-010. Available at www.nepis.epa.gov.

EPA Method 536, "Determination of Triazine Pesticides and Their Degradates in Drinking Water by Liquid Chromatography Electrospray Ionization Tandem Mass Spectrometry (LC/ESI-MS/MS)," 2007. EPA/815-B-07-002. Available at www.nepis.epa.gov.

EPA Method 557, "Determination of Haloacetic Acids, Bromate, and Dalapon in Drinking Water by Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry (IC-ESI-MS/MS)," September 2009. EPA 815-B-09-012. Available at www.nemi.gov.

Method 1613 "Tetra-through Octa-Chlorinated Dioxins and Furans by Isotope-Dilution HRGC/HRMS," EPA-821-B-94-005, October 1994 (NTIS PB95-104774).

The following American Public Health Association (APHA) documents are available from APHA, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

Supplement to the 18th Edition of Standard Methods for the Examination of Water and Wastewater, 1994, Standard Methods for the Examination of Water and Wastewater, 19th edition, 1995, ~~or~~ 20th edition, 1998, 21st edition, 2005, or 22nd edition, 2012 (any of ~~the three~~ these editions may be used), APHA: Method 6610 and (carbofuran and oxamyl only) 6610B and 6610 B-04; Method 6640B (21st and 22nd editions only) and SM online 6640 B-01 for 2,4-D, 2,4,5-TP Silvex, dalapon, dinoseb, pentachlorophenol, and picloram; Method 6651B (21st and 22nd editions only) and SM online 6670-B-00 for glyphosate.

Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992, 19th edition, 1995, or 20th edition, 1998, (any of ~~the three~~ these editions may be used), APHA: Method 6651.

The following American Society for Testing and Materials (ASTM) method is available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

Annual book of ASTM Standards, 1999, Vol. 11.02 (or any edition published after 1993), ASTM: D5317-93, 98 (Reapproved 2003).

Methods 515.3 and 549.2 are available from U.S. EPA NERL, 26 W. Martin Luther King Drive, Cincinnati, OH 45268.

Method 515.4, "Determination of Chlorinated Acids in Drinking Water by Liquid-Liquid Microextraction, Derivatization and Fast Gas Chromatography with Electron Capture Detection," Revision 1.0, April 2000, EPA 815/B-00/001 and EPA Method 552.3, "Determination of Haloacetic Acids and Dalapon in Drinking Water by Liquid-liquid Microextraction, Derivatization, and Gas Chromatography with Electron Capture Detection," Revision 1.0, July 2003, EPA 815-B-03-002, available at www.epa.gov/safewater/methods/sourcalt.html.

Method 531.2, "Measurement of n-Methylcarbamoyloximes and n-Methylcarbamates in Water by Direct Aqueous Injection HPLC with ~~Photocol-umn~~ Postcolumn Derivatization," Revision 1.0, September 2001, EPA 815/B-01/002, available at www.epa.gov/safewater/methods/sourcalt.html.

Syngenta AG-625 Method, "Atrazine in Drinking Water by Immunoassay," February 2001, is available from Syngenta Crop Protection, Inc., 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419, telephone (336)632-6000.

Other required analytical test procedures germane to the conduct of these analyses are contained in Technical Notes on Drinking Water Methods, EPA-600/R-94-173, October 1994 (NTIS PB95-104766).

[2]~~Reserved.~~ Standard Methods Online is available at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[3]Substitution of the detector specified in Method 505, 507, 508, or 508.1 for the purpose of achieving lower detection limits is allowed as follows. Either an electron capture or nitrogen-phosphorus detector may be used provided all regulatory requirements and quality control criteria are met.

[4]PCBs are qualitatively identified as Aroclors and measured for compliance purposes as decachlorobiphenyl. Users of Method 505 may have more difficulty in achieving the required detection limits than users of Method 508. 508.1, or 525.2.

[5]~~Reserved.~~ This method may not be used for the analysis of atrazine in any system where chlorine dioxide is used in the drinking water treatment. In samples from all other systems, any result for atrazine generated by Method AG-625 that is greater than one-half the MCL (i.e., greater than 0.0015 mg/L) must be confirmed using another approved method for this contaminant and should use additional volume of the original sample collected for compliance monitoring. In instances where a result from Method AG-625 triggers such confirmatory testing, the confirmatory result is to be used to determine compliance.

[6]Accurate determination of the chlorinated esters requires hydrolysis of the sample as described in EPA Methods 515.1, 515.2, 515.3, 515.4, and 555, and ASTM Method D5317-93, 98 (Reapproved 2003).

[7]EPA Method 524.4, Version 1.0. "Measurement of Purgeable Organic Compounds in Water by Gas Chromatography/Mass Spectrometry Using Nitrogen Purge Gas," May 2013, EPA 815-R-13-002.

(2) and (3) No change.

ITEM 27. Amend numbered paragraph **41.5(1)"c"(7)"4,"** table, fourth row, as follows:

Sources of Contamination	Shallow Wells as defined in 567—40.2(455B)	Deep Wells as defined in 567—40.2(455B)
Chemical and mineral storage (aboveground)	200 ft	l00 ft

ITEM 28. Amend subparagraph **41.6(1)"d"(2)** as follows:

(2) Systems must measure disinfection byproducts by the methods (as modified by the footnotes) listed in the following table:

Approved Methods for Disinfection Byproduct Compliance Monitoring

Contaminant and Methodology	EPA Method[1]	Standard Method[2]	ASTM Method[3]
TTHM			
P&T/GC/EICD & PID	502.2[4]		
P&T/GC/MS	524.2, 524.3, 524.4		
LLE/GC/ECD	551.1		
HAA5			
LLE (diazomethane)/GC/ECD		6251 B[5], 6251 B-07[12]	
SPE (acidic methanol)/GC/ECD	552.1[5]		
LLE (acidic methanol)/GC/ECD	552.2, 552.3		
Ion chromatography electrospray ionization tandem mass spectrometry (IC-ESI-MS/MS)	557[10]		
Bromate			
Ion chromatography	300.1		D 6581-00
Ion chromatography & postcolumn reaction[9]	317.0 Rev. 2.0[6], 326.0[6]		

Contaminant and Methodology	EPA Method[1]	Standard Method[2]	ASTM Method[3]
IC/ICP-MS[9]	321.8[6, 7]		
Two-dimensional ion chromatography (IC)	302.0[11]		
Ion chromatography electrospray ionization tandem mass spectrometry (IC-ESI-MS/MS)	557[10]		
Chemically suppressed ion chromatography			D 6581-08 A
Electrolytically suppressed ion chromatography			D 6581-08 B
Chlorite[8]			
Amperometric titration		4500-ClO_2 E[8]	
Amperometric sensor			ChlordioX Plus[8, 13]
Spectophotometry	327.0 Rev. 1.1[8]		
Ion chromatography	300.0, 300.1, 317.0 Rev. 2, 326.0		
Chemically suppressed ion chromatography			D 6581-08 A
Electrolytically suppressed ion chromatography			D 6581-08 B

ECD = electron capture detector
EICD = electrolytic conductivity detector
GC = gas chromatography
IC = ion chromatography
LLE = liquid/liquid extraction
MS = mass spectrometer
P&T = purge and trap
PID = photoionization detector
SPE = solid phase extractor

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents was approved by the Director of the Federal Register on February 16, 1999, in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at (800)426-4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street, SW, Washington, DC 20460 (telephone: (202)260-3027); or at the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC 20408.

[1]EPA: The following methods are available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161 (telephone: (800)553-6847):

Methods 300.0 and 321.8: Methods for the Determination of Organic and Inorganic Compounds in Drinking Water, Volume 1, USEPA, August 2000, EPA 815-R-00-014 (available through NTIS, PB2000-106981).

Method 300.1: "Determination of Inorganic Anions in Drinking Water by Ion Chromatography, Revision 1.0," EPA-600/R-98/118, 1997 (available through NTIS, PB98-169196).

Method 317.0: "Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography with the Addition of a Postcolumn Reagent for Trace Bromate Analysis, Revision 2.0," USEPA, July 2001, EPA 815-B-01-001.

Method 326.0: "Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography Incorporating the Addition of a Suppressor Acidified Postcolumn Reagent for Trace Bromate Analysis, Revision 1.0," USEPA, June 2002, EPA 815-R-03-007.

Method 327.0: "Determination of Chlorine Dioxide and Chlorite Ion in Drinking Water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry, Revision 1.1," USEPA, May 2005, EPA 815-R-05-008.

Methods 502.2, 524.2, 551.1, and 552.2: Methods for the Determination of Organic Compounds in Drinking Water—Supplement III, EPA-600/R-95-131, August 1995 (NTIS PB95-261616).

Method 524.3: "Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry, Version 1.0," June 2009. EPA 815-B-09-009. Available at www.nemi.gov.

Method 524.4: "Measurement of Purgeable Organic Compounds in Water by Gas Chromatography/Mass Spectrometry Using Nitrogen Purge Gas, Version 1.0," May 2013. EPA 815-R-13-002. Available at www.nepis.epa.gov.

Method 552.1: Methods for the Determination of Organic Compounds in Drinking Water—Supplement II, EPA-600/R-92-129, August 1992 (NTIS PB92-207703).

Method 552.3: "Determination of Haloacetic Acids and Dalapon in Drinking Water by Liquid-liquid Microextraction, Derivatization, and Gas Chromatography with Electron Capture Detection, Revision 1.0," USEPA, July 2003, EPA-815-B-03-002.

[2]4500-ClO2 E and 6251B: Standard Methods for the Examination of Water and Wastewater, 19th (1995), ~~and~~ 20th (1998), 21st (2005), and 22nd (2012) editions, American Public Health Association, ~~1995 and 1998, respectively,~~ which ~~is~~ are available from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[3]Method D 6581-00: American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohoken, PA 19428: Annual Book of ASTM Standards, Volume 11.01, American Society for Testing and Materials, 2001 (or any year containing the cited version).

[4]If TTHMs are the only analytes being measured in the sample, then a PID is not required.

[5]The samples must be extracted within 14 days of sample collection.

[6]Ion chromatography and postcolumn reaction or IC/ICP-MS must be used for bromate analysis for purposes of demonstrating eligibility of reduced monitoring.

[7]Samples must be preserved at sample collection with 50 mg ethylenediamine (EDA)/L of sample and must be analyzed within 28 days.

[8]Amperometric titration or spectrophotometry may be used for routine daily monitoring of chlorite at the entrance to the distribution system, as prescribed in 41.6(1)*"c"*(3)"1." Ion chromatography must be used for routine monthly monitoring of chlorite and additional monitoring of chlorite in the distribution system, as prescribed in 41.6(1)*"c"*(3)"2" and "3."

[9]These are the only methods approved for reduced bromate monitoring under 41.6(1)*"c"*(2)"2."

[10]EPA Method 557, "Determination of Haloacetic Acids, Bromate, and Dalapon in Drinking Water by Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry (IC-ESI-MS/MS)," August 2009. EPA 815-B-09-012. Available at www.nemi.gov.

[11]EPA Method 302.0, "Determination of Bromate in Drinking Water Using Two-Dimensional Ion Chromatography with Suppressed Conductivity Detection," September 2009. EPA 815-B-014. Available at www.nemi.gov.

[12]Standard Methods Online is available at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[13]ChlordioX Plus. "Chlorine Dioxide and Chlorite in Drinking Water by Amperometry Using Disposable Sensors," November 2013. Available from Palintest Ltd., Jamike Avenue (Suite 100), Erlanger, KY 41018.

ITEM 29. Amend paragraph **41.6(3)"c"** as follows:

c. Routine monitoring. Systems are required to start monitoring at the locations specified in the approved disinfection byproducts monitoring plan and on the schedule specified in 41.6(3)*"a"*(1). Each system must monitor the disinfection byproducts at the minimum number of locations identified in the Routine Monitoring table.

Routine Monitoring

Source water type	Population size category	Monitoring frequency	Total number of distribution system monitoring location sites per monitoring period
SW/IGW	<500	per year	2
	500-3,300	per quarter	2
	3,301-9,999	per quarter	2
	10,000-49,999	per quarter	4
	50,000-249,999	per quarter	8
	250,000-999,999	per quarter	12
Groundwater	<500	per year	2
	500-9,999	per year	2
	10,000-99,999	per quarter	4
	100,000-499,999	per quarter	6

(1) to (4) No change.

ITEM 30. Amend paragraph **41.6(3)"d"** as follows:

d. Reduced monitoring. A system may reduce monitoring to the level specified in the Reduced Monitoring table anytime the locational running annual average is less than or equal to half the MCL for TTHM and HAA5 at all monitoring locations (i.e., less than or equal to 0.040 mg/L for TTHM and

0.030 mg/L for HAA5). Only data collected under the provisions of this rule may be used to qualify for reduced monitoring.

Reduced Monitoring

Source water type	Population size category	Monitoring frequency[1]	Distribution system monitoring location sites per monitoring period[2]
SW/IGW	<500	per year	Monitoring may not be reduced
	500-3,300	per year	1 sample per year at the same location if the highest TTHM and HAA5 measurements occurred at the same location and in the same quarter, analyzed for both TTHM and HAA5
	3,301-9,999	per year	2 samples: one at the location and during the quarter with the highest TTHM single measurement; one at the location and during the quarter with the highest HAA5 single measurement
	10,000-49,999	per quarter	2 samples: one at the highest TTHM LRAA location and one at the highest HAA5 LRAA location
	50,000-249,999	per quarter	4 samples: one sample each at the highest two TTHM LRAA locations and one sample each at the highest two HAA5 LRAA locations
	250,000-999,999	per quarter	6 samples: one sample each at the highest three TTHM LRAA locations and one sample each at the highest three HAA5 LRAA locations
Groundwater	<500	every third year	1 sample ~~per year~~ at the same location if the highest TTHM and HAA5 measurements occurred at the same location and in the same quarter, analyzed for both TTHM and HAA5
	500-9,999	per year	1 sample per year at the same location if the highest TTHM and HAA5 measurements occurred at the same location and in the same quarter, analyzed for both TTHM and HAA5
	10,000-99,999	per year	2 samples: one at the location and during the quarter with the highest TTHM single measurement; one at the location and during the quarter with the highest HAA5 single measurement
	100,000-499,999	per quarter	2 samples: one at the highest TTHM LRAA location and one at the highest HAA5 LRAA location

[1]Systems on a quarterly monitoring frequency must collect the sample(s) every 90 days.

[2]Each sample must be analyzed for all TTHM and HAA5 components.

(1) to (4) No change.

ITEM 31. Adopt the following **new** rule 567—41.7(455B):

567—41.7(455B) Groundwater rule: sanitary survey, microbial source water monitoring, treatment technique.

41.7(1) *General requirements.*

a. Scope. The requirements of this rule constitute national primary drinking water regulations.

b. Applicability. This rule applies to all public water systems that use groundwater except that it does not apply to public water systems that combine all of their groundwater with surface water or with influenced groundwater prior to treatment under 567—43.5(455B). For the purposes of this rule, "groundwater system" is defined as any public water system meeting this applicability statement,

including consecutive systems receiving finished groundwater. For the purposes of this rule, "4-log treatment of viruses" means treatment that includes inactivation, removal, or a department-approved combination of inactivation and removal before or at the first customer of 4-log (99.99%) of viruses.

c. General requirements. Systems subject to this rule must comply with the following requirements:

(1) Sanitary survey information requirements for all groundwater systems as described in 41.7(2).

(2) Microbial source water monitoring requirements for groundwater systems that do not treat all of their groundwater to at least 99.99 percent (4-log) treatment of viruses, using inactivation, removal, or a department-approved combination of inactivation and removal before or at the first customer, as described in 41.7(3).

(3) Treatment technique requirements, as described in 41.7(4), that apply to groundwater systems that have fecally contaminated source waters, as determined by source water monitoring conducted under 41.7(3), or that have significant deficiencies that are identified by the department. A groundwater system with fecally contaminated source water or with significant deficiencies subject to the treatment technique requirements of this rule must implement one or more of the following corrective action options:

1. Correct all significant deficiencies;
2. Provide an alternate source of water;
3. Eliminate the source of contamination; or
4. Provide treatment that reliably achieves at least 4-log treatment of viruses (using inactivation, removal, or a department-approved combination of 4-log virus inactivation and removal) before or at the first customer.

(4) Groundwater systems that provide at least 4-log treatment of viruses are required to conduct compliance monitoring to demonstrate treatment effectiveness, as described in 41.7(4).

(5) If requested by the department, groundwater systems must provide the department with any existing information that will enable the department to perform a hydrogeologic sensitivity assessment. For the purposes of this rule, "hydrogeologic sensitivity assessment" is a determination of whether groundwater systems obtain water from hydrogeologically sensitive settings.

(6) Certified laboratory requirements. Analyses under this rule shall only be conducted by laboratories that have been certified by the department and are in compliance with the requirements of 567—Chapter 83.

41.7(2) *Sanitary surveys for groundwater systems.* For the purposes of this rule, a "sanitary survey," as conducted by the department in accordance with 567—subrule 43.1(7), includes but is not limited to the following: an on-site review of the water sources (identifying sources of contamination using results of source water assessments or other relevant information where available), facilities, equipment, operation, maintenance, and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

41.7(3) *Groundwater source microbial monitoring and analytical methods.* A groundwater system that has a department-approved 4-log treatment process for viruses and is fulfilling the requirements of 41.7(4)*"b"* is not required to conduct the triggered source water monitoring under 41.7(3)*"a."*

a. Triggered source water monitoring.

(1) General requirements. A groundwater system must conduct triggered source water monitoring if the conditions identified as follows exist:

1. The system does not provide at least 4-log treatment of viruses for each groundwater source; and
2. The system is notified that a sample collected under 41.2(1)*"e"* through 41.2(1)*"i"* is total coliform-positive, and the sample is not invalidated under 41.2(1)*"d."*

(2) Sampling requirements. A groundwater system must collect at least one groundwater source sample from each groundwater source in use at the time the total coliform-positive sample was collected under 41.2(1)*"e"* through 41.2(1)*"i"* that could have reasonably contributed to the positive sample. The source sample must be collected within 24 hours of when the system is notified of the total coliform-positive sample.

1. The department may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the groundwater source water sample within 24 hours due to circumstances beyond the system's control. In the case of an extension, the department must specify how much time the system has to collect the sample.

2. A groundwater system serving 1,000 or fewer people may use a repeat sample collected from a groundwater source to meet both the requirements of 41.2(1)*"j"* and to satisfy the monitoring requirements of 41.7(3)*"a"* if:

- The department approves the use of *E. coli* as the fecal indicator,
- The system only has one groundwater source required to be sampled,
- The system has no treatment, and
- Should the source water sample be *E. coli*-positive, the system would incur an acute coliform bacteria maximum contaminant level violation, must comply with Tier 1 public notification requirements, and must also comply with the additional sample monitoring in 41.7(3)*"a"*(3).

(3) Additional samples required. Unless the department requires corrective action for a valid triggered source water sample that tested positive for the fecal indicator, the system must collect five additional source water samples from that same source within 24 hours of being notified of the fecal indicator-positive sample result.

(4) Further requirements for consecutive and wholesale systems.

1. In addition to the other requirements in 41.7(3)*"a,"* a consecutive groundwater system that has a total coliform-positive sample collected under 41.2(1)*"f"* through 41.2(1)*"i"* must notify the wholesale system(s) within 24 hours of being notified of the total coliform-positive sample.

2. In addition to the other requirements in 41.7(3)*"a,"* a wholesale groundwater system that does not provide the 4-log treatment of viruses as described in 41.7(3) must comply with the following:

- A wholesale groundwater system that receives notice from a consecutive system it serves that a sample collected under 41.2(1)*"f"* through 41.2(1)*"i"* is total coliform-positive must, within 24 hours of being notified, collect triggered sample(s) from its groundwater source(s) under 41.7(3)*"a"*(2) and analyze the sample(s) for a fecal indicator.
- If the triggered source sample(s) is fecal indicator-positive, the wholesale groundwater system must notify all consecutive systems served by that groundwater source of the fecal indicator-positive result within 24 hours of being notified of the result and must collect the required additional five samples from the source within 24 hours under 41.7(3)*"a"*(3).

(5) Exceptions to the triggered source water monitoring requirements. A groundwater system is not required to comply with the source water monitoring requirements of 41.7(3)*"a"* if either of the following conditions exists:

1. The department determines and documents in writing that the total coliform-positive sample collected under 41.2(1)*"e"* through 41.2(1)*"i"* is caused by a distribution system deficiency; or

2. The total coliform-positive sample collected under 41.2(1)*"e"* through 41.2(1)*"i"* is collected at a location that meets department criteria for distribution system conditions that will cause total coliform-positive samples.

b. Assessment source water monitoring. If directed by the department, groundwater systems must conduct assessment source water monitoring that meets department-determined requirements for such monitoring. A groundwater system conducting assessment source water monitoring may use a triggered source water sample collected under 41.7(3)*"a"*(2) to meet the requirements of this paragraph. Department-determined assessment source water monitoring requirements may include:

(1) Collection of a total of 12 groundwater source samples that represent each month the system provides groundwater to the public;

(2) Collection of samples from each well unless the system obtains written department approval to conduct monitoring at one or more wells within the groundwater system that are representative of multiple wells used by that system and that draw water from the same hydrogeologic setting;

(3) Collection of a standard sample volume of at least 100 mL for fecal indicator analysis regardless of technical indicator or analytical method used;

(4) Analysis of all groundwater source samples using one of the analytical methods listed in 41.7(3)*"c"* for the presence of *E. coli*, enterococci, or coliphage;

(5) Collection of groundwater source samples at a location before any treatment of the groundwater source unless the department approves a sampling location after treatment; and

(6) Collection of groundwater source samples at the well itself unless the system's configuration does not allow for sampling at the well itself and the department approves an alternate sampling location that is representative of the water quality of that well.

c. Analytical methods.

(1) A groundwater system subject to the source water monitoring requirements of this rule must collect a standard sample volume of at least 100 mL for fecal indicator analysis regardless of the fecal indicator or analytical method used.

(2) A groundwater system must analyze all groundwater source samples collected under 567—41.7(455B) using one of the analytical methods in the following table for the presence of *E. coli*, enterococci, or coliphage.

Analytical Methods for Source Water Monitoring

Fecal Indicator[1]	Methodology	Method Citation
E. coli	Colilert[3]	9223B[2, 12, 13] 9223 B-97, B-04[18]
	Colisure[3]	9223B[2, 12, 13] 9223B-97, B-04[18]
	Membrane filter method with MI agar	EPA Method 1604[4]
	Colilert-18	9223B[2, 12, 13] 9223B-97, B-04[18]
	m-ColiBlue24 Test[5]	
	E*Colite Test[6]	
	EC-MUG[7]	9221F[2, 13] 9221 F-06[18]
	NA-MUG[7]	9222G[2]
	Readycult	Readycult[14]
	Colitag	Modified Colitag[15]
	Chromocult	Chromocult[16]
	Tecta EC/TC	Tecta EC/TC[19]
Enterococci	Multiple-tube technique	9230B[2] 9230 B-04[18]
	Membrane filter technique	9230C[2]
	Membrane filter technique	EPA Method 1600[8]
	Enterolert[9]	
Coliphage	Two-step enrichment presence-absence procedure	EPA Method 1601[10], FastPhage[17]
	Single agar layer procedure	EPA Method 1602[11]

Analyses must be conducted in accordance with the documents listed below. The Director of the Federal Register approves the incorporation by reference of the documents listed in footnotes 2 through 11 in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Copies may be inspected at EPA's Drinking Water Docket, EPA West, 1301 Constitution Avenue, NW, EPA West Room B102, Washington, DC 20460; (telephone: (202)566-2426); or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202)741-6030, or go to: www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The address for EPA's Water Resource Center, referenced in several of the footnotes, is EPA Water Resource Center (RC-4100T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

[1]The time from sample collection to initiation of analysis may not exceed 30 hours. The groundwater system is encouraged but is not required to hold samples below 10°C during transit.

[2]Methods are described in Standard Methods for the Examination of Water and Wastewater, 20th edition (1998), and copies may be obtained from the American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[3]Medium is available through IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, ME 04092.

[4]EPA Method 1604: Total Coliforms and *Escherichia coli* in Water by Membrane Filtration Using a Simultaneous Detection Technique (MI Medium); September 2002, EPA 821-R-02-024. Method is available at www.nemi.gov.

[5]A description of the m-ColiBlue24 Test, "Total Coliforms and *E. coli* Membrane Filtration Method with m-ColiBlue24 Broth," Method No. 10029, Revision 2, August 17, 1999, is available from Hach Company, 100 Dayton Avenue, Ames, IA 50010.

[6]A description of the E*Colite Test, "Charm E*Colite Presence/Absence Test for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Drinking Water," January 9, 1998, is available from Charm Sciences, Inc., 659 Andover Street, Lawrence, MA 01843-1032.

[7]EC-MUG (Method 9221F) or NA-MUG (Method 9222G) can be used for *E. coli* testing step as described in 41.2(1)*"f"*(6) or (7) after use of Standard Method 9221B, 9221D, 9222B, or 9222C.

[8]EPA Method 1600: Enterococci in Water by Membrane Filtration Using Membrane-Enterococcus Indoxyl-β-D-Glucoside Agar (MEI), EPA 821-R-02-022 (September 2002), is an approved variation of Standard Method 9230C. The method is available at www.nemi.gov. The holding time and temperature for groundwater samples is specified in footnote 1 above, rather than as specified in Section 8 of EPA Method 1600.

[9]Medium is available through IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, ME 04092. Preparation and use of the medium is set forth in the article "Evaluation of Enterolert for Enumeration of Enterococci in Recreational Waters" by Budnick, G.E., Howard, R.T., and Mayo, D.R., 1996, Applied and Environmental Microbiology, 62:3881-3884.

[10]EPA Method 1601: Male-Specific (F+) and Somatic Coliphage in Water by Two-Step Enrichment Procedure; April 2001, EPA 821-R-01-030. Method is available at www.nemi.gov.

[11]EPA Method 1602: Male-Specific (F+) and Somatic Coliphage in Water by Single Agar Layer (SAL) Procedure; April 2001, EPA 821-R-01-029. Method is available at www.nemi.gov.

[12]Standard Methods for the Examination of Water and Wastewater, 21st edition (2005). Available from the American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[13]Standard Methods for the Examination of Water and Wastewater, 22nd edition (2012). Available from the American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[14]Readycult Method, "Readycult Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters," January 2007, Version 1.1. Available from EMD Millipore, 290 Concord Road, Billerica, MA 01821.

[15]Modified Colitag Method, "Modified Colitag Test Method for the Simultaneous Detection of *E. coli* and Other Total Coliforms in Water (ATP D05-0035)," August 28, 2009. Available from www.nemi.gov or CPI International, 5580 Skylane Blvd., Santa Rosa, CA 95403.

[16]Chromocult Method, "Chromocult Coliform Agar Presence/Absence Membrane Filter Test Method for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters," November 2000, Version 1.0. Available from EMD Millipore, 290 Concord Road, Billerica, MA 01821.

[17]Charm Sciences, Inc., "FastPhage Test Procedure. Presence/Absence for Coliphage in Ground Water with Same Day Positive Prediction," Version 009, November 2012. Available at www.charmsciences.com.

[18]Standard Methods Online is available at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[19]Tecta EC/TC. "Presence/Absence Method for Simultaneous Detection of Total Coliforms and *Escherichia coli* in Drinking Water," April 2014. Available from Veolia Water Solutions and Technologies, Suite 4697, Biosciences Complex, 116 Barrie Street, Kingston, Ontario, Canada K7L 3N6.

d. Invalidation of a fecal indicator-positive groundwater source sample.

(1) A groundwater system may obtain invalidation from the department of a fecal indicator-positive groundwater source sample collected under 41.7(3)*"a"* only under these conditions:

1. The system provides the department with written notice from the laboratory that improper sample analysis occurred; or

2. The department determines and documents in writing that there is substantial evidence that a fecal indicator-positive groundwater source sample is not related to source water quality.

(2) If the department invalidates a fecal indicator-positive groundwater source sample, the system must collect another source water sample under 41.7(3)*"a"* within 24 hours of being notified by the department of its invalidation decision. The sample must be analyzed for the same fecal indicator using the analytical methods in 41.7(3)*"c."* The department may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the source water sample within 24 hours due to circumstances beyond the system's control. In the case of an extension, the department must specify how much time the system has to collect the sample.

e. Sampling location.

(1) Any groundwater source sample required under 41.7(3)*"a"* must be collected at a location prior to any treatment of the groundwater source unless the department approves a sampling location after treatment.

(2) If the system's configuration does not allow for sampling at the well itself, the system may collect a sample at a department-approved location to meet the requirements of 41.7(3)*"a"* if the sample is representative of the water quality of that well.

f. New sources. A groundwater system that places a new groundwater source into service must conduct assessment source water monitoring as directed by the department to include those items listed in 41.7(3)*"b"*(3) to (6). If directed by the department, the system must begin monitoring before the groundwater source is used to provide water to the public.

g. Public notification. A system with a groundwater source sample collected under 41.7(3)*"a"* or 41.7(3)*"b"* that is fecal indicator-positive and that is not invalidated under 41.7(3)*"d,"* including consecutive systems served by the groundwater source, must conduct Tier 1 public notification under 567—subrule 42.1(2).

h. Monitoring violations. Failure to meet the requirements of 41.7(3)*"a"* through 41.7(3)*"f"* is a monitoring violation and requires the system to provide Tier 3 public notification under 567—subrule 42.1(4).

41.7(4) *Treatment technique requirements for groundwater systems.*

a. Groundwater systems with significant deficiencies or source water fecal contamination.

(1) The treatment technique requirements of this subrule, 41.7(4), must be met by groundwater systems when a significant deficiency is identified or when a groundwater source sample collected under 41.7(3)*"a"*(3) is fecal indicator-positive.

(2) If directed by the department, a groundwater system with a groundwater source sample collected under 41.7(3)*"a"*(2), 41.7(3)*"a"*(4), or 41.7(3)*"b"* that is fecal indicator-positive must comply with the treatment technique requirements of 41.7(4).

(3) When a significant deficiency is identified at a surface water or influenced groundwater system that also uses a groundwater source not under the influence of surface water, the system must comply with provisions of 41.7(4)*"a"* except in cases where the department determines that the significant deficiency is in a portion of the distribution system that is served solely by the surface water or influenced groundwater source.

(4) Unless the department directs the groundwater system to implement a specific corrective action, the groundwater system must consult with the department regarding the appropriate corrective action within 30 days of receiving written notice from the department of a significant deficiency, written notice from a laboratory that a groundwater source sample collected under 41.7(3)*"a"*(3) was found to be fecal

indicator-positive, or direction from the department that a fecal indicator-positive sample collected under 41.7(3)*"a"*(2), 41.7(3)*"a"*(4), or 41.7(3)*"b"* requires corrective action. For the purposes of 41.7(4), significant deficiencies include, but are not limited to, defects in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the department determines to be causing, or have potential for causing, the introduction of contamination into the water delivered to consumers.

(5) Within 120 days, or earlier if directed by the department, of receiving written notification from the department of a significant deficiency, written notice from a laboratory that a groundwater source sample collected under 41.7(3)*"a"*(3) was found to be fecal indicator-positive, or direction from the department that a fecal indicator-positive sample collected under 41.7(3)*"a"*(2), 41.7(3)*"a"*(4), or 41.7(3)*"b"* requires corrective action, the groundwater system must either:

1. Have completed corrective action in accordance with applicable department plan review processes or other department guidance or direction, if any, including department-specified interim measures; or

2. Be in compliance with a department-approved corrective action plan and schedule subject to the specified conditions as follows:

- Any subsequent modifications to a department-approved corrective action plan and schedule must also be approved by the department; and
- If the department specifies interim measures for protection of the public health pending department approval of the corrective action plan and schedule, or pending completion of the corrective action plan, the system must comply with these interim measures as well as with any schedule specified by the department.

(6) Corrective action alternatives. Groundwater systems that meet the conditions of 41.7(4)*"a"*(1) or (2) must implement one or more of the following corrective action alternatives:

1. Correct all significant deficiencies;
2. Provide an alternate source of water;
3. Eliminate the source of contamination; or
4. Provide treatment that reliably achieves at least 4-log treatment of viruses for the groundwater source.

(7) Special notice to the public of significant deficiencies or source water fecal contamination.

1. In addition to the applicable Tier 1 public notification requirements of 567—subrule 42.1(2), a community groundwater system that receives notice from the department of a significant deficiency or notification of a fecal indicator-positive groundwater source sample that is not invalidated by the department under 41.7(3)*"d"* must inform the public served by the water system under 567—subparagraph 42.3(3)*"h"*(5) of the fecal indicator-positive source sample or of any significant deficiency that has not been corrected. The system must continue to inform the public annually until the significant deficiency is corrected or the fecal contamination in the groundwater source is determined by the department to be corrected under 41.7(3)*"a"*(5).

2. In addition to the applicable Tier 1 public notification requirements of 567—subrule 42.1(2), a noncommunity groundwater system that receives notice from the department of a significant deficiency must inform the public served by the water systems in a manner approved by the department of any significant deficiency that has not been corrected within 12 months of being notified by the department or earlier if directed by the department. The system must continue to inform the public annually until the significant deficiency is corrected. The information must include:

- The nature of the significant deficiency and the date the significant deficiency was identified by the department;
- The department-approved plan and schedule for correction of the significant deficiency, including interim measures, progress to date, and any interim measures completed; and
- For systems with a large proportion of non-English speaking consumers, as determined by the department, information in the applicable language(s) regarding the importance of the notice or a telephone number or address where consumers may contact the system to obtain a translated copy of the notice or assistance in the appropriate language.

3. If directed by the department, a noncommunity water system with significant deficiencies that have been corrected must inform its customers of the significant deficiencies, how the deficiencies were corrected, and the dates of correction under 41.7(4)*"a"*(7)"2."

b. Compliance monitoring.

(1) Existing groundwater sources. A groundwater system that provides at least 4-log treatment of viruses must make a written application to the department in order to avoid the source water monitoring requirements of 41.7(3). Notification to the department must include engineering, operational, or other information that the department requests to evaluate the submission. The department must approve the 4-log request in writing before the system can avoid the groundwater source monitoring requirements. The system's operation permit will include the mandatory operational requirements for the approved 4-log virus treatment. If the system subsequently discontinues 4-log treatment of viruses of a groundwater source or no longer wishes to be exempt from the groundwater source monitoring requirements, the system must conduct groundwater source monitoring as required under 41.7(3).

(2) New groundwater sources. A groundwater system that places a groundwater source in service that is not required to meet the source water monitoring requirements of 41.7(4) because the system provides at least 4-log treatment of viruses for the groundwater source must comply with the following requirements:

1. The system must notify the department in writing that it provides at least 4-log treatment of viruses for the groundwater source. Notification to the department must include engineering, operational, or other information that the department requests to evaluate the submission. The contact time values for inactivation of viruses using free chlorine, chlorine dioxide, and ozone are listed in 567—Chapter 43, Appendix C. No CT table is provided for chloramines and total chlorine because the CT values would be prohibitively high for groundwater systems.

2. The system must conduct compliance monitoring as required under 41.7(4)*"b"*(3) within 30 days of placing the source in service.

3. The system must conduct groundwater source monitoring under 41.7(3) if the system subsequently discontinues 4-log treatment of viruses for the groundwater source.

(3) Monitoring requirements. A groundwater system subject to the requirements of 41.7(4)*"a"* and 41.7(4)*"b"*(1) and (2) must monitor the effectiveness and reliability of treatment for that groundwater source before or at the first customer as follows:

1. Chemical disinfection.

- A groundwater system serving more than 3,300 people must continuously monitor the residual disinfectant concentration, using analytical methods specified in 567—subparagraph 43.5(4)*"a"*(5), at a location approved by the department and must record the lowest residual disinfectant concentration each day that water from the groundwater source is served to the public. The groundwater system must maintain the department-determined minimum residual disinfectant concentration every day the groundwater system serves water from the groundwater source to the public. If there is a failure in the continuous monitoring equipment, the groundwater system must conduct grab sampling every four hours until the continuous monitoring equipment is returned to service. The system must resume continuous residual disinfectant monitoring within 14 days.
- A groundwater system serving 3,300 or fewer people must monitor the residual disinfectant concentration using analytical methods specified in 567—subparagraph 43.5(4)*"a"*(5) at a location approved by the department and must record the residual disinfectant concentration each day that water from the groundwater source is served to the public. The groundwater system must maintain the department-determined minimum residual disinfectant concentration every day the groundwater system serves water from the groundwater source to the public. The groundwater system must take a daily grab sample during the hour of peak flow or at another time specified by the department. If any daily grab sample measurement falls below the department-determined minimum residual disinfectant concentration, the groundwater system must take follow-up samples every four hours until the residual disinfectant concentration is restored to the department-determined minimum level. Alternatively, a groundwater system that serves 3,300 or fewer people may monitor continuously and meet the requirements of 41.7(4)*"b"*(3)"1," first bulleted paragraph.

2. Membrane filtration. A groundwater system that uses membrane filtration to meet the requirements of 41.7(4)*"b"* to provide at least 4-log treatment of viruses must monitor the membrane filtration process in accordance with all department-specified monitoring requirements and must operate the membrane filtration in accordance with all department-specified compliance requirements. A groundwater system that uses membrane filtration is in compliance with the requirement to achieve at least 4-log removal of viruses when:

- The membrane has an absolute molecular weight cut-off (MWCO), or an alternate parameter that describes the exclusion characteristics of the membrane, that can reliably achieve at least 4-log removal of viruses;
- The membrane process is operated in accordance with department-specified compliance requirements; and
- The integrity of the membrane is intact.

3. Alternative treatment. A groundwater system that uses a department-approved alternative treatment to meet the requirements of 41.7(4)*"b"* by providing at least 4-log treatment of viruses must:

- Monitor the alternative treatment in accordance with all department-specified monitoring requirements; and
- Operate the alternative treatment in accordance with all compliance requirements that the department determines to be necessary to achieve at least 4-log treatment of viruses.

c. Discontinuing treatment. A groundwater system may discontinue 4-log treatment of viruses for a groundwater source if the department determines and documents in writing that 4-log treatment of viruses is no longer necessary for that groundwater source. A system that discontinues 4-log treatment of viruses is subject to the source water monitoring and analytical methods requirements of 41.7(3).

d. Monitoring violation. Failure to meet the monitoring requirements of 41.7(4)*"b"* is a monitoring violation and requires the groundwater system to provide Tier 3 public notification under 567—subrule 42.1(4).

41.7(5) *Treatment technique violations for groundwater systems.* A groundwater system must give Tier 2 public notification under 567—subrule 42.1(3) for the treatment technique violations specified in 41.7(5)*"a,"* 41.7(5)*"b,"* and 41.7(5)*"c."*

a. Significant deficiency. A groundwater system with a significant deficiency is in violation of the treatment technique requirement if, within 120 days (or earlier if directed by the department) of receiving written notice from the department of the significant deficiency, the system:

(1) Does not complete corrective action in accordance with any applicable department plan review processes or other department guidance and direction, including department-specified interim actions and measures; or

(2) Is not in compliance with a department-approved corrective action plan and schedule.

b. Fecal indicator-positive source sample. Unless the department invalidates a fecal indicator-positive groundwater source sample under 41.7(3)*"d"*(1), a groundwater system is in violation of the treatment technique requirement if, within 120 days (or earlier if directed by the department) of meeting the conditions of 41.7(4)*"a"*(1) or (2), the system:

(1) Does not complete corrective action in accordance with any applicable department plan review processes or other department guidance and direction, including department-specified interim measures; or

(2) Is not in compliance with a department-approved corrective action plan and schedule.

c. Failure to maintain 4-log treatment. A groundwater system subject to the requirements of 41.7(4)*"b"*(3) that fails to maintain at least 4-log treatment of viruses for a groundwater source is in violation of the treatment technique requirement if the failure is not corrected within four hours of the determination that the system is not maintaining at least 4-log treatment of viruses before or at the first customer.

41.7(6) *Reporting and record keeping for groundwater systems.*

a. Reporting. In addition to meeting the requirements of 567—subrule 42.4(1), a groundwater system regulated under this rule must provide the following information to the department:

(1) A groundwater system conducting compliance monitoring under 41.7(4)*"b"* must notify the department any time the system fails to meet any of the department-specified requirements for 4-log virus treatment including, but not limited to, minimum residual disinfectant concentration, membrane operating criteria or membrane integrity, and alternative treatment operating criteria, if operation in accordance with the criteria or requirements is not restored within four hours. The groundwater system must notify the department as soon as possible, but in no case later than the end of the next business day.

(2) After completing any corrective action under 41.7(4)*"a,"* a groundwater system must notify the department within 30 days of completion of the corrective action.

(3) If a groundwater system subject to the requirements of 41.7(3)*"a"* does not conduct source water monitoring under 41.7(3)*"a"*(5)"2," the system must provide documentation to the department within 30 days of the total coliform-positive sample that it met the department's criteria.

b. Record keeping. In addition to the requirements in 567—subrule 42.5(1), a groundwater system regulated under this rule must maintain the following information in its records:

(1) Documentation of corrective actions, which must be kept for a period of not less than ten years.

(2) Documentation of notice to the public as required under 41.7(4)*"a"*(7), which must be kept for a period of not less than three years.

(3) Records of decisions under 41.7(3)*"a"*(5)"2" and records of invalidation of fecal indicator-positive groundwater source samples under 41.7(3)*"d"*(1), both of which must be kept for a period of not less than five years.

(4) For consecutive systems, documentation of notification to the wholesale system(s) of total coliform-positive samples that are not invalidated under 41.2(1)*"d,"* which must be kept for a period of not less than five years.

(5) For systems, including wholesale systems, that are required to perform compliance monitoring under 41.7(4)*"b"*(1), the following documentation must be maintained:

1. Records of the department-specified minimum disinfectant residual, which must be kept for a period of not less than ten years.

2. Records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the department-prescribed minimum residual disinfectant concentration for a period of more than four hours, both of which must be kept for a period of not less than five years.

3. Records of department-specified compliance requirements for membrane filtration and of parameters specified by the department for department-approved alternative treatment and records of the date and duration of any failure to meet the membrane operating, membrane integrity, or alternative treatment operating requirements for more than four hours. Documentation shall be kept for a period of not less than five years.

ITEM 32. Amend subparagraph **41.8(1)"d"(1)** as follows:

(1) Radionuclide Analytical Methodology Table.

RADIONUCLIDE ANALYTICAL METHODOLOGY

Contaminant	Methodology	Reference (method or page number)								
		EPA[1]	EPA[2]	EPA[3]	EPA[4]	SM[5]	ASTM[6]	USGS[7]	DOE[8]	Other
Naturally occurring:										
Gross alpha[11] & beta	Evaporation	900.0	p. 1	00-01	p. 1	302, 7110B, 7110 B-00		R-1120-76		
Gross alpha[11]	Co-precipitation			00-02		7110C, 7110 C-00				
Radium-226	Radon emanation	903.1	p. 16	Ra-04	p. 19	305, 7500-Ra C, 7500Ra C-01	D 3454-97, 05	R-1141-76	Ra-04	NY[9]
	Radiochemical	903.0	p. 13	Ra-03		304, 7500-Ra B, 7500-Ra B-01	D 2460-97, 07	R-1140-76		GA[14]
Radium-228	Radiochemical	904.0	p. 24	Ra-05	p. 19	7500-Ra D, 7500-Ra D-01		R-1142-76		NY[9] NJ[10] GA[14]
Uranium[12]	Radiochemical	908.0				7500-U B, 7500-U B-00				
	Fluorometric	908.1				7500-U C (17th edition)	D 2907-97	R-1180-76 R-1181-76	U-04	
	ICP-MS	200.8[13]				3125	D 5673-03, 05, 10			
	Alpha spectrometry			00-07	p. 33	7500-U C, 7500-U C-00	D 3972-97, 02, 09	R-1182-76	U-02	
	Laser phosphorimetry						D 5174-97, 02, 07			
	Alpha liquid scintillation spectrometry						D 6239-09			
Man-made:										
Radioactive Cesium	Radiochemical	901.0	p. 4			7500-Cs B, 7500-Cs B-00	D 2459-72	R-1111-76		

Contaminant	Methodology	Reference (method or page number)								
		EPA[1]	EPA[2]	EPA[3]	EPA[4]	SM[5]	ASTM[6]	USGS[7]	DOE[8]	Other
	Gamma ray spectrometry	901.1			p. 92	7120, 7120-97	D 3649-91, 98a, 06	R-1110-76	4.5.2.3	
Radioactive Iodine	Radiochemical	902.0	p. 6 p. 9			7500-I B, 7500-I B-00 7500-I C, 7500-I C-00 7500-I D, 7500-I D-00	D 3649-91, 98a, 06			
	Gamma ray spectrometry	901.1			p. 92	7120, 7120-97	D 4785-93, 00a, 08		4.5.2.3	
Radioactive Strontium 89, 90	Radiochemical	905.0	p. 29	Sr-04	p. 65	303, 7500-Sr B, 7500-Sr B-01		R-1160-76	Sr-01 Sr-02	
Tritium	Liquid scintillation	906.0	p. 34	H-02	p. 87	306, 7500-^{3}H B, 7500-^{3}H B-00	D 4107-91, 98 (Reapproved 2002), 08	R-1171-76		
Gamma emitters	Gamma ray spectrometry	901.1 902.0 901.0			p. 92	7120 7500-Cs B, 7500-Cs B-00 7500-I B, 7500-I B-00	D 3649-91, 98a, 06 D 4785-93, 00a, 08	R-1110-76	Ga-01-R	

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of documents 1 through 10 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at (800)426-4791. Documents may be inspected at EPA's Drinking Water Docket, EPA West, 1301 Constitution Avenue, NW, Room B135, Washington, DC 20460 (telephone (202)566-2426); or at the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

[1]"Prescribed Procedures for Measurement of Radioactivity in Drinking Water," EPA 600/4-80-032, August 1980. Available at the US Department of Commerce, NTIS, 5285 Port Royal Road, Springfield, VA 22161 (telephone (800)553-6847) PB 80-224744.

[2]"Interim Radiochemical Methodology for Drinking Water," EPA 600/4-75-008(revised), March 1976. Available at NTIS, ibid. PB 253258.

[3]"Radiochemistry Procedures Manual," EPA 520/5-84-006, December 1987. Available at NTIS, ibid. PB 84-215581.

[4]"Radiochemical Analytical Procedures for Analysis of Environmental Samples," March 1979. Available at NTIS, ibid. EMSL LV 053917.

[5]Standard Methods for the Examination of Water and Wastewater, 13th, 17th, 18th, 19th, ~~or~~ 20th, 21st, and 22nd editions, 1971, 1989, 1992, 1995, 1998, 2005, and 2012. Available at American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710. Methods 302, 303, 304, 305, and 306 are only in the 13th edition. Methods 7110B, 7500-Ra B, 7500-Ra C, 7500-Ra D, 7500-U B, 7500-Cs B, 7500-I B, 7500-I C, 7500-I D, 7500-Sr B, 7500-3H B are in the 17th, 18th, 19th, ~~and~~ 20th, 21st, and 22nd editions. Method 7110C ~~is~~ and Method 7500-U C Alpha spectrometry are in the 18th, 19th, ~~and~~ 20th, 21st, and 22nd editions. Method 7500-U C Fluorimetric Uranium is only in the 17th ~~edition~~ and 21st editions. ~~Method 7500-U C Alpha spectrometry is only in the 18th, 19th, and 20th editions.~~ Method 7120 is only in the 19th, ~~and~~ 20th, 21st, and 22nd editions. Method 3125 is only in the 20th edition. Methods 7110 B-00, 7110 C-00, 7500-Ra B-01, 7500-Ra C-01, 7500-Ra D-01, 7500-U B-00, 7500-U C-00, 7500-I B-00, 7500-I C-00, 7500-I D-00, 7120-97, 7500-Sr B-01, and 7500-^{3}H B-00 are available online at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[6]Annual Book of ASTM Standards, ~~Vol.~~ Volumes 11.01 and 11.02, ~~1999~~ 2002. Any year containing the cited version of the method may be used. Available at ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[7]"Methods for Determination of Radioactive Substances in Water and Fluvial Sediments," Chapter A5 in Book 5 of Techniques of Water-Resources Investigations of the United States Geological Survey, 1977. Available at ~~US~~ U.S. Geological Survey (USGS) Information Services, Box 25286, Federal Center, Denver, CO 80225-0425.

[8]"EML Procedures Manual," 28th (1997) or 27th (1990) ~~editions~~ edition, Volumes 1 and 2; either edition may be used. In the 27th edition, Method Ra-04 is listed as Ra-05, and Method Ga-01-R is listed as Sect. 4.5.2.3. Available at the Environmental Measurements Laboratory, ~~US~~ U.S. Department of Energy (DOE), 376 Hudson Street, New York, NY 10014-3621.

[9]"Determination of Ra-226 and Ra-228 (Ra-02)," January 1980, revised June 1982. Available at Radiological Sciences Institute Center for Laboratories and Research, New York State Department of Health, Empire State Plaza, Albany, NY 12201.

[10]"Determination of Radium-228 in Drinking Water," August 1980. Available at State of New Jersey, Department of Environmental Protection, Division of Environmental Quality, Bureau of Radiation and Inorganic Analytical Services, 9 Ewing Street, Trenton, NJ 08625.

[11]Natural uranium and thorium-230 are approved as gross alpha calibration standards for gross alpha with co-precipitation and evaporation methods; americium-241 is approved with co-precipitation methods.

[12]If uranium (U) is determined by mass, a 0.67 pCi/μg of uranium conversion factor must be used. This conversion factor is based on the 1:1 activity ratio of U-234 to U-238 that is characteristic of naturally occurring uranium.

[13]"Determination of Trace Elements in Waters and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Revision 5.4, which is published in "Methods for the Determination of Metals in Environmental Samples – Supplement 1," EPA 600-R-94-111, May 1994. Available at NTIS, PB 95-125472.

[14]"The Determination of Radium-226 and Radium-228 in Drinking Water by Gamma-Ray Spectrometry Using HPGW or Ge(Li) Detectors," Revision 1.2, December 2004. Available from Environmental Resources Center, Georgia Institute of Technology, 620 Cherry Street, Atlanta, GA 30332-0335; telephone: (404)894-3776.

ITEM 33. Amend subparagraph **42.1(2)"a"(1)** as follows:

(1) Violation of the MCL for ~~total coliforms when fecal coliform or~~ *E. coli* ~~are present in the water distribution system~~, as specified in 567—paragraph ~~41.2(1)"b."~~ 41.2(1)*"a."*

ITEM 34. Rescind and reserve subparagraph **42.1(2)"a"(2)**.

ITEM 35. Adopt the following **new** subparagraph **42.1(2)"a"(11)**:

(11) Detection of *E. coli*, enterococci, or coliphage in source water samples, as specified in 567—paragraphs 41.7(3)*"a"* and 41.7(3)*"b."*

ITEM 36. Amend subparagraph **42.1(2)"b"(2)** as follows:

(2) Initiate consultation with the department as soon as practical, but no later than 24 hours after the system learns of the violation or situation, to determine additional public notice requirements. For consultation with department staff after normal business hours, the system should contact the department via the ~~Emergency Response~~ department's Environmental Emergency Reporting Hotline telephone number ~~(515)281-8694~~ (515)725-8694; and

ITEM 37. Amend paragraph **42.1(3)"a"** as follows:

a. Violations and situations which require Tier 2 notice. The following types of violations or situations require Tier 2 public notice:

(1) and (2) No change.

(3) Failure to comply with the requirements of any compliance schedule prescribed in an operation permit, administrative order, or court order pursuant to 567—subrule 43.2(5); ~~and~~

(4) Failure to comply with a health advisory as determined by the department~~.~~; and

(5) Failure to take corrective action or failure to maintain at least 4-log treatment of viruses (using inactivation, removal, or a department-approved combination of 4-log virus inactivation and removal) before or at the first customer under 567—paragraph 41.7(4)*"a."*

ITEM 38. Amend subparagraph **42.1(3)"b"(2)** as follows:

(2) The public water system must repeat the notice every three months as long as the violation or situation persists, unless the department determines that appropriate circumstances warrant a different repeat frequency. If the department determines that a repeat notice frequency of longer than every three months is allowed, that decision must be made in writing by the department and must be on a case-by-case basis. In no circumstance may the repeat notice be given less frequently than once per year. Repeat notices for a ~~total~~ coliform bacteria MCL, a treatment technique violation under 567—paragraph 41.2(1)*"a"* or 41.2(1)*"l,"* or a turbidity treatment technique violation under rule 567—43.9(455B) or 567—43.10(455B) must be made every three months or more frequently.

ITEM 39. Amend subparagraph **42.1(3)"b"(3)** as follows:

(3) A public water system using surface water or influenced groundwater with a treatment technique violation resulting from a single exceedance of the maximum allowable turbidity limit pursuant to ~~rule 567—43.5(455B) or~~ 567—43.9(455B) or 567—43.10(455B) must consult with the department as soon as practical, but no later than 24 hours after the public water system learns of the violation, to determine whether a Tier 1 or Tier 2 public notice is required to protect public health. For consultation with department staff after normal business hours, the system should contact the department via the department's Environmental Emergency Reporting Hotline telephone number (515)725-8694. If the consultation does not occur within the 24-hour period, the public water system must distribute a Tier 1 notice of the violation within the next 24 hours, or no later than 48 hours after the system learns of the violation, following the requirements of paragraphs 42.1(2)*"b"* and 42.1(2)*"c."*

ITEM 40. Amend paragraph **42.1(4)"a"** as follows:

a. Violations and situations which require Tier 3 notice. The following types of violations or situations require Tier 3 public notice:

(1) to (6) No change.

(7) Failure to retain a certified operator in accordance with 567—subrule 43.1(5) and the department determines that public notification is required; ~~and~~

(8) Failure to maintain records required under 567—Chapters 41, 42, and 43; and

~~(8)~~ (9) Any other situation where the department determines public notification is needed.

ITEM 41. Rescind rule 567—42.2(455B) and adopt the following **new** rule in lieu thereof:

567—42.2(455B) Lead consumer notice and public education for lead action level exceedance. All CWS and NTNC systems must comply with the lead consumer notice in accordance with 42.2(1). A CWS or NTNC system that exceeds the lead action level based on tap water samples collected in accordance with 567—paragraph 41.4(1)*"c"* must comply with the public education requirements in accordance with 42.2(2).

42.2(1) *Lead consumer notice.* All CWS and NTNC systems must provide a consumer notice of lead tap water monitoring results to persons served at the sites (taps) that are tested as listed in 567—42.2(455B). Any system exceeding the lead action level shall also implement the public education requirements of 42.2(2).

a. Reporting requirement. All CWS and NTNC systems must provide a notice of the individual tap results from lead tap water monitoring carried out under the requirements of 567—paragraph 41.4(1)*"c"* to the persons served by the water system at the specific sampling site from which the sample was taken (e.g., the occupants of the residence where the tap was tested).

b. Timing of notification. A water system must provide the consumer notice as soon as practical, but no later than 30 days after the system learns of the tap monitoring results.

c. Content of notice. The consumer notice must include the following:

(1) Results of the lead tap water monitoring for the tap that was tested,

(2) An explanation of the health effects of lead,

(3) A list of steps consumers can take to reduce exposure to lead in drinking water,

(4) Contact information for the water utility, and

(5) The lead maximum contaminant level goal of 0 mg/L and the 90th percentile lead action level of 0.015 mg/L and the definitions for these two terms from rule 567—40.2(455B).

d. Delivery of notice. The consumer notice must be provided to persons served at the tap that was tested, either by mail or by another method approved by the department. For example, upon approval by the department, an NTNC system could post the results on a bulletin board in the facility to allow users to review the information. The system must provide the notice to customers at sample taps tested, including consumers who do not receive water bills.

e. Inclusion of copper results. The system may also include results of copper testing in the notice along with the 90th percentile copper action level of 1.3 mg/L, copper MCLG of 1.3 mg/L, and health effects language.

42.2(2) *Lead public education for lead action level exceedance.* A water system that exceeds the lead action level based on tap water samples collected in accordance with 567—paragraph 41.4(1)*"c"* shall deliver the public education materials contained in 42.2(2)*"a"* in accordance with 42.2(2)*"b."* Water systems that exceed the lead action level must sample the tap water of any customer who requests it in accordance with 42.2(2)*"c."*

a. Content of written public education materials. CWS and NTNC systems must include the following elements in printed materials (e.g., brochures and pamphlets) in the same order as listed in this paragraph. In addition, language in 42.2(2)*"a"*(1), (2), and (6) must be included in the materials exactly as written, except for the text in brackets in these paragraphs for which the water system must substitute system-specific information. Any additional information presented by a water system must be consistent with the information in 42.2(2)*"a"* and be in plain language that can be understood by the general public. Water systems must submit all written public education materials to the department prior to delivery. The department may require the system to obtain approval of the content of written public education materials prior to delivery.

(1) The following information must be included exactly as written. "IMPORTANT INFORMATION ABOUT LEAD IN YOUR DRINKING WATER. [*Insert name of water system*] found elevated levels of lead in drinking water in some homes/buildings. Lead can cause serious health problems, especially for pregnant women and young children. Please read this information closely to see what you can do to reduce lead in your drinking water."

(2) The following information must be included exactly as written. "Health effects of lead. Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of your body. The greatest risk of lead exposure is to infants, young children, and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones, and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development."

(3) Sources of lead. The printed materials must:

1. Explain what lead is.

2. Explain possible sources of lead in drinking water and how lead enters drinking water and include information on home/building plumbing materials and service lines that may contain lead.

3. Discuss other important sources of lead exposure in addition to drinking water (e.g., paint).

(4) Discuss the steps the consumers can take to reduce their exposure to lead in drinking water as follows:

1. Encourage running the water to flush out the lead.

2. Explain concerns with using hot water from the tap and specifically caution against the use of hot water for preparing baby formula.

3. Explain that boiling the water does not reduce lead levels.

4. Discuss other options consumers can take to reduce exposure to lead in drinking water, such as alternative sources or treatment of water.

5. Suggest that parents have their child's blood tested for lead.

(5) The printed materials must explain why there are elevated levels of lead in the system's drinking water (if known) and what the water system is doing to reduce the lead levels in homes/buildings in this area.

(6) The following information must be included exactly as written. "For more information, call us at [*insert your telephone number*] or visit our website at [*insert your website link here*]. For more information on reducing lead exposure around your home/building and the health effects of lead, visit EPA's website at www.epa.gov/lead or contact your health care provider."

(7) Community water systems must also include the following elements:

1. Tell consumers how to get their water tested.

2. Discuss lead in plumbing components and the difference between low lead and lead free.

b. Delivery of public education materials.

(1) Outreach to non-English speaking consumers. For public water systems serving a large proportion of non-English speaking consumers, as determined by the department, the public education materials must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the public education materials or to request assistance in the appropriate language.

(2) Delivery of public education at CWS. A CWS that exceeds the lead action level on the basis of tap water samples collected in accordance with 567—paragraph 41.4(1)*"c"* and that is not already conducting public education tasks under 42.2(2) must conduct the public education tasks within 60 days of the date of notification of the action level exceedance:

1. Deliver printed materials meeting the content requirements of 42.2(2)*"a"* to all bill-paying customers.

2. Contact customers who are most at risk by delivering education materials that meet the content requirements of 42.2(2)*"a"* to local public health agencies even if they are not located within the water system's service area, along with an informational notice that encourages distribution to all the organization's potentially affected customers or CWS's users. The water system must contact the local public health agencies directly by phone or in person. The local public health agencies may provide a specific list of additional community-based organizations serving target populations, which may include organizations outside the service area of the water system. If such lists are provided, systems

must deliver education materials that meet the content requirement of 42.2(2)*"a"* to all organizations on the provided lists.

3. Contact customers who are most at risk by delivering materials that meet the content requirements of 42.2(2)*"a"* to the following organizations that are located within the water system's service area, along with an informational notice that encourages distribution to all the organization's potentially affected customers or community public water supply system's users:

- Public and private schools or school boards;
- Women, Infants, and Children (WIC) and Head Start programs;
- Public and private hospitals and medical clinics;
- Pediatricians;
- Family planning clinics; and
- Local welfare agencies.

4. Make a good-faith effort to locate the following organizations within the service area and to deliver to them materials that meet the content requirements of 42.2(2)*"a,"* along with an informational notice that encourages distribution to all potentially affected customers or users. The good-faith effort to contact at-risk customers may include requesting a specific contact list of these organizations from the local public health agencies, even if the agencies are not located within the water system's service area:

- Licensed child care centers;
- Public and private preschools;
- Obstetricians, gynecologists, and midwives.

5. No less often than quarterly, provide information on or in each water bill as long as the system exceeds the action level for lead. The message on the water bill must include the following statement exactly as written except for the text in brackets for which the water system must substitute system-specific information: "[*insert name of water system*] found high levels of lead in drinking water in some homes. Lead can cause serious health problems. For more information, please call [*insert telephone number of water system*] or visit [*insert your website link here*]."

The message or delivery mechanisms can be modified in consultation with the department; specifically, the department may allow a separate mailing of public education materials to customers if the water system cannot place the information on water bills.

6. Post material meeting the content requirements of 42.2(2)*"a"* on the water system's website if the system serves a population greater than 100,000.

7. Submit a press release to newspaper, television, and radio stations.

8. In addition to including those items previously listed, systems must implement at least three activities from one or more of the following categories. The educational content and selection of these activities must be determined in consultation with the department.

- Public service announcement;
- Paid advertisement;
- Public area information displays;
- Emails to customers;
- Public meetings;
- Household deliveries;
- Targeted individual customer contact;
- Direct material distribution to all multifamily homes and institutions; and
- Other methods approved by the department.

For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or if the department has established an alternate monitoring period, the last day of that period.

(3) Continuing public education at a CWS. As long as a CWS exceeds the action level, it must repeat the activities pursuant to 42.2(2)*"b"*(2) as follows:

1. A CWS shall repeat the tasks contained in 42.2(2)*"b"*(2)"1," "2," and "8" every 12 months.
2. A CWS shall repeat the tasks contained in 42.2(2)*"b"*(2)"5" with each billing cycle.

3. A CWS serving a population greater than 100,000 shall post and retain material on a publicly accessible website pursuant to 42.2(2)*"b"*(2)"6."

4. A CWS shall repeat the task in 42.2(2)*"b"*(2)"7" twice every 12 months on a schedule agreed upon with the department. The department can allow activities in 42.2(2)*"b"*(2) to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the department in advance of the 60-day deadline, and the system must already have initiated public education activities prior to the end of the 60-day deadline.

(4) Delivery of public education at an NTNC system. Within 60 days of the date of notification of the action level exceedance, an NTNC system shall deliver the public education materials specified as follows:

1. Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system; and

2. Distribute informational pamphlets or brochures on lead in drinking water to each person served by the nontransient noncommunity water system. The department may allow the system to utilize electronic transmission in lieu of or combined with printed materials as long as at least the same coverage is achieved. If the system serves children 18 years of age and under, such as a school or child care facility, the public education notice must be provided to the parents or legal guardians of the children.

For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs or, if the department has established an alternate monitoring period, the last day of that period.

(5) Continuing public education at an NTNC system. An NTNC system shall repeat the tasks contained in 42.2(2)*"b"*(4) at least once during each calendar year in which the system exceeds the lead action level. The department can allow activities in 42.2(2)*"b"*(4) to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the department in advance of the 60-day deadline, and the system must already have initiated public education activities prior to the end of the 60-day deadline.

(6) Discontinuation of public education activities. A CWS or NTNC system may discontinue delivery of public education materials if the system has met the lead action level during the most recent six-month monitoring period conducted pursuant to 567—paragraph 41.4(1)*"c."* Such system shall recommence public education in accordance with 42.2(2) if the system subsequently exceeds the lead action level during any monitoring period.

(7) Special population CWS allowance. A CWS that meets the following criteria may apply to the department in writing for reduced public education and notification requirements:

1. The CWS is a facility, such as a prison or hospital, where the population served is not capable of or is prevented from making improvements to plumbing or installing point-of-use treatment devices; and

2. The CWS provides water as part of the cost of services provided and does not separately charge for water consumption.

If the department approves the request in writing, the CWS is not required to include the language in 42.2(2)*"a"*(7) and must deliver the public education in accordance with 42.2(2)*"b"*(4) and (5), in lieu of 42.2(2)*"b"*(2) and (3).

(8) CWS serving 3,300 or fewer people. A CWS serving 3,300 or fewer people may limit certain aspects of its public education programs as follows:

1. The system must implement at least one of the activities listed in 42.2(2)*"b"*(2)"8."

2. The system may limit the distribution of the public education materials in 42.2(2)*"b"*(2)"2" and "3" to facilities and organizations served by the system that are most likely to be visited regularly by pregnant women and children.

3. The department may waive the requirements of 42.2(2)*"b"*(2)"7" for the system provided the system distributes notices to every household served by the system.

c. Supplemental monitoring and notification of results. A water system that fails to meet the lead action level on the basis of tap samples collected in accordance with 567—paragraph 41.4(1)*"c"* shall

offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the system itself required to collect and analyze the sample.

ITEM 42. Adopt the following **new** subparagraph **42.3(3)"b"(6)**:

(6) A report that contains information regarding a Level 1 or Level 2 assessment required under 567—subrule 41.2(1) must include the applicable definitions:

1. "Level 1 Assessment" is a study of the water system to identify potential problems and determine (if possible) why total coliform bacteria have been found in our water system.

2. "Level 2 Assessment" is a very detailed study of the water system to identify potential problems and determine (if possible) why an *E. coli* MCL violation has occurred or why total coliform bacteria have been found in our water system on multiple occasions.

ITEM 43. Rescind and reserve numbered paragraph **42.3(3)"c"(1)"6."**

ITEM 44. Amend numbered paragraph **42.3(3)"c"(1)"7"** as follows:

7. For ~~fecal coliform~~ *E. coli* analytical results under 567—subrule 41.2(1), the total number of positive samples.

ITEM 45. Amend subparagraph **42.3(3)"f"(3)** as follows:

(3) In order to ensure that tap water is safe to drink, the department prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. The United States Food and Drug Administration regulations establish limits for contaminants in bottled water which must provide the same protection for public ~~heath~~ health.

ITEM 46. Amend subparagraph **42.3(3)"g"(5)** as follows:

(5) ~~Lead 95th percentile levels above the action level (0.015 mg/L). Systems which detect lead above the action level in more than 5 percent (95th percentile) and up to and including 10 percent (90th percentile) of homes sampled.~~ Lead information statement for all CWS. Every report must include the following lead-specific information:

1. ~~Must include a short informational statement about the special impact of lead on children using language such as: Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested and flush your tap for 30 seconds to 2 minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline ((800)426-4791).~~ A short informational statement about lead in drinking water and the effects it has on children. The statement must include the following information:

"If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from material and components associated with service lines and home plumbing. [*insert name of system*] is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline (800)426-4791 or at www.epa.gov/safewater/lead."

2. ~~May~~ A system may write its own educational statement, but only in consultation with the department.

ITEM 47. Amend paragraph **42.3(3)"h"** as follows:

h. Additional mandatory report requirements.

(1) to (4) No change.

(5) Systems required to comply with 567—41.7(455B), the groundwater rule, must include the following when applicable:

1. Any groundwater system that receives notice from the department of a significant deficiency must inform its customers of any significant deficiency that is uncorrected at the time of the next report.

The system must continue to inform the public annually until the department determines that particular significant deficiency is corrected. Each report must include the following elements:

- The nature of the particular significant deficiency and the date the significant deficiency was identified by the department; and
- For each significant deficiency, the department-approved plan and schedule for correction, including interim measures, progress to date, and any interim measures completed.

Only if directed by the department, a system with significant deficiencies that have been corrected before the next report is issued must inform its customers of the significant deficiency, how the deficiency was corrected, and the date of correction.

2. Any groundwater system that receives notice from the department or laboratory of a fecal indicator-positive groundwater source sample that is not invalidated by the department under 567—paragraph 41.7(3)*"d"* must inform its customers of any fecal indicator-positive groundwater source sample in the next report. The system must continue to inform the public annually until the department determines that the fecal contamination in the groundwater source is addressed under 567—paragraph 41.7(4)*"a."* Each report must include the following elements:

- The source of the fecal contamination (if the source is known) and the dates of the fecal indicator-positive groundwater source samples;
- Whether the fecal contamination in the groundwater source has been addressed under 567—paragraph 41.7(4)*"a"* and the date of such action;
- For each fecal contamination in the groundwater source that has not been addressed under 567—paragraph 41.7(4)*"a,"* the department-approved plan and schedule for correction, including interim measures, progress to date, and any interim measures completed; and
- If the system receives notice of a fecal indicator-positive groundwater source sample that is not invalidated by the department under 567—paragraph 41.7(3)*"d,"* the potential health effects, using the "Fecal coliform or *E. coli*" or "Fecal Indicators (enterococci or coliphage)" health effects language of Appendix C in Chapter 42.

(6) Pursuant to 567—subrule 41.2(1), any system required to comply with the Level 1 assessment requirement or a Level 2 assessment requirement that is not due to an *E. coli* MCL violation must include in the report the text in 42.3(3)*"h"*(6)"1" to "3" as appropriate, filling in the blanks accordingly and including the text found in the bulleted paragraphs of 42.3(3)*"h"*(6)"4" if appropriate.

1. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that the potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments.

2. During the past year, we were required to conduct [*insert number of required Level 1 assessments*] Level 1 assessment(s). [*insert number of completed Level 1 assessments*] Level 1 assessment(s) were completed. In addition, we were required to take [*insert number of required corrective actions*] corrective actions, and we completed [*insert number of completed corrective actions*] of these actions.

3. During the past year, [*insert number of required Level 2 assessments*] Level 2 assessments were required to be completed for our water system. [*insert number of completed Level 2 assessments*] Level 2 assessment(s) were completed. In addition, we were required to take [*insert number of required corrective actions*] corrective actions, and we completed [*insert number of completed corrective actions*] of these actions.

4. Any system that has failed to complete all the required assessments or correct all identified sanitary defects is in violation of the treatment technique requirement and must also include one or both of the following statements, as appropriate:

- During the past year, we failed to conduct all of the required assessment(s).
- During the past year, we failed to correct all identified defects that were found during the assessment.

(7) Pursuant to 567—subrule 41.2(1), any system required to conduct a Level 2 assessment due to an *E. coli* MCL violation must include in the report the text in 42.3(3)*"h"*(7)"1" and "2" as appropriate, filling in the blanks accordingly and including the text found in the bulleted paragraphs of 42.3(3)*"h"*(7)"3" if appropriate.

1. *E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. We found *E. coli* bacteria, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments.

2. We were required to complete a Level 2 assessment because we found *E. coli* bacteria in our water system. In addition, we were required to take [*insert number of required corrective actions*] corrective actions, and we completed [*insert number of completed corrective actions*] of these actions.

3. Any system that has failed to complete the required assessment or correct all identified sanitary defects is in violation of the treatment technique requirement and must also include one or both of the following statements, as appropriate:

- We failed to conduct the required assessment.
- We failed to correct all sanitary defects that were identified during the assessment that we conducted.

(8) Pursuant to 567—subrule 41.2(1), if a system detects *E. coli* and violated the *E. coli* MCL, in addition to completing the table as required in 42.3(3)*"c,"* the system must include one or more of the following statements to describe any noncompliance, as applicable:

1. We had an *E. coli*-positive repeat sample following a total coliform-positive routine sample.
2. We had a total coliform-positive repeat sample following an *E. coli*-positive routine sample.
3. We failed to take all required repeat samples following an *E. coli*-positive routine sample.
4. We failed to test for *E. coli* when any repeat sample tested positive for total coliform.

(9) Pursuant to 567—subrule 41.2(1), if a system detects *E. coli* and has not violated the *E. coli* MCL, in addition to completing the table as required in 42.3(3)*"c,"* the system may include a statement that explains that although the system has detected *E. coli*, the system is not in violation of the *E. coli* MCL.

ITEM 48. Amend paragraph **42.3(4)"c,"** introductory paragraph, as follows:

c. Waiver from mailing requirements for systems serving fewer than 10,000 persons. All community public water supply systems with fewer than 10,000 persons served will be granted the waiver, except for those systems which have the following: one or more exceedances of a maximum contaminant level, treatment technique, action level, or health advisory; an administrative order; a court order; significant noncompliance with monitoring or reporting requirements; or an extended compliance schedule contained in the operation permit. Even though a public water supply system has been granted a mailing waiver, subparagraphs 42.3(4)*"a"*(2) ~~to (4)~~ and (3) and paragraph 42.3(4)*"b"* still apply to all community public water supply systems. A mailing waiver is not allowed for the report covering the year during which one of the previously listed exceptions occurred. Systems which use the mailing waiver must:

ITEM 49. Amend paragraph **42.3(4)"d"** as follows:

d. Waiver from mailing requirements for systems serving 500 or fewer in population. All community public water supply systems serving 500 or fewer persons will be granted the waiver, except for those systems which have the following: one or more exceedances of a maximum contaminant level, treatment technique, action level, or health advisory; an administrative order; a court order; significant noncompliance with monitoring or reporting requirements; or an extended compliance schedule contained in the operation permit. Systems serving 500 or fewer persons which use the waiver may forego the requirements of subparagraphs 42.3(4)*"c"*(1) and (2) if they provide notice at least once per year to their customers by mail, door-to-door delivery, or by posting that the report is

available upon request, in conspicuous places within the area served by the system acceptable to the department. A mailing waiver is not allowed for the report covering the year during which one of the previously listed exceptions occurred. Even though a public water supply system has been granted a mailing waiver, subparagraphs 42.3(4)*"a"*(2) ~~to (4)~~ and (3) and paragraph 42.3(4)*"b"* still apply to all community public water supply systems.

ITEM 50. Adopt the following **new** paragraph **42.4(1)"d"**:

d. Groundwater rule. Additional reporting requirements for the groundwater rule are listed in 567—paragraph 41.7(6)*"a."*

ITEM 51. Adopt the following **new** paragraph **42.4(1)"e"**:

e. Coliform rule. Additional reporting requirements for the coliform rule are listed in 567—paragraph 41.2(1)*"n."*

ITEM 52. Amend subparagraph **42.4(2)"a"(1)**, introductory paragraph, as follows:

(1) Except as provided in 42.4(2)*"a"*(1)"8," a water system shall report the information specified below for all tap water samples specified in 567—paragraph 41.4(1)*"c"* and for all water quality parameter samples specified in 567—paragraph 41.4(1)*"d"* within the first ten days following the end of each applicable monitoring period specified in 567—41.4(455B) (i.e., every six months, annually, or every three years). For monitoring periods with a duration of less than six months, the end of the monitoring period is the last date samples can be collected during that period as specified in 567—paragraphs 41.4(1)*"c"* and 41.4(1)*"d."*

ITEM 53. Amend subparagraph **42.4(2)"a"(2)**, introductory paragraph, as follows:

(2) Certain systems that do not have enough taps that can provide first-draw samples that have met the six-hour stand time criteria, such as an NTNC that has 24-hour operation or a CWS that meets the criteria of ~~42.2(4)*"g"*(1) and (2)~~ 42.2(2)*"b"*(7), must either:

ITEM 54. Amend subparagraph **42.4(2)"a"(3)** as follows:

(3) ~~No later than 60 days after the addition of a new source or any change in water treatment, unless the department specifies earlier notification~~ At a time specified by the department or, if no specific time is designated by the department, then as early as possible prior to the addition of a new source or any long-term change in water treatment, a water system that has optimized corrosion control under 567—subparagraph 43.7(1)*"b"*(3), a water system subject to reduced monitoring pursuant to 567—paragraph 41.4(1)*"c"*(4)"4," or a water system subject to a monitoring waiver pursuant to 567—subparagraph 41.4(1)*"c"*(7)~~,~~ shall send written documentation to the department describing the change or addition. The department must review and approve the addition of a new source or long-term change in treatment before it is implemented by the water system. Examples of long-term treatment changes include the addition of a new treatment process or modification of an existing treatment process. Examples of modifications include the switching of secondary disinfectants, switching of coagulants (e.g., alum to ferric chloride), and switching of corrosion inhibitor products (e.g., orthophosphate to blended phosphate). Long-term changes can include dose changes to existing chemicals if the system is planning long-term changes to its finished water pH or residual inhibitor concentration. Long-term treatment changes would not include chemical dose fluctuations associated with daily water quality changes. In those instances where prior department approval of the treatment change or new source is not required, water systems are encouraged to provide the notification to the department beforehand to minimize the risk that the treatment change or new source will adversely affect optimal corrosion control.

ITEM 55. Amend subparagraph **42.4(2)"e"(1)** as follows:

(1) ~~Within~~ No later than 12 months after the end of a monitoring period in which a system exceeds the lead action level in sampling referred to in 567—paragraph 43.7(4)*"a,"* the system ~~shall demonstrate in writing~~ must submit to the department ~~that it has conducted a materials evaluation, including~~ written documentation of the material evaluation pursuant to 567—subparagraph 41.4(1)*"c"*(1)~~,~~ ~~to~~ identify the initial number of lead service lines in its distribution system at the time the system exceeds the lead

action level, and ~~shall~~ provide the department with the system's schedule for replacing annually at least 7 percent of the initial number of lead service lines in its distribution system.

ITEM 56. Amend subparagraph **42.4(2)"e"(2)** as follows:

(2) ~~Within~~ No later than 12 months after the end of a monitoring period in which a system exceeds the lead action level in sampling referred to in 567—paragraph 43.7(4)*"a"* and every 12 months thereafter, the system shall demonstrate in writing that the system has either:

1. Replaced in the previous 12 months at least 7 percent of the initial lead service lines (or a greater number of lines specified by the department under 567—paragraph 43.7(4)*"e"* in its distribution system), or

2. Conducted sampling which demonstrates that the lead concentration in all service line samples from individual line(s), taken pursuant to 567—paragraph 41.4(1)*"c"*(2)"3," is less than or equal to 0.015 mg/L. In such cases, the total number of lines replaced and those lines which meet the criteria in 567—paragraph 43.7(4)*"c"* shall equal at least 7 percent of the initial number of lead lines identified under ~~567—paragraph 43.7(4)*"b"*~~ 42.4(2)*"e"*(1) or the percentage specified by the department under 567—paragraph 43.7(4)*"e."* A lead service line meeting the criteria of 567—paragraph 43.7(4)*"c"* may only be used to comply with the 7 percent criteria for a specific year, and may not be used again to calculate compliance with the 7 percent criteria in future years.

ITEM 57. Amend paragraph **42.4(2)"f"** as follows:

f. Public education program reporting requirements.

(1) Any water system that is subject to the public education requirements in ~~567—42.2(455B)~~ 42.2(2) shall, within ten days after the end of each period in which the system is required to perform public education ~~tasks~~ in accordance ~~within 42.2(4),~~ with 42.2(2)*"b,"* send written documentation to the department that contains:

1. A demonstration that the system has delivered the public education materials that meet the content requirements in ~~42.2(2) and 42.2(3)~~ 42.2(2)*"a"* and the delivery requirements in ~~42.2(4)~~ 42.2(2)*"b"*; and

2. A list of all the newspapers, radio stations, television stations, facilities and organizations to which the system delivered public education materials during the period in which the system was required to perform public education tasks.

(2) Unless required by the department, a system that previously has submitted the information required by 42.4(2)*"f"*(1)"2" need not resubmit the same information, provided there have been no changes in the distribution list and the system certifies that the public education materials were distributed to the same list previously submitted. The certification is due within ten days after the end of each period in which the system is required to perform public education.

(3) No later than three months following the end of the monitoring period, each system must mail a sample copy of the consumer notification of tap results to the department along with a certification that the notification has been distributed in a manner consistent with the requirements of 42.2(1).

ITEM 58. Amend subparagraph **42.4(3)"a"(1)** as follows:

(1) Applicability. Monthly records of operation shall be completed by all public water supplies, on forms provided by the department or on similar forms, unless a public water supply meets all of the following conditions:

1. and 2. No change.

3. Does not utilize either a surface water or a groundwater under the direct influence of surface water either in whole or in part as a water source.;

4. Does not use a treatment technique such as blending to achieve compliance with a maximum contaminant level, treatment technique, action level, or health advisory.

The reports shall be completed as described in 42.4(3)*"a"*(2) and maintained at the facility for inspection by the department for a period of five years. For CWS and NTNC PWSs, the monthly operation report must be signed by the certified operator in charge. For TNC PWSs, the monthly operation report, if required by the department, must be signed by the owner or the owner's designee.

All public water supplies using a surface water or influenced groundwater source must also comply with the applicable record-keeping requirements in 567—43.5(455B), 567—43.9(455B), ~~and~~ 567—43.10(455B), and 567—43.11(455B).

ITEM 59. Amend paragraph **42.4(3)"b,"** introductory paragraph, as follows:

b. Chemical quality and application. Any drinking water system chemical which is added to raw, partially treated, or finished water must be suitable for the intended use in a potable water system. Effective on October 1, 2000, the chemical must be certified ~~to meet the current~~ by an American National Standards Institute (ANSI) accredited third party for conformance with American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 60, if such certification exists for the particular product, unless certified chemicals are not reasonably available for use, in accordance with guidelines provided by the department. If the chemical is not certified ~~by~~ to meet the ANSI/NSF Standard 60 or no certification is available, the person seeking to supply or use the chemical must prove to the satisfaction of the department that the chemical is not toxic or otherwise a potential hazard in a potable public water supply system.

ITEM 60. Amend subparagraph **42.4(3)"b"(1)** as follows:

(1) Continuous disinfection.

1. When required. Continuous disinfection must be provided at all public water supply systems, except for the following: groundwater supplies that have no treatment facilities or have only fluoride, sodium hydroxide or soda ash addition and that meet the bacterial standards as provided in ~~567—41.2(455B)~~ 567—subrule 41.2(1) and do not show other actual or potential hazardous contamination by microorganisms. For a noncommunity system that only uses a cation-exchange softening unit that meets the requirements of 42.3(4)*"a"*(7), the requirement for continuous disinfection is based upon the system's history of both coliform bacteria detection and compliance with the coliform bacteria monitoring requirements as provided in 567—subrule 41.2(1).

2. No change.

3. Chlorine residual. A minimum free available chlorine residual of 0.3 mg/L or a minimum total available chlorine residual of 1.5 mg/L must be continuously maintained throughout the water distribution system, except for those points in the distribution system that terminate as dead ends or areas that represent very low use when compared to usage throughout the rest of the distribution system as determined by the department. All systems using water to which chlorine has been added must monitor daily in the distribution system to ensure the minimum disinfectant residual concentration is met, including both wholesale systems and consecutive systems.

4. to 6. No change.

ITEM 61. Amend subparagraph **42.4(3)"c"(2)** as follows:

(2) Disinfection information specified in 567—subrule 43.5(2) and paragraph 42.4(3)*"b"* must be reported to the department within ten days after the end of each month the system serves water to the public. Information that must be reported includes:

1. and 2. No change.

3. The information on the samples taken in the distribution system in conjunction with total coliform monitoring listed in 567—paragraph 43.5(2)*"d"* and pursuant to ~~567—paragraph 41.2(1)*"c."*~~ 567—subparagraph 41.2(1)*"c"*(7).

ITEM 62. Adopt the following **new** subparagraph **42.4(3)"c"(3)**:

(3) Total inactivation ratio. The total inactivation ratio must be calculated each day the treatment plant is in operation, pursuant to 567—paragraph 43.5(2)*"a,"* and reported on the monthly operation report. If the total inactivation ratio is below 1.0, the system must notify the department within 24 hours.

ITEM 63. Amend subparagraph **42.4(3)"d"(3)**, introductory paragraph, as follows:

(3) Disinfectants. In addition to the requirements in 567—subparagraph ~~41.2(1)*"c"*(2)~~ 41.2(1)*"c"*(7), systems must report the information specified in the following table:

ITEM 64. Adopt the following **new** paragraph **42.5(1)"i"**:

i. Groundwater rule. Additional record-keeping requirements for the groundwater rule are listed in 567—paragraph 41.7(6)*"b."*

ITEM 65. Adopt the following **new** paragraph **42.5(1)"j"**:

j. Level 1 and 2 assessment forms and corrective action. These record-keeping requirements pertain to the coliform bacteria requirements in 567—subrule 41.2(1).

(1) The system must maintain any assessment form, regardless of who conducts the assessment, and documentation of corrective actions completed as a result of those assessments, or other available summary documentation of the sanitary defects and corrective actions taken under 567—paragraph 41.2(1)*"m"* for department review. This record must be maintained by the system for a period not less than five years after completion of the assessment or corrective action.

(2) The system must maintain a record of any repeat sample taken that meets department criteria for an extension of the 24-hour period for collecting repeat samples as provided for under 567—paragraph 41.2(1)*"j."*

ITEM 66. Rescind the "Microbiological Contaminants" section of **567—Chapter 42**, Appendix A, and adopt the following **new** section in lieu thereof:

Contaminant	Standard Health Effects Language
Microbiological Contaminants	
Coliform assessment and/or corrective action violations, under 567—subrule 41.2(1)	Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other potentially harmful waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessments to identify problems and to correct any problems that are found. [THE SYSTEM MUST INCLUDE THE FOLLOWING APPLICABLE SENTENCES] ● We failed to conduct the required assessment. ● We failed to correct all identified sanitary defects that were found during the assessment(s).
E. coli	*E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems.
E. coli assessment and/or corrective action violations, under 567—subrule 41.2(1)	*E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. We violated the standard for *E. coli*, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct a detailed assessment to identify problems and to correct any problems that are found. [THE SYSTEM MUST INCLUDE THE FOLLOWING APPLICABLE SENTENCES] ● We failed to conduct the required assessment. ● We failed to correct all identified sanitary defects that were found during the assessment(s).
Seasonal system treatment technique violation	● When this violation includes the failure to monitor for total coliforms or *E. coli* prior to serving water to the public, the mandatory language for monitoring violation in 42.1(5)*"c"*(2) must be used.

Contaminant	Standard Health Effects Language
	• When this violation includes failure to complete other actions, the appropriate elements found in 42.1(5)*"c"* to describe the violation must be used.
Fecal indicators for the groundwater rule (*E. coli*, enterococci, and coliphage)	Fecal indicators are microbes whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

ITEM 67. Adopt the following **new** "Groundwater Treatment Technique Requirements" section in **567—Chapter 42**, Appendix A, after "Microbiological Contaminants" section:

Contaminant	Standard Health Effects Language
Groundwater Treatment Technique Requirements	
Groundwater rule treatment technique violations	Inadequately treated or inadequately protected water may contain disease-causing organisms. These organisms can cause symptoms such as diarrhea, nausea, cramps, and associated headaches.

ITEM 68. Rescind the "Bacteria" section of **567—Chapter 42**, Appendix C, and adopt the following **new** "Microbiological Contaminants" section in lieu thereof:

Contaminant (CCR units)	MCL, in mg/L	To convert for CCR, multiply by	MCL in CCR units	MCLG in CCR units	Major sources in drinking water	Health effects language
Microbiological Contaminants						
Total coliform bacteria	TT		TT	n/a	Naturally present in the environment	Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system.
E. coli	Routine and repeat samples are total coliform-positive and either is *E. coli*-positive, or system fails to take repeat samples following *E. coli*-positive routine sample, or system fails to analyze total coliform-positive repeat sample for *E. coli*		Routine and repeat samples are total coliform-positive and either is *E. coli*-positive, or system fails to take repeat samples following *E. coli*-positive routine sample, or system fails to analyze total coliform-positive repeat sample for *E. coli*	0	Human and animal fecal waste	*E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems.
Fecal indicators (enterococci or coliphage)	TT		TT	n/a	Human and animal fecal waste	Fecal indicators are microbes whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

ITEM 69. Amend subrule 43.1(7) as follows:

43.1(7) *Sanitary surveys.* Each public water supply system must have a periodic sanitary survey, conducted by the department or its designee, which is a records review and on-site inspection of the system. Systems must provide the department, at its request, any existing information that will enable the department to conduct the sanitary survey. The inspection evaluates the system's ability to produce and distribute safe drinking water and identifies improvements necessary to maintain or improve drinking water quality. The sanitary survey includes review and inspection of the following areas: water source; treatment facilities ~~(treatment, storage, distribution system)~~; distribution system; finished water storage; pumps, pump facilities, controls and other equipment; monitoring, reporting, and data verification, including self-monitoring requirements; system operation and management; maintenance; ~~self-monitoring requirements;~~ properly certified operators; and records. A report of the sanitary survey is issued by the department or its designee, and may include both enforceable required actions for remedying significant deficiencies and nonenforceable recommended actions. The frequency of the sanitary survey inspection must be at least once every five years for noncommunity systems~~,~~ and once every ~~five~~ three years for community systems ~~using groundwater, and once every three years for community systems using surface water or influenced groundwater sources~~. The department or its designee must provide the system with a written notice describing any significant deficiencies identified no later than 30 days after the department identifies the significant deficiency. The notice may be included in the sanitary survey report and may specify corrective actions and deadlines for completion of corrective actions. Systems must respond in writing to significant deficiencies outlined in the sanitary survey report or written notice within the time period specified in the report, indicating how and on what schedule the system will address significant deficiencies noted in the survey. At a maximum, the written response must be received within ~~45~~ 30 days of receiving the survey report. All systems must take the steps necessary to address significant deficiencies identified in the sanitary survey report that are within the control of the system and its governing body.

ITEM 70. Amend paragraph **43.3(2)"a,"** introductory paragraph, as follows:

a. The standards for a project are the Ten States Standards as adopted through ~~2007~~ 2012 and the American Water Works Association (AWWA) Standards as adopted through ~~2010~~ 2016 and 43.3(7) to 43.3(9). To the extent of any conflict between the Ten States Standards and the American Water Works Association Standards and 43.3(7) to 43.3(9), the Ten States Standards, 43.3(2), and 43.3(7) to 43.3(9) shall prevail. Additional standards include the following:

ITEM 71. Amend subparagraph **43.3(7)"c"(2)** as follows:

(2) Groundwater sources. Water samples collected from groundwater sources in accordance with 43.3(7)*"c"*(1) shall be conducted at the conclusion of the drawdown/yield test pumping procedure, with the exception of bacteriological monitoring. Bacteriological monitoring must be conducted after disinfection of each new well and subsequent pumping of the chlorinated water to waste. Water samples must be analyzed for ammonia. Water samples should also be analyzed for alkalinity, ~~ammonia,~~ pH, calcium, chloride, copper, hardness, iron, magnesium, manganese, potassium, silica, specific conductance, sodium, sulfate, filterable and nonfilterable solids, and zinc.

ITEM 72. Amend subparagraph **43.3(7)"c"(3)** as follows:

(3) Surface water sources. Water samples collected from surface water sources in accordance with 43.3(7)*"c"*(1) should be collected prior to the design of the surface water treatment facility and shall be conducted and analyzed prior to utilization of the source. The samples shall be collected during June, July, and August. In addition, quarterly monitoring shall be conducted in March, June, September, and December at a location representative of the raw water at its point of withdrawal. Monitoring shall be for turbidity, alkalinity, pH, calcium, chloride, color, copper, hardness, iron, magnesium, manganese, potassium, silica, specific conductance, sodium, sulfate, filterable and nonfilterable solids, carbonate, bicarbonate, algae (qualitative and quantitative), total organic carbon, five-day biochemical oxygen demand, dissolved oxygen, surfactants, nitrogen series (organic, ammonia, nitrite, and nitrate), and phosphate.

TABLE A: SEPARATION DISTANCES

SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well[1]	Shallow Well[1]
WASTEWATER STRUCTURES:		
Point of Discharge to Ground Surface		
Sanitary & industrial discharges	400	400
Water treatment plant wastes	50	50
Well house floor drains	5	5
Sewers & Drains[2]		
Sanitary & storm sewers, drains	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Sewer force mains	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1000 feet if ~~water main or~~ sanitary sewer pipe	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1000 feet if ~~water main or~~ sanitary sewer main pipe
Water plant treatment process wastes that are treated onsite	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Water plant wastes to sanitary sewer	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to sewers	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to surface	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Land Disposal of Treated Wastes		
Irrigation of wastewater	200	400
Land application of solid wastes[3]	200	400
Other		
Cesspools & earth pit privies	200	400
Concrete vaults & septic tanks	100	200
Lagoons	400	1000
Mechanical wastewater treatment plants	200	400
Soil absorption fields	200	400
CHEMICALS:		
Chemical application to ground surface	100	200
Chemical & mineral storage above ground	100	200
Chemical & mineral storage on or under ground	200	400
Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia)	200	400
ANIMALS:		
Animal pasturage	50	50

SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well[1]	Shallow Well[1]
Animal enclosure	200	400
Earthen silage storage trench or pit	100	200
Animal Wastes		
Land application of liquid or slurry	200	400
Land application of solids	200	400
Solids stockpile	200	400
Storage basin or lagoon	400	1000
Storage tank	200	400
MISCELLANEOUS:		
Basements, pits, sumps	10	10
Cemeteries	200	200
Cisterns	50	100
Flowing streams or other surface water bodies	50	50
GHEX loop boreholes	200	200
Railroads	100	200
Private wells	200	400
Solid waste landfills and disposal sites[4]	1000	1000

[1]Deep and shallow wells, as defined in 567—40.2(455B): A deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

[2]The separation distances are dependent upon two factors: the type of piping that is in the existing sewer or drain, as noted in the table, and that the piping was properly installed in accordance with the standards.

[3]Solid wastes are those derived from the treatment of water or wastewater. Certain types of solid wastes from water treatment processes may be land-applied within the separation distance on an individual, case-by-case basis.

[4]Solid waste means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities.

ITEM 73. Amend subrule 43.3(8) as follows:

43.3(8) *Drinking water system components.* Any drinking water system component which comes into contact with raw, partially treated, or finished water must be suitable for the intended use in a potable water system. The component must ~~meet the current~~ be certified by an American National Standards Institute (ANSI) accredited third party for conformance with American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 61 specifications, if such specification exists for the particular product, unless approved components are not reasonably available for use, in accordance with guidance provided by the department. If the component does not meet the ANSI/NSF Standard 61 specifications or no specification is available, the person seeking to supply or use the component must prove to the satisfaction of the department that the component is not toxic or otherwise a potential hazard in a potable public water supply system.

ITEM 74. Amend subparagraph **43.3(10)"b"(1)**, introductory paragraph, as follows:

(1) Inorganic compounds. The department identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for the inorganic contaminants listed in 567—paragraph 41.3(1)*"b,"* except ~~arsenic and~~ fluoride.

ITEM 75. Amend paragraph **43.5(2)"a"** as follows:

a. Disinfection treatment criteria. The disinfection treatment must be sufficient to ensure that the total treatment processes of that system achieve at least 99.9 percent (3-log) inactivation or removal of *Giardia lamblia* cysts and at least 99.99 percent (4-log) inactivation or removal of viruses, acceptable to the department. At least 0.5 log inactivation of *Giardia lamblia* cysts must be achieved through disinfection treatment using a chemical disinfectant even if the required inactivation or removal is met or exceeded through physical treatment processes. Each system is required to calculate the total inactivation ratio ($CT_{calculated}/CT_{required}$) each day the treatment plant is in operation. The system's total inactivation ratio must be equal to or greater than 1.0 in order to ensure that the minimum inactivation and removal requirements have been achieved. If the system's total inactivation ratio for the day is below 1.0, the system must notify the department within 24 hours.

ITEM 76. Amend subparagraph **43.5(4)"a"(1)** as follows:

(1) Turbidity analytical methodology. Turbidity analysis shall be conducted using the ~~following methodology:~~ methodology in the following table. Each turbidimeter must be calibrated at least once every 90 days with a primary standard. The calibration of each turbidimeter used for compliance must be verified at least once per week with a primary standard, secondary standards, or the manufacturer's proprietary calibration confirmation device or by a method approved by the department. If the verification is not within plus or minus 0.05 NTU for measurements of less than or equal to 0.5 NTU, or within plus or minus 10 percent of measurements greater than 0.5 NTU, the turbidimeter must be recalibrated.

	Analytical Method				
Methodology	EPA	SM	GLI	HACH	Other
Nephelometric[5]	180.1[1]	2130B[2]	Method 2[3]	FilterTrak 10133[4]	
Laser Nephelometry (online)					Mitchell M5271[6]; Mitchell M5331 Rev. 1.2[10]
LED Nephelometry (online)					Mitchell M5331[7]; Mitchell M5331 Rev. 1.2[10]; AMI Turbiwell[9]
LED Nephelometry (portable)					Orion AQ4500[8]
360-degree Nephelometry					Hach Method 10258[11]

[1]"Methods for the Determination of Inorganic Substances in Environmental Samples," EPA-600/R-93-100, August 1993. Available at NTIS, PB94-121811.

[2]Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992, 19th edition, 1995, ~~or~~ 20th edition, 1998, 21st edition, 2005, and 22nd edition, 2012 (any of ~~the three~~ these editions may be used), American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[3]GLI Method 2, "Turbidity," November 2, 1992, Great Lakes Instruments, Inc., 8855 North 55th Street, Milwaukee, WI 53223.

[4]Hach FilterTrak Method 10133, "Determination of Turbidity by Laser Nephelometry," January 2000, Revision 2.0, Hach Co., P.O. Box 389, Loveland, CO 80539-0389, telephone (800)227-4224.

[5]Styrene divinyl benzene beads (e.g., AMCO-AEPA-1 or equivalent) and stabilized formazin (e.g., Hach StablCal™ or equivalent) are acceptable substitutes for formazin.

[6]Mitchell Method M5271, Revision 1.1. "Determination of Turbidity by Laser Nephelometry," March 5, 2009. Available at www.nemi.gov or from Leck Mitchell, 656 Independence Valley Drive, Grand Junction, CO 81507.

[7]Mitchell Method M5331, Revision 1.1. "Determination of Turbidity by LED Nephelometry," March 5, 2009. Available at www.nemi.gov or from Leck Mitchell, 656 Independence Valley Drive, Grand Junction, CO 81507.

[8]Orion Method AQ4500, Revision 1.0. "Determination of Turbidity by LED Nephelometry," May 8, 2009. Available at www.nemi.gov or from Thermo Scientific, 166 Cummings Center, Beverly, MA 01915, www.thermo.com.

[9]AMI Turbiwell, "Continuous Measurement of Turbidity Using a SWAN AMI Turbiwell Turbidimeter," August 2009. Available at www.nemi.gov or from Markus Bernasconi, SWAN Analytische Instrumente AG, Studbachstrasse 13, CH-8340 Hinwil, Switzerland.

[10]Mitchell Method M5331, Revision 1.2. "Determination of Turbidity by LED or Laser Nephelometry," February 2016. Available from Leck Mitchell, 656 Independence Valley Drive, Grand Junction, CO 81507.

[11]Hach Company. "Hach Method 10258 – Determination of Turbidity by 360-Degree Nephelometry," January 2016. Available at www.hach.com.

ITEM 77. Amend subparagraph **43.5(4)"a"(5)** as follows:

(5) Residual disinfectant analytical methodology. The residual disinfectant concentrations shall be determined in compliance with one of the analytical methods in the following table. Residual disinfectant concentrations for free chlorine and combined chlorine may also be measured by using DPD colorimetric test kits. Free and total chlorine residuals may be measured continuously by adapting a specified chlorine residual method for use with a continuous monitoring instrument provided the chemistry, accuracy and precision remain the same. Instruments used for continuous monitoring must be ~~calibrated~~ verified with a grab sample measurement at least every ~~five~~ seven days. The analyzer concentration must be within plus or minus 0.1 mg/L or plus or minus 15 percent (whichever is larger) of the grab sample measurement. If the verification is not within this range, immediate actions must be taken to resolve the issue and another verification must be conducted.

Disinfectant Analytical Methodology

Residual	Methodology	Standard Methods[1,2]	Standard Methods Online[6]	Other
Free chlorine	Amperometric Titration	4500-Cl D	4500-Cl D-00	D1253-03[4], 08, 14
	DPD Ferrous Titrimetric	4500-Cl F	4500-Cl F-00	
	DPD Colorimetric	4500-Cl G	4500-Cl G-00	Hach Method 10260[10]
	Syringaldazine (FACTS)	4500-Cl H	4500-Cl H-00	
	Online Chlorine Analyzer			EPA 334.0[7]
	Amperometric Sensor			ChloroSense[8]
	Indophenol Colorimetric			Hach Method 10241[11]
Total chlorine	Amperometric Titration	4500-Cl D	4500-Cl D-00	D1253-03[4], 08, 14
	Amperometric Titration (low-level measurement)	4500-Cl E	4500-Cl E-00	
	DPD Ferrous Titrimetric	4500-Cl F	4500-Cl F-00	
	DPD Colorimetric	4500-Cl G	4500-Cl G-00	Hach Method 10260[10]
	Iodometric Electrode	4500-Cl I	4500-Cl I-00	
	Online Chlorine Analyzer			EPA 334.0[7]
	Amperometric Sensor			ChloroSense[8]
Chlorine dioxide	Amperometric Titration	4500-ClO_2 C	4500-$C10_2$ C-00	
	DPD Method	4500-ClO_2 D		
	Amperometric Titration	4500-ClO_2 E	4500-$C10_2$ E-00	
	Amperometric Sensor			ChlordioX Plus[9]
	Spectrophotometric			327.0, Revision 1.1[5]
Ozone	Indigo method	4500-O_3 B[3]	4500-O_3 B-97	

[1]Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992, 19th edition, 1995, ~~or~~ 20th edition, 1998, 21st edition, 2005, or 22nd edition, 2012 (any of ~~the three~~ these editions may be used), American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710. Only the 18th, 19th, and 20th editions may be used for chlorine dioxide Method 4500-ClO_2 D.

[2]Other analytical test procedures are contained within Technical Notes on Drinking Water Methods, EPA-600/R- 94-173, October 1994, which is available as NTIS PB95-104766.

[3]Standard Methods for the Examination of Water and Wastewater, 18th edition (1992), ~~and~~ 19th edition (1995), 21st edition (2005), and 22nd edition (2012) (~~either~~ any edition may be used); American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[4]Annual Book of ASTM Standards, Vol. 11.01, 2004; ASTM International; any year containing the cited version of the method may be used. Copies of this method may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959.

[5]EPA Method 327.0, Revision 1.1, "Determination of Chlorine Dioxide and Chlorite Ion in Drinking Water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry," US EPA, May 2005, EPA 815-R-05-008. Available online at www.nemi.gov.

[6]Standard Methods Online is available at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[7]EPA Method 334.0, "Determination of Residual Chlorine in Drinking Water Using an On-Line Chlorine Analyzer," August 2009. EPA 815-B-09-013. Available at www.nemi.gov.

[8]ChloroSense, "Measurement of Free and Total Chlorine in Drinking Water by Palintest ChloroSense," September 2009. Available at www.nemi.gov or from Palintest Ltd., 21 Kenton Lands Road, P.O. Box 18395, Erlanger, KY 41018.

[9]ChlordioX Plus. "Chlorine Dioxide and Chlorite in Drinking Water by Amperometry Using Disposable Sensors," November 2013. Available from Palintest Ltd., Jamike Avenue (Suite 100), Erlanger, KY 41018.

[10]Hach Company. "Hach Method 10260 – Determination of Chlorinated Oxidants (Free and Total) in Water Using Disposable Planar Reagent-Filled Cuvettes and Mesofluidic Channel Colorimetry," April 2013. Available at www.hach.com.

[11]Hach Company. "Hach Method 10241 – Spectophotometric Measurement of Free Chlorine in Finished Drinking Water," November 2015, Revision 1.2. Available at www.hach.com.

ITEM 78. Amend paragraph **43.5(4)"b,"** introductory paragraph, as follows:

b. Monitoring requirements. A public water system that uses a surface water source or groundwater source under the influence of surface water must monitor in accordance with this paragraph ~~or some interim requirements required by the department, until filtration is installed~~.

ITEM 79. Amend subparagraph **43.5(4)"b"(1)** as follows:

(1) Turbidity.

1. Routine turbidity monitoring requirements. Turbidity measurements as required by 43.5(3) must be performed on representative samples of the system's filtered water every four hours (or more frequently as long as measurements are recorded at equal time intervals and detailed in the turbidity protocol) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring or may monitor more frequently than every four hours if it validates the continuous measurement for accuracy on a regular basis using a ~~calibration~~ turbidity protocol approved by the department and audited for compliance during sanitary surveys. Major elements of the protocol shall include, but are not limited to: sample measurement location, method of calibration, calibration frequency, calibration standards, method of verification, verification frequency, documentation, data collection, data recording frequency, and data reporting. For any systems using slow sand filtration or filtration treatment other than conventional treatment, direct filtration, or diatomaceous earth filtration, the department may reduce the sampling frequency to once per day if it determines that less frequent monitoring is sufficient to indicate effective filtration performance. For systems serving 500 or fewer persons, the department may reduce the turbidity sampling frequency to once per day, regardless of the type of filtration treatment used, if the department determines that less frequent monitoring is sufficient to indicate effective filtration performance. Approval shall be

based upon documentation provided by the system, acceptable to the department and pursuant to the conditions of an operation permit.

2. Turbidity monitoring requirements for population greater than 100,000. A supplier of water serving a population or population equivalent of greater than 100,000 persons shall provide a continuous or rotating cycle turbidity monitoring and recording device or take hourly grab samples to determine compliance with 43.5(3). The system must meet the requirements in 43.5(4)*"b"*(1)"1," including the turbidity protocol.

3. Failure of the continuous turbidity monitoring equipment. If there is a failure in the continuous turbidity monitoring equipment, the system must conduct grab sampling every four hours in lieu of continuous monitoring until the turbidimeter is repaired and back online. A system has a maximum of five working days after failure to repair the equipment or else the system is in violation. The system must notify the department within 24 hours of both when the turbidimeter was taken offline and when it was returned online.

ITEM 80. Amend numbered paragraph **43.5(4)"b"(2)"2"** as follows:

2. Residual disinfectant in the system. The residual disinfectant concentration must be measured at least daily in the distribution system. Residual disinfectant measurements that are required as part of the total coliform bacteria sample collection under ~~567—paragraph 41.2(1)*"c"*~~ 567—subparagraph 41.2(1)*"c"*(7) shall be used to satisfy this requirement on the day(s) when a bacteria sample(s) is collected. The department may allow a public water system that uses both a groundwater source and a surface water source or a groundwater source under direct influence of surface water to take residual disinfectant samples at points other than the total coliform sampling points, if these points are included as a part of the coliform sample site plan meeting the requirements of 567—paragraph 41.2(1)*"c"*(1)"1" and if the department determines that such points are representative of treated (disinfected) water quality within the distribution system. Heterotrophic plate count bacteria (HPC) may be measured in lieu of residual disinfectant concentration, using ~~Method 9215B, Pour Plate Method, Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992~~ the analytical methods specified in 567—subparagraph 41.2(3)*"e"*(1). The time from sample collection to initiation of analysis shall not exceed eight hours. ~~Samples~~ HPC samples must be kept below 10 degrees C during transit to the laboratory. All HPC samples must be analyzed by a department-certified laboratory meeting the requirements of 567—Chapter 83.

ITEM 81. Adopt the following **new** paragraph **43.5(5)"e"**:

e. Total inactivation ratio below 1.0. If the system's total inactivation ratio for the day is below 1.0, the system must notify the department within 24 hours.

ITEM 82. Amend subparagraph **43.6(1)"d"(1)** as follows:

(1) Analytical methods. Systems must measure residual disinfectant concentrations for free chlorine, combined chlorine (chloramines), and chlorine dioxide by the methods listed in the following table:

Approved Methods for Residual Disinfectant Compliance Monitoring

Methodology	Standard Methods	Other Method	Residual measured[1]			
			Free Chlorine	Combined Chlorine	Total Chlorine	Chlorine Dioxide
Amperometric Titration	4500-Cl D	ASTM: D 1253-86 (96), 03, 08, 14	X	X	X	
Low Level Amperometric Titration	4500-Cl E				X	
DPD Ferrous Titrimetric	4500-Cl F		X	X	X	
DPD Colorimetric	4500-Cl G	Hach Method 10260[4]	X	X	X	
Syringaldazine (FACTS)	4500-Cl H		X			
Amperometric Sensor		ChloroSense[3]	X		X	

Methodology	Standard Methods	Other Method	Residual measured[1]			
			Free Chlorine	Combined Chlorine	Total Chlorine	Chlorine Dioxide
Online Chlorine Analyzer		EPA 334.0[2]	X		X	
Indophenol Colorimetric		Hach Method 10241[6]	X	X	X	
Iodometric Electrode	4500-Cl I				X	
DPD	4500-ClO_2 D					X
Amperometric Method II	4500-ClO_2 E					X
Lissamine Green Spectrophotometric		EPA: 327.0 Rev. 1.1				X
Amperometric Sensor		ChlordioX Plus[5]				X

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents was approved by the Director of the Federal Register on February 16, 1999, in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at (800)426-4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street, SW, Washington, DC 20460 (telephone: (202)260-3027); or at the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC 20408.

The following method is available from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428:

Annual Book of ASTM Standards, Volume 11.01, American Society for Testing and Materials, 1996: Method D 1253-86.

The following methods are available from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710:

Standard Methods for the Examination of Water and Wastewater, 19th ~~and~~ (1995), 20th (1998), 21st (2005), and 22nd (2012) editions, American Public Health Association~~, 1995 and 1998, respectively (both editions are acceptable)~~: Methods: 4500-Cl D, 4500-Cl E, 4500-Cl F, 4500-Cl G, 4500-Cl H, 4500-Cl I, ~~4500-ClO_2 D,~~ 4500-ClO_2 E. Only the 19th and 20th editions may be used for the chlorine dioxide Method 4500-ClO_2 D.

The following methods are available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161 (telephone: (800)553-6847):

"Determination of Chlorine Dioxide and Chlorite Ion in Drinking Water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry, Revision 1.1," USEPA, May 2005, EPA 815-R-05-008.

[1]X indicates method is approved for measuring specified residual disinfectant. Free chlorine or total chlorine may be measured for demonstrating compliance with the chlorine MRDL, and combined chlorine or total chlorine may be measured for demonstrating compliance with the chloramine MRDL.

[2]EPA Method 334.0, "Determination of Residual Chlorine in Drinking Water Using an On-Line Chlorine Analyzer," August 2009. EPA 815-B-09-013. Available at www.epa/gov/safewater/methods/analyticalmethods_ogwdw.html.

[3]ChloroSense, "Measurement of Free and Total Chlorine in Drinking Water by Palintest ChloroSense," September 2009. Available at www.nemi.gov or from Palintest Ltd., 21 Kenton Lands Road, P.O. Box 18395, Erlanger, KY 41018.

[4]Hach Method 10260, "Determination of Chlorinated Oxidants (Free and Total) in Water Using Disposable Planar Reagent-Filled Cuvettes and Mesofluidic Channel Colorimetry," April 2013. Available at Hach Company, P.O. Box 389, Loveland, CO 80539, or www.hach.com.

[5]ChlordioX Plus. "Chlorine Dioxide and Chlorite in Drinking Water by Amperometry Using Disposable Sensors," November 2013. Available from Palintest Ltd., Jamike Avenue (Suite 100), Erlanger, KY 41018.

[6]Hach Company. "Hach Method 10241 – Spectrophotometric Measurement of Free Chlorine in Finished Drinking Water," November 2015, Revision 1.2. Available at www.hach.com.

ITEM 83. Amend subparagraph **43.6(2)"c"(1)** as follows:

(1) Analytical methods. Systems required to monitor disinfectant byproduct precursors must use the following methods, which must be conducted by a certified laboratory pursuant to 567—Chapter 83, unless otherwise specified.

Approved Methods for Disinfection Byproduct Precursor Monitoring[1]

Analyte	Methodology	EPA	Standard Methods	ASTM	Other
Alkalinity[6]	Titrimetric		2320B	D 1067-92B	
	Electrometric titration				I-1030-85
Bromide	Ion chromatography	300.0			
		300.1			
		317.0 Rev. 2.0			
		326.0			
				D 6581-00	
Dissolved Organic Carbon[2] (DOC)	High temperature combustion	415.3 Rev. 1.2	5310B or 5310B-00		
	Persulfate-UV or heated-persulfate oxidation	415.3 Rev. 1.2	5310C or 5310C-00		
	Wet oxidation	415.3 Rev. 1.1, 415.3 Rev. 1.2	5310D or 5310D-00		
pH[3]	Electrometric	150.1	4500-H^+-B	D 1293-84	
		150.2			
Specific Ultraviolet Absorbance (SUVA)	Calculation using DOC and UV_{254} data	415.3 Rev. 1.2			
Total Organic Carbon[4]	High temperature combustion	415.3 Rev. 1.2	5310B or 5310B-00		
	Persulfate-UV or heated-persulfate oxidation	415.3 Rev. 1.2	5310C or 5310C-00		Hach Method 10267[7]
	Wet oxidation	415.3 Rev. 1.1, 415.3 Rev. 1.2	5310D or 5310D-00		
	Ozone Oxidation				Hach Method 10261[8]
Ultraviolet Absorption at 254 nm[5]	~~UV absorption~~ Spectrophotometry	415.3 Rev. 1.1, 415.3 Rev. 1.2	5910B or 5910B-00, 11		

[1]The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents was approved by the Director of the Federal Register on February 16, 1999, in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at (800)426-4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street SW, Washington, DC 20460 (telephone: (202)260-3027); or at the Office of Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC 20408.

The following methods are available from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428:

Annual Book of ASTM Standards, Volume 11.01, American Society for Testing and Materials, 1996: Method D 1067-92B and Method D 1293-84.

Annual Book of ASTM Standards, Volume 11.01, American Society for Testing and Materials, 2001 (or any year containing the cited version): Method D 6581-00.

The following methods are available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161 (telephone: (800)553-6847):

"Determination of Inorganic Anions in Drinking Water by Ion Chromatography, Revision 1.0," EPA-600/R-98/118, 1997 (NTIS, PB98-169196): Method 300.1.

Methods for Chemical Analysis of Water and Wastes, EPA-600/4-79-020, March 1983, (NTIS PB84-128677): Methods 150.1 and 150.2.

Methods for the Determination of Inorganic Substances in Environmental Samples, EPA-600/R-93/100, August 1993, (NTIS PB94-121811): Method 300.0.

"Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography with the Addition of a Postcolumn Reagent for Trace Bromate Analysis, Revision 2.0," USEPA, July 2001, EPA 815-B-01-001: Method 317.0.

"Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography Incorporating the Addition of a Suppressor Acidified Postcolumn Reagent for Trace Bromate Analysis, Revision 1.0," USEPA, June 2002, EPA 815-R-03-007: Method 326.0.

"Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water, Revision 1.1," USEPA, February 2005, EPA/600/R-05/055: Method 415.3 Revision 1.1.

"Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water, Revision 1.2," USEPA, September 2009, EPA/600/R-09/122: Method 415.3 Revision 1.2.

The following methods are available from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710:

Standard Methods for the Examination of Water and Wastewater, 19th ~~edition~~ (1995), 21st (2005), and 22nd (2012) editions, American Public Health Association, ~~1995~~: Methods: 2320B (20th edition, 1998, is also accepted for this method), 4500-H^+-B, and 5910B (22nd edition, 2012, is also accepted for this method).

Standard Methods for the Examination of Water and Wastewater, Supplement to the 19th edition (1996), 21st (2005), and 22nd editions, American Public Health Association, ~~1996~~: Methods: 5310B, 5310C, and 5310D.

For method numbers ending "-00", the year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that are IBR-approved.

Method I-1030-85 is available from the Books and Open-File Reports Section, U.S. Geological Survey, Federal Center, Box 25425, Denver, CO 80225-0425.

[2]Dissolved Organic Carbon (DOC). DOC and UV_{254} samples used to determine a SUVA value must be taken at the same time and at the same location, prior to the addition of any disinfectant or oxidant by the system. Prior to analysis, DOC samples must be filtered through a 0.45 µ pore-diameter filter, as soon as practical after sampling, not to exceed 48 hours. After filtration, DOC samples must be acidified to achieve pH less than or equal to 2 with minimal addition of the acid specified in the method or by the instrument manufacturer. Acidified DOC samples must be analyzed within 28 days. Inorganic carbon must be removed from the samples prior to analysis. Water passed through the filter prior to filtration of the sample must serve as the filtered blank. This filtered blank must be analyzed using procedures identical to those used for analysis of the samples and must meet a DOC concentration of <0.5 mg/L.

[3]pH must be measured by a laboratory certified by the department to perform analysis under 567—Chapter 83; a Grade II, III or IV operator meeting the requirements of 567—Chapter 81; or any person under the supervision of a Grade II, III or IV operator meeting the requirements of 567—Chapter 81.

[4]Total Organic Carbon (TOC). Inorganic carbon must be removed from the samples prior to analysis. TOC samples may not be filtered prior to analysis. TOC samples must be acidified at the time of sample collection to achieve a pH less than or equal to 2 with minimal addition of the acid specified in the method or by the instrument manufacturer. Acidified TOC samples must be analyzed within 28 days.

[5]Ultraviolet Absorption at 254 nm (UV_{254}). DOC and UV_{254} samples used to determine a SUVA value must be taken at the same time and at the same location, prior to the addition of any disinfectant or oxidant by the system. UV absorption must be measured at 253.7 nm (may be rounded off to 254 nm). Prior to analysis, UV_{254} samples must be filtered through a 0.45 µ pore-diameter filter. The pH of UV_{254} samples may not be adjusted. Samples must be analyzed as soon as practical after sampling, not to exceed 48 hours.

[6]Alkalinity must be measured by a laboratory certified by the department to perform analysis under 567—Chapter 83; a Grade II, III or IV operator meeting the requirements of 567—Chapter 81; or any person under the supervision of a Grade II, III or IV operator meeting the requirements of 567—Chapter 81. Only the listed titrimetric methods are acceptable.

[7]Hach Company. "Hach Method 10267 – Spectrophotometric Measurement of Total Organic Carbon (TOC) in Finished Drinking Water," December 2015, Revision 1.2. Available at www.hach.com.

[8]Hach Company. "Hach Method 10261 – Total Organic Carbon in Finished Drinking Water by Catalyzed Ozone Hydroxyl Radical Oxidation Infrared Analysis," December 2015, Revision 1.2. Available at www.hach.com.

ITEM 84. Amend subparagraph **43.7(1)"b"(3)** as follows:

(3) Any water system has optimized corrosion control if it submits results of tap water monitoring conducted in accordance with 567—paragraph 41.4(1)*"c"* and source water monitoring conducted in accordance with 567—paragraph 41.4(1)*"e"* that demonstrate for two consecutive six-month monitoring periods that the difference between the 90th percentile tap water lead level computed under

567—subparagraph 41.4(1)*"b"*(3) and the highest source water lead concentration is less than the practical quantitation level for lead specified in 567—paragraph 41.4(1)*"g."*

1. and 2. No change.

3. Any water system deemed to have optimized corrosion control pursuant to this paragraph shall notify the department in writing pursuant to 567—subparagraph 42.4(2)*"a"*(3) of any upcoming long-term change in treatment or the addition of a new source as described in 567—subparagraph 42.4(2)*"a"*(3). The department ~~may require any such system to conduct additional monitoring or to take other action the department deems appropriate to ensure that the system maintains minimal levels of corrosion in the distribution system~~ must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system.

4. and 5. No change.

ITEM 85. Amend subparagraph **43.7(1)"e"(1)** as follows:

(1) Step 1. The system shall conduct initial tap sampling pursuant to 567—paragraph 41.4(1)*"c"*(4)"1" and 567—subparagraph 41.4(1)*"d"*(2) until the system either exceeds the lead or copper action level or becomes eligible for reduced monitoring under 567—paragraph 41.4(1)*"c"*(4)"4." A system exceeding the lead or copper action level shall recommend optimal corrosion control treatment under 43.7(2)*"a"* within six months after the end of the monitoring period during which it exceeds one of the action levels.

ITEM 86. Amend subparagraph **43.7(1)"e"(2)** as follows:

(2) Step 2. Within 12 months after the end of the monitoring period during which a system exceeds the lead or copper action level, the department may require the system to perform corrosion control studies under 43.7(2)*"b."* If the system is not required to perform such studies, the department will specify optimal corrosion control treatment under 43.7(2)*"d"* as follows: for medium-size systems, within 18 months after the end of the monitoring period during which such system exceeds the lead or copper action level, and, for small systems, within 24 months after the end of the monitoring period during which such system exceeds the lead or copper action level.

ITEM 87. Amend subparagraph **43.7(3)"a"(1)** as follows:

(1) Step 1. A public water supply system exceeding the lead or copper action level shall complete lead and copper source water monitoring under 567—subparagraph 41.4(1)*"e"*(2) and make a written treatment recommendation to the department ~~within six months after exceeding~~ no later than 180 days after the end of the monitoring period during which the lead or copper action level was exceeded.

ITEM 88. Amend paragraph **43.7(4)"b"** as follows:

b. Lead service line replacement schedule. A public water supply system shall replace annually at least 7 percent of the initial number of lead service lines in its distribution system. The initial number of lead service lines is the number of lead lines in place at the time the replacement program begins. The system shall identify the initial number of lead service lines in its distribution system, including an identification of the portion(s) owned by the system, based upon a materials evaluation, including the evaluation required under 567—subparagraph 41.4(1)*"c"*(1), and relevant legal authorities regarding the portion owned by the system such as contracts and local ordinances.

(1) The first year of lead service line replacement shall begin on the ~~date~~ first day following the end of the monitoring period in which the action level was exceeded in tap sampling referenced in 43.7(4)*"a."* If monitoring is required annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs. If the department has established an alternate monitoring period, then the end of the monitoring period will be the last day of that period.

(2) Any water system resuming a lead service line replacement program after the cessation of its lead service line replacement program as allowed by 43.7(4)*"g"* shall update its inventory of lead service lines to include those sites that were previously determined not to require replacement through the sampling provision under 43.7(4)*"c."* The system will then divide the updated number of remaining lead service lines by the number of remaining years in the program to determine the number of lines that must be replaced per year. Seven percent lead service line replacement is based on a 15-year replacement

program. For example, systems resuming lead service line replacement after previously conducting two years of replacement would divide the updated inventory by 13.

(3) For those systems that have completed a 15-year lead service line replacement program, the department will determine a schedule for replacing or retesting lines that were previously exempted through testing under 43.7(4)*"c"* from the replacement program when the system re-exceeds the action level.

ITEM 89. Amend paragraph **43.9(3)"a"** as follows:

a. Conventional filtration treatment or direct filtration.

(1) Turbidity requirement in 95 percent of samples. For systems using conventional filtration or direct filtration, the turbidity level of representative samples of a system's filtered water (combined filter effluent or CFE) must be less than or equal to 0.3 NTU in at least 95 percent of the measurements taken each month, measured as specified in 43.5(4)*"a"*(1) and 43.5(4)*"b"*(1).

(2) Maximum turbidity level. The turbidity level of representative samples of a system's filtered water (combined filter effluent or CFE) must at no time exceed 1 NTU, measured as specified in 43.5(4)*"a"*(1) and 43.5(4)*"b"*(1). If at any time the combined filter effluent turbidity exceeds 1 NTU, either in a grab sample used for compliance or in a continuously monitored flow, the system must inform the department as soon as possible, but no later than 24 hours after the exceedance is known, in accordance with the public notification requirements under 567—subparagraph 42.1(3)*"b"*(3).

(3) Systems with lime-softening treatment. A system that uses lime softening may acidify representative samples prior to analysis using a protocol approved by the department.

ITEM 90. Amend paragraph **43.9(4)"a"** as follows:

a. Monitoring requirements for systems using filtration treatment. In addition to monitoring required by 43.5(4), a public water system subject to the requirements of this rule that provides conventional filtration treatment or direct filtration must conduct continuous monitoring of turbidity for each individual filter using an approved method in 43.5(4)*"a"*(1) and must calibrate turbidimeters ~~using the procedure specified by the manufacturer~~ at least every 90 days with a primary standard. The calibration of each turbidimeter used for compliance must be verified at least once per week with a primary standard, secondary standards, or the manufacturer's proprietary calibration confirmation device or by a method approved by the department. If the verification is not within plus or minus 0.05 NTU for measurements of less than or equal to 0.5 NTU, or within plus or minus 10 percent of measurements greater than 0.5 NTU, then the turbidimeter must be recalibrated. Systems must record the results of individual filter monitoring every 15 minutes.

ITEM 91. Amend paragraph **43.9(5)"a"** as follows:

a. Turbidity. Turbidity measurements as required by 43.9(3) must be reported in a format acceptable to the department and within ten days after the end of each month that the system serves water to the public. Information that must be reported includes:

(1) The total number of filtered water (combined filter effluent or CFE) turbidity measurements taken during the month;

(2) The number and percentage of filtered water (combined filter effluent or CFE) turbidity measurements taken during the month which are less than or equal to the turbidity limits specified in 43.9(3)*"a"* or *"b"*; and

(3) The date and value of any combined filter effluent or CFE turbidity measurements taken during the month which exceed 1 NTU for systems using conventional filtration treatment or direct filtration or which exceed the maximum level set by the department under 43.9(3)*"b."*

(4) The dates and summary of calibration and verification of all compliance turbidimeters.

ITEM 92. Amend subparagraph **43.9(5)"b"(2)** as follows:

(2) For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart ~~at the end of~~ anytime following the first four hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the system must report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition,

the system must either produce a filter profile for the filter within seven days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

ITEM 93. Amend paragraph **43.9(5)"c"** as follows:

c. Additional reporting requirement for turbidity combined filter effluent.

(1) If at any time the turbidity exceeds 1 NTU in representative samples of filtered water (combined filter effluent or CFE) in a system using conventional filtration treatment or direct filtration, the system must consult with the department as soon as practical, but no later than 24 hours after the exceedance is known, in accordance with the public notification requirements under 567—subparagraph 42.1(3)*"b"*(3).

(2) If at any time the turbidity in representative samples of filtered water (combined filter effluent or CFE) exceeds the maximum level set by the department under 43.9(3)*"b"* for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the system must consult with the department as soon as practical, but no later than 24 hours after the exceedance is known, in accordance with the public notification requirements under 567—subparagraph 42.1(3)*"b"*(3).

ITEM 94. Amend subparagraph **43.10(4)"a"(3)** as follows:

(3) The turbidity in the combined filter effluent must never exceed 1 NTU at any time during the month. If at any time the combined filter effluent turbidity exceeds 1 NTU, either in a grab sample used for compliance or in a continuously monitored flow, the system must inform the department as soon as possible, but no later than 24 hours after the exceedance is known, in accordance with the public notification requirements under 567—subparagraphs 42.1(3)*"b"*(3) and 42.1(2)*"a"*(8).

ITEM 95. Amend subparagraph **43.10(5)"a"(2)** as follows:

(2) Calibration of turbidimeters must be conducted ~~using procedures specified by the manufacturer~~ at least every 90 days with a primary standard. The calibration of each turbidimeter used for compliance must be verified at least once per week with a primary standard, secondary standards, or the manufacturer's proprietary calibration confirmation device or by a method approved by the department. If the verification is not within plus or minus 0.05 NTU for measurements of less than or equal to 0.5 NTU, or within plus or minus 10 percent of measurements greater than 0.5 NTU, the turbidimeter must be recalibrated;

ITEM 96. Amend subparagraph **43.10(6)"a"(1)** as follows:

(1) The following information must be reported in the monthly operation report to the department by the tenth day of the following month.

1. to 3. No change.

4. The dates and summary of calibration and verification of all compliance turbidimeters.

ITEM 97. Amend subparagraph **43.10(6)"b"(2)** as follows:

(2) For any filter that had two consecutive measurements taken 15 minutes apart that exceeded 1.0 NTU, the following information must be reported:

1. The filter number(s);
2. The corresponding dates; ~~and~~
3. The turbidity values that exceeded 1.0 NTU~~.~~; and
4. The cause, if known, of the exceedance.

ITEM 98. Adopt the following **new** subparagraph **43.10(6)"b"(5)**:

(5) The dates and summary of calibration and verification of all compliance turbidimeters.

ITEM 99. Amend subparagraph **43.11(3)"b"(3)** as follows:

(3) Plants operating only part of the year. Systems with surface water or influenced groundwater treatment plants that operate for only part of the year must conduct source water monitoring in accordance with this rule, but with the following modifications.

1. No change.

2. Systems with plants that operate less than six months per year and that monitor for must collect at least six samples per year for two years. The samples must be evenly spaced throughout the period the plant operates.

ITEM 100. Amend paragraph **43.11(3)"d,"** introductory paragraph, as follows:

d. Sampling locations. Systems must collect samples for each treatment plant that treats a surface water or influenced groundwater source. If multiple plants draw water from the same influent (same pipe or intake), the department may approve one set of monitoring results to be used to satisfy the requirements for those plants.

ITEM 101. Amend subparagraph **43.11(3)"e"(1)** as follows:

(1) *Cryptosporidium.* Systems must have *Cryptosporidium* samples analyzed by a laboratory that is approved under EPA's Laboratory Quality Assurance Evaluation Program for Analysis of *Cryptosporidium* in Water.

1. ~~There are two~~ These are the approved analytical methods for *Cryptosporidium*:

● "Method 1623: *Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA," 2005, US EPA, EPA-815-R-05-002. Available at www.nemi.gov; ~~and,~~

● "Method 1622: *Cryptosporidium* in Water by Filtration/IMS/FA," 2005, US EPA, EPA-815-R-05-001. Available at www.nemi.gov; and

● "Method 1623.1: *Cryptosporidium* and *Giardia* in Water by Filtration/Immunomagnetic Separation/Immunofluorescence Assay Microscopy," 2012, EPA-816-R-12-001. Available at www.nepis.epa.gov.

2. Using one of the ~~two~~ approved methods, the laboratory must analyze at least a 10 L sample or a packed pellet volume of at least 2 mL. Systems unable to process a 10 L sample must analyze as much sample volume as can be filtered by two filters specified in the method, up to a packed pellet volume of at least 2 mL.

3. to 5. No change.

ITEM 102. Amend subparagraph **43.11(3)"e"(2)** as follows:

(2) *E. coli.* Systems must have the *E. coli* samples analyzed by a laboratory certified by EPA, the National Environmental Laboratory Accreditation Conference, or the department for total coliform or fecal coliform analysis in drinking water samples using the same approved *E. coli* method for the analysis of source water.

1. The approved analytical methods for the enumeration of *E. coli* in source water are shown in Table 2.

Table 2: *E. coli* Analytical Methods

Method	EPA	Standard Methods~~: 18th, 19th, and 20th editions~~	Other
Most probable number with multiple tube or multiple well[1,2]		9223 B[3] [11]	991.15[4] Colilert[3,5] Colilert-18[3,5,6]
Membrane filtration, single step[1,7,8]	1603[9]		m-ColiBlue24[10]
Membrane filtration, two step		9222D/9222G[12]	

[1]Tests must be conducted to provide organism enumeration (i.e., density). Select the appropriate configuration of tubes/filtrations and dilutions/volumes to account for the quality, consistency, and anticipated organism density in the water sample.

[2]Samples shall be enumerated by the multiple-tube or multiple-well procedure. Using multiple-tube procedures, employ an appropriate tube and dilution configuration of the sample as needed and report the Most Probable Number (MPN). Samples tested with Colilert® may be enumerated with the multiple-well procedures, Quanti-Tray®, Quanti-Tray® 2000, and the MPN calculated from the table provided by the manufacturer.

[3]These tests are collectively known as defined enzyme substrate tests, where, for example, a substrate is used to detect the enzyme beta-glucouronidase produced by *E. coli*.

[4]Association of Official Analytical Chemists, International. "Official Methods of Analysis of AOAC International, 16th Ed., Volume 1, Chapter 17, 1995. AOAC, 481 N. Frederick Ave., Suite 500, Gaithersburg, MD 20877-2417.

[5]Descriptions of the Colilert®, Colilert-18®, Quanti-Tray®, and Quanti-Tray® 2000 may be obtained from IDEXX Laboratories, Inc., 1 IDEXX Drive, Westbrook, ME 04092.

[6]Colilert-18® is an optimized formulation of the Colilert® for the determination of total coliforms and *E. coli* that provides results within 18 hours of incubation at 35 degrees C rather than the 24 hours required for the Colilert® test.

[7]The filter must be a 0.45 micron membrane filter or a membrane filter with another pore size certified by the manufacturer to fully retain organisms to be cultivated and to be free of extractables which could interfere with organism growth.

[8]When the membrane filter method has been used previously to test waters with high turbidity or large numbers of noncoliform bacteria, a parallel test should be conducted with a multiple-tube technique to demonstrate applicability and comparability of results.

[9]"Method 1603: *Escherichia coli (E. coli)* in Water by Membrane Filtration Using Modified Membrane-Thermotolerant *Escherichia coli* Agar (modified mTEC), USEPA, July 2006." US EPA, Office of Water, Washington, DC_2 EPA 821-R-06-011. Available at www.nepis.epa.gov.

[10]A description of the m-ColiBlue24® test, Total Coliforms and *E. coli*, is available from Hach Company, 100 Dayton Ave., Ames, IA 50010.

[11]Standard Methods for the Analysis of Water and Wastewater, 18th (1992), 19th (1995), and 20th (1998) editions, American Public Health Association. Available from APHA, 800 I Street, NW, Washington, DC 20001-3710.

[12]Standard Methods for the Examination of Water and Wastewater, 20th edition (1998). Available from APHA, 800 I Street, NW, Washington, DC 20001-3710.

2. The holding time (the time period from sample collection to initiation of analysis) shall not exceed 30 hours. The department may approve on a case-by-case basis an extension of the holding time to 48 hours, if the 30-hour holding time is not feasible. If the extension is allowed, the laboratory must use the Colilert® reagent version of the Standard Methods 9223B to conduct the analysis.

3. The samples must be maintained between 0 and 10 degrees C during storage and transit to the laboratory.

4. The following data elements must be reported for each *E. coli* analysis:

- PWSID.
- Facility ID.
- Sample collection date.
- Analytical method number.
- Method type.
- Source type (flowing stream or river; lake or reservoir; or influenced groundwater).
- Number of *E. coli* per 100 mL.
- Turbidity in NTU.

ITEM 103. Adopt the following **new** subparagraph **43.11(10)"c"(6)**:

(6) Springs and infiltration galleries. This treatment credit is not eligible for springs and infiltration galleries. Springs and infiltration galleries are eligible for credit through demonstration of performance study under 43.11(11)*"c."*

ITEM 104. Adopt the following **new** subparagraph **43.11(10)"c"(7)**:

(7) Bank filtration demonstration of performance. The department may approve *Cryptosporidium* treatment credit for bank filtration based on a demonstration of performance study that meets the criteria in this subparagraph. This treatment credit may be greater than 1.0-log and may be awarded to bank filtration that does not meet the criteria in 43.11(10)*"c"*(1) to (5).

1. The study must follow a protocol approved by the department and must involve the collection of data on the removal of *Cryptosporidium* or a surrogate for *Cryptosporidium* and related hydrogeologic and water quality parameters during the full range of operating conditions.

2. The study must include sampling both from the production well(s) and from monitoring wells that are screened and located along the shortest flow path between the surface water source and the production well(s).

ITEM 105. Adopt the following **new** appendix C in **567—Chapter 43**:

APPENDIX C: CT TABLES FOR VIRUS INACTIVATION UNDER THE GROUNDWATER RULE, 567—41.7(455B)

TABLE 1: CT Values (mg-min/L) for Inactivation of Viruses by Free Chlorine, pH 6.0-9.0[1]

Inactivation	Water Temperature, °C																								
Log Credit	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
2	5.8	5.3	4.9	4.4	4.0	3.8	3.6	3.4	3.2	3.0	2.8	2.6	2.4	2.2	2.0	1.8	1.6	1.4	1.2	1.0	1.0	1.0	1.0	1.0	1.0
3	8.7	8.0	7.3	6.7	6.0	5.6	5.2	4.8	4.4	4.0	3.8	3.6	3.4	3.2	3.0	2.8	2.6	2.4	2.2	2.0	1.8	1.6	1.4	1.2	1.0
4	11.6	10.7	9.8	8.9	8.0	7.6	7.2	6.8	6.4	6.0	5.6	5.2	4.8	4.4	4.0	3.8	3.6	3.4	3.2	3.0	2.8	2.6	2.4	2.2	2.0

[1]CT values provided in the table are modified by linear interpolation between 0.5°C increments.

TABLE 2: CT Values (mg-min/L) for Inactivation of Viruses by Free Chlorine, pH 9.1-10.0

Inactivation Log Credit	Water Temperature, °C					
	0.5	5	10	15	20	25
2	45	30	22	15	11	7
3	66	44	33	22	16	11
4	90	60	45	30	22	15

TABLE 3: CT Values (mg-min/L) for Inactivation of Viruses by Chlorine Dioxide, pH 6.0-9.0[1]

Inactivation Log Credit	Water Temperature, °C											
	1	2	3	4	5	6	7	8	9	10	11	12
2	8.4	7.7	7.0	6.3	5.6	5.3	5.0	4.8	4.5	4.2	3.9	3.6
3	25.6	23.5	21.4	19.2	17.1	16.2	15.4	14.5	13.7	12.8	12.0	11.1
4	50.1	45.9	41.8	37.6	33.4	31.7	30.1	28.4	26.8	25.1	23.4	21.7

[1]CT values provided in the table are modified by linear interpolation between 0.5°C increments.

Inactivation Log Credit	Water Temperature, °C												
	13	14	15	16	17	18	19	20	21	22	23	24	25
2	3.4	3.1	2.8	2.7	2.5	2.4	2.2	2.1	2.0	1.8	1.7	1.5	1.4
3	10.3	9.4	8.6	8.2	7.7	7.3	6.8	6.4	6.0	5.6	5.1	4.7	4.3
4	20.1	18.4	16.7	15.9	15.0	14.2	13.3	12.5	11.7	10.9	10.0	9.2	8.4

[1]CT values provided in the table are modified by linear interpolation between 0.5°C increments.

TABLE 4: CT Values (mg-min/L) for Inactivation of Viruses by Ozone[1]

Inactivation Log Credit	Water Temperature, °C											
	1	2	3	4	5	6	7	8	9	10	11	12
2	0.90	0.83	0.75	0.68	0.60	0.58	0.56	0.54	0.52	0.50	0.46	0.42
3	1.40	1.28	1.15	1.03	0.90	0.88	0.86	0.84	0.82	0.80	0.74	0.68
4	1.80	1.65	1.50	1.35	1.20	1.16	1.12	1.08	1.04	1.00	0.92	0.84

[1]CT values provided in the table are modified by linear interpolation between 0.5°C increments.

Inactivation Log Credit	Water Temperature, °C												
	13	14	15	16	17	18	19	20	21	22	23	24	25
2	0.38	0.34	0.30	0.29	0.28	0.27	0.26	0.25	0.23	0.21	0.19	0.17	0.15
3	0.62	0.56	0.50	0.48	0.46	0.44	0.42	0.40	0.37	0.34	0.31	0.28	0.25
4	0.76	0.68	0.60	0.58	0.56	0.54	0.52	0.50	0.46	0.42	0.38	0.34	0.30

[1]CT values provided in the table are modified by linear interpolation between 0.5°C increments.

No CT table is provided for chloramines or total chlorine because the CT values would be prohibitively high for groundwater systems.

Tables are from the EPA Groundwater Rule Implementation Guidance, EPA 816-R-09-004, January 2009, pages 97-98.

ITEM 106. Amend subrule 44.10(1) as follows:

44.10(1) *Allowable costs.* Allowable costs shall be limited to those costs deemed necessary, reasonable, and directly related to the efficient completion of the project. The director will determine project costs eligible for state assistance in accordance with rule 567—44.6(455B). Land purchase, easement, or rights-of-way costs are ineligible with the exception of land which is integral to a project needed to meet or maintain public health protection and which is needed to locate eligible treatment or distribution works. Source water protection easements are considered to be integral to a project. (The acquisition of land or easements has to be from a willing seller.) In addition to those costs identified in this chapter, unallowable costs include the following:

a. Costs of service lines ~~and~~, except lead-containing service lines and connectors which are exterior to a home.

b. Costs of in-house plumbing.

~~*b.*~~ *c.* Administrative costs of the loan recipient.

~~*c.*~~ *d.* Vehicles and tools.

ITEM 107. Adopt the following **new** definitions of "Operating shift" and "Shift operator" in rule **567—81.1(455B)**:

"Operating shift" means a specified period of time when an operator is present to conduct testing or evaluation to control operations of the plant or distribution system, to make process control changes, and to be responsible for the repair or maintenance of a plant or distribution system. An operating shift may include on-call shifts.

"Shift operator" means the operator on site who has responsibility for making process control changes and adjustments to the operation, repair, and maintenance of a plant or distribution system during any operating shift. Duties include testing or evaluation to control operations of the plant or distribution system.

ITEM 108. Amend rule **567—81.1(455B)**, definition of "Rural water district," as follows:

"Rural water district" means a water supply incorporated and organized as such pursuant to Iowa Code chapter 357, 357A or ~~504A~~ 358.

ITEM 109. Adopt the following **new** paragraph **81.6(1)"c"**:

c. Transient noncommunity water system. A transient noncommunity water system which serves a population of 500 or fewer persons and provides no treatment other than hypochlorination or treatment which does not require any chemical addition, process adjustment, backwashing or media regeneration by an operator shall be classified as a Grade A water system.

ITEM 110. Amend subrule 81.7(1), introductory paragraph, as follows:

81.7(1) *Education and experience requirements.* All applicants shall meet the education and experience requirements for the grade of certificate shown in the table below prior to being allowed to take the examination. Experience shall be in the same classification for which the applicant is applying except that partial credit may be given in accordance with 81.7(2) and 81.7(3). Directly related post-high school education shall be in the same subject matter as the classification in which the applicant is applying. ~~Directly related post-high school education will be granted education credit 2.0 times the number of semester, quarter or CEU credits until January 1, 2006.~~ The director will determine which courses qualify as "directly related" in cases which are not clearly defined. A military service applicant may apply for credit for verified military education, training, or service toward any education or experience requirement for certification, pursuant to subrule 81.7(4).

ITEM 111. Rescind and reserve subrule **81.8(2)**.

ITEM 112. Amend subrule 81.9(5) as follows:

81.9(5) *Reexamination.* Upon failure of the first examination, the applicant may ~~be reexamined at the next scheduled examination~~ apply for reexamination. Upon failure of the second examination, the applicant shall be required to wait a period of ~~180~~ at least 30 days between each subsequent examination.

ITEM 113. Rescind and reserve subrule **81.9(9)**.

ITEM 114. Amend subrule 81.9(10) as follows:

81.9(10) *Reasonable accommodation.* Upon request for certification by an applicant, the director will consider on an individual basis reasonable accommodation to allow administration of the examination without discrimination on the basis of disability. The applicant shall request the accommodation 30 days prior to the date of the examination. The applicant must provide documentation of eligibility for the accommodation. Documentation shall be submitted with the completed examination application. ~~Accommodations based on documentation may include site accessibility, oral examination, extended time, separate testing area, or other concerns.~~

ITEM 115. Amend rule 567—81.12(455B) as follows:

567—81.12(455B) Restricted ~~and temporary~~ certification.

~~81.12(1)~~ ~~*Restricted certification.*~~ Upon written request by an operator, the director may determine that further education requirements be waived when a plant or distribution system grade has been increased and the operator has been in direct responsible charge of the existing plant or distribution system. An operator successfully completing the examination will be restricted to that plant or distribution system until the education requirements are met.

~~81.12(2)~~ ~~*Temporary certification.*~~ ~~Upon written request by the owner of a plant or system not previously required to have a certified operator, the director may issue a temporary certificate of the appropriate grade and classification to the operator(s) in charge. The temporary certificate holder will be restricted to that plant or distribution system until all certification requirements, in accordance with rules 567—81.6(455B), 567—81.8(455B) and 567—81.9(455B), are met. The temporary certificate is not renewable and will expire 24 months after issuance. No temporary certificates will be issued to operators of new water plants or distribution systems, as defined in 567—subrule 43.8(1).~~

ITEM 116. Amend rule **567—83.2(455B)**, definition of "Manual for the Certification of Laboratories Analyzing Environmental Samples for the Iowa Department of Natural Resources," as follows:

"Manual for the Certification of Laboratories Analyzing Environmental Samples for the Iowa Department of Natural Resources" ~~(2003)~~ (2017) (Iowa Manual) is incorporated by reference in this chapter.

Chapter 1 of the Iowa Manual pertains to certification of laboratories analyzing samples of drinking water and incorporates by reference the Manual for the Certification of Laboratories Analyzing Drinking Water, ~~4th edition, March 1997, EPA document 815-B-97-001~~ 5th edition, January 2005, EPA document 815-R-05-004, January 2005; Supplement 1, June 2008, EPA 815-F-08-006; and Supplement 2, November 2012, EPA 815-F-12-006.

Chapter 2 of the Iowa Manual, ~~2003~~ (2017), pertains to laboratories analyzing samples for the underground storage tank program.

Chapter 3 of the Iowa Manual, ~~2003~~ (2017), pertains to laboratories analyzing samples for wastewater and sewage sludge disposal programs.

Chapter 4 of the Iowa Manual, ~~2003~~ (2017), pertains to laboratories analyzing samples for the solid waste and contaminated site programs.

ITEM 117. Amend paragraph **83.3(2)"c,"** table, entry for "Basic Drinking Water," as follows:

ANALYTICAL GROUP	REGULATORY PROGRAM & PARAMETERS[1]	FEE
Basic Drinking Water	SDWA (includes total ~~and fecal~~ coliform bacteria, *E. coli*, heterotrophic plate count, nitrate, nitrite, and fluoride)	$800

ITEM 118. Amend paragraph **83.3(2)"c,"** table, entry for "Bacteria," as follows:

ANALYTICAL GROUP	REGULATORY PROGRAM & PARAMETERS[1]	FEE
Bacteria	CWA (includes total coliform, fecal coliform, and *E. coli* ~~and enterococci bacteria~~)	$800
	SDWA (includes total coliform, ~~fecal coliform,~~ *E. coli*, and heterotrophic plate count)	$800
	SDWA & CWA combined	$1,300

ITEM 119. Amend paragraph **83.3(2)"d"** as follows:

d. Payment of fees. Fees shall be paid by bank draft, check, money order, credit card, electronic payment, or other means acceptable to the department, made payable to the Iowa Department of Natural Resources. Credit card or electronic payment may incur an additional fee. Purchase orders are not an acceptable form of payment.

ITEM 120. Amend subrule 83.3(3), introductory paragraph, as follows:

83.3(3) *Reciprocity.* Reciprocal certification of out-of-state laboratories by Iowa, and of Iowa laboratories by other states or accreditation providers, is ~~encouraged~~ allowed. A laboratory must meet all Iowa certification criteria and pay all applicable fees as listed in this chapter. Any laboratory which is granted reciprocal certification in Iowa using primary certification from another state or provider is required to report any change in certification status from the accrediting state or provider to the department within ~~14~~ 15 days of notification. A laboratory that loses primary certification, either in its resident state program or third-party accreditation program, will also immediately lose certification for the same program area and parameters in Iowa, pursuant to 83.7(5)*"a"*(9).

ITEM 121. Rescind and reserve rule **567—83.4(455B)**.

ITEM 122. Amend subrule 83.6(1) as follows:

83.6(1) *Approved methodology required.* Laboratories must use the approved methodology for all analyses the results of which are to be submitted to the department. A laboratory may not analyze and report data from samples collected for an environmental program area until certified in that area.

ITEM 123. Amend subrule 83.6(2) as follows:

83.6(2) *Performance evaluation (proficiency testing) samples required.* Certified laboratories must satisfactorily analyze PEs at least once every 12 months for each analyte by each method for which the laboratory wishes to retain certification unless a PE sample is not available for the particular analyte or method. Results must be submitted to Iowa department of natural resources and the state of Iowa hygienic laboratory, or as otherwise directed, along with a statement of the method used within 30 days of receipt from the provider. The laboratory must maintain records of all PE samples for a minimum of 5 years.

ITEM 124. Amend subrule 83.6(3) as follows:

83.6(3) *Notification of major changes.* Laboratories must notify the department, in writing, within 15 days of major changes in essential personnel, equipment, laboratory location, or other major change which might alter or impair analytical capability. An example of a major change in essential personnel includes the loss or replacement of the laboratory supervisor, or a trained and experienced analyst is no longer available to analyze a particular parameter for which certification has been granted.

ITEM 125. Amend paragraph **83.6(6)"a"** as follows:

a. Water supply program.

(1) Certified laboratories must report to the department, or its designee ~~such as SHL~~, all analytical test results for all public water supplies~~,~~ in a manner acceptable to the department, using forms, including electronic forms, provided or approved by the department or by electronic means acceptable to the department. If a public water supply is required by the department to collect and analyze a sample for an analyte not normally required by 567—Chapters 41 and 43, the laboratory testing for that analyte must also be certified and report the results of that analyte to the department. It is the responsibility of the laboratory to correctly assign and track the sample identification number as well as facility ID and source/entry point data for all reported samples.

1. The following are examples of sample types for which data results must be reported:

- Routine: a regular sample which includes samples collected for compliance purposes from such locations as the source/entry point and in the distribution system, at various sampling frequencies;
- Repeat: a sample which must be collected after a positive result from a routine or previous repeat total coliform sample, per ~~567—41.2(455B).~~ 567—paragraph 41.2(1)*"j."* Repeat samples must be analyzed at the same laboratory from which the associated original routine sample was analyzed;
- Confirmation: a sample which verifies a routine sample, normally used in determination of compliance with a health-based standard, such as nitrate;
- Special: a nonroutine sample, such as raw, plant, and troubleshooting samples, which cannot be used to comply with monitoring requirements assigned by the department;
- Maximum residence time: a sample which is collected at the maximum residence time location in the distribution system, usually for disinfection byproduct measurement; and
- Replacement: a sample which replaces a missed sample from a prior monitoring period resulting in a monitoring violation.

2. to 4. No change.

(2) No change.

(3) Analytical results must be reported to and received by the ~~department's designee~~ department by the seventh day of the month following the month in which the samples were analyzed.

(4) In addition to the monthly reporting of the analytical results, the following results must be reported within 24 hours of the completion of the analysis to the department by ~~facsimile transmission (fax)~~ email or other method acceptable to the department, and to the public water supply for which the analyses were conducted:

1. No change.

2. Results of any contaminant which exceeds public drinking water standards (maximum contaminant level, treatment technique, action level, or health advisory), and any subsequent confirmation samples~~, excluding lead and copper~~.

For results available outside of routine business hours, the results must also be reported to the department's Environmental Emergency Reporting Hotline number at (515)725-8694.

(5) No change.

ITEM 126. Adopt the following **new** subrule 83.6(8):

83.6(8) *Record keeping.* The laboratory certification program appraisal authority must retain the records for on-site laboratory assessments and certification program reviews. The records must be maintained in an easily accessible manner for a period of at least six years to include the last two on-site audits. The records include correspondence used to determine compliance with the laboratory certification program requirements and may include checklists, corrective action reports, final reports, certificates, performance evaluation/proficiency testing study results, and any other related documents.

ITEM 127. Amend paragraph **83.7(1)"c"** as follows:

c. A laboratory will not be granted provisional certification by the department for water supply contaminants which pose an acute risk to human health, including nitrate, nitrite, ~~fecal coliform bacteria,~~ and *Escherichia coli* bacteria.

ITEM 128. Amend subparagraph **83.7(3)"a"(1)** as follows:

(1) Failure to analyze a PE sample annually for water supply contaminants which pose an acute risk to human health, including nitrate, nitrite, ~~fecal coliform bacteria,~~ and *Escherichia coli* bacteria, or which pose an imminent risk to the environment;

ITEM 129. Amend subparagraph **83.7(3)"a"(2)** as follows:

(2) Failure to analyze a PE sample annually within Iowa acceptance limits for water supply contaminants which pose an acute risk to human health, including nitrate, nitrite, ~~fecal coliform bacteria,~~ and *Escherichia coli* bacteria, or which pose an imminent risk to the environment;

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3736C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to environmental management systems

The Environmental Protection Commission hereby amends Chapter 111, "Annual Reports of Solid Waste Environmental Management Systems," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455J.4(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 455J.

Purpose and Summary

Many of the amendments are necessary to conform Chapter 111 to 2017 Iowa Acts, House File 202, signed by Governor Branstad on April 12, 2017. House File 202 amended the Iowa Code chapter related to environmental management systems, Iowa Code chapter 455J. This legislation removed the Solid Waste Alternatives Program Advisory Council (council) from Iowa Code chapter 455J. This council had been vital in the oversight of the establishment of the environmental management systems program; however, once the program was established, it was determined that the council was no longer necessary. House File 202 shifted the duties of the council to the Department of Natural Resources. This legislation also changed the due date by which the Department of Natural Resources must review the annual report submitted by each designated system to determine if that system remains in compliance with Iowa Code chapter 455J (formerly the council's duty). The amendments implement these changes from House File 202. The amendments also reformat and clarify the required annual report submittal information.

Specifically, the amendments:

- Eliminate the council and move the council's prior responsibilities to the Department of Natural Resources;
- Amend definitions to be consistent with terminology used in Iowa Code chapter 455J;
- Reorganize rule 567—111.6(455J) to clarify annual report submittal information requirements for program participants; and
- Amend rule 567—111.7(455J) to change the annual report review date from October 1 to January 1 of each year.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 17, 2018, as **ARC 3569C**. A public hearing was held on February 13, 2018, at 10 a.m. in Conference Room 5 West, Wallace State Office Building, Des Moines, Iowa. No comments were received at the public hearing. No additional public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Environmental Protection Commission on March 20, 2018.

Fiscal Impact

This rule making has no negative fiscal impact to the State of Iowa. This rule making may result in a small cost savings to the environmental management systems program because the program will no longer have to pay for council members' travel costs and for the routine meetings held by the council. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule **567—111.4(455J)**, definition of "Plan component," as follows:

"Plan component" means each of the six areas that are required to be addressed in an environmental management system, including: ~~yard~~ organics waste management, hazardous household ~~waste~~ materials collection, water quality improvement, greenhouse gas reduction, recycling services, and environmental education.

ITEM 2. Adopt the following **new** definition of "Department" in rule **567—111.4(455J)**:

"Department" means the department of natural resources.

ITEM 3. Rescind the definition of "Council" in rule **567—111.4(455J)**.

ITEM 4. Amend rule 567—111.6(455J) as follows:

567—111.6(455J) Contents of annual reports. The following elements shall be included in the annual report.

111.6(1) to **111.6(4)** No change.

111.6(5) ~~*Plan components.*~~ *Objectives and targets.* ~~The following elements shall be addressed for each of the six plan components.~~

~~*a. Objectives and targets.* This element describes~~ The annual report shall describe the objective(s) relevant to ~~the~~ each of the six plan ~~component~~ components and the targets established for achieving the objective(s).

~~*b.*~~ **111.6(6)** *Action plan.* ~~This element provides~~ The annual report shall provide a plan that describes the actions necessary to achieve the objectives and targets. The plan includes the identification of ~~the individuals and organizations responsible for carrying out~~ specific tasks, time lines for completion of each step in the plan, and a schedule for periodically reviewing and updating, as conditions dictate, the objectives and targets.

111.6(7) *Roles and responsibilities.* The annual report shall include identification and documentation of individuals and organizations responsible for specific tasks to carry out the objectives.

~~*c.*~~ **111.6(8)** *Communication and training.* ~~This element describes~~ The annual report shall describe the processes that have been established for internal and external communication.

~~(1)~~ *a.* External communication includes reaching out to those groups and organizations that have been identified as having an interest, stake, or role in the planning or service area's ongoing EMS program. There shall also be procedures for receiving and responding to relevant communication from external interested parties.

~~(2)~~ *b.* Internal communication is directed to individuals, organizations and entities that have a role or responsibility within the action plan. Internal communication includes a process to ensure that all responsible parties are familiar with the EMS and have the training necessary to capably execute their roles. A description of the training provided to responsible parties shall be included.

~~*d.*~~ **111.6(9)** *Monitoring and measurement.* ~~This element describes~~ The annual report shall describe the documented process for monitoring key activities and, at a minimum, measuring performance related to each objective and target.

~~*e.*~~ **111.6(10)** ~~*Assessment.*~~ *Audit/assessment.* ~~This element provides~~ The annual report shall provide documented procedures for assessing the performance of the component's action plan(s) in terms of achieving the stated objectives and targets and conformance with the overall EMS. The assessment ~~element~~ shall draw conclusions from the performance measurements.

a. Internal audit. A copy of the result of the latest internal audit that includes the date(s) it was conducted and the identity of the auditor(s) shall be provided as part of the report. An internal audit shall be conducted each state fiscal year.

b. External audit. An external audit shall occur each state fiscal year. The date of the latest external audit or the date the audit will take place, along with the identity and pertinent qualifications of the independent, third-party auditor(s), shall be provided. The results of the external audit shall be incorporated into the report. The department has a prequalification process for external auditors.

~~*f.*~~ **111.6(11)** *Reevaluation and modification.* ~~The reevaluation~~ Reevaluation and modification ~~element is an activity~~ are activities that ~~allows~~ allow a planning or service area to improve and strengthen the EMS on an ongoing basis. ~~This element considers~~ The annual report shall describe areas where the EMS has met, exceeded, or failed to meet expectations. For each plan component, the report shall identify root causes of those outcomes and develop revised goals and activities appropriate to each.

~~**111.6(6)** *Internal audit.* A copy of the result of the latest internal audit that includes the date(s) it was conducted and the identity of the auditor(s) shall be provided as part of the report. An internal audit shall be conducted each state fiscal year.~~

~~**111.6(7)** *External audit.* An external audit shall occur each state fiscal year. The date of the latest external audit or the date the audit will take place, along with the identity and pertinent qualifications of the independent, third-party auditor(s) shall be provided. The results of the external audit shall be incorporated into the report. The department has a prequalification process for external auditors.~~

ITEM 5. Amend rule 567—111.7(455J) as follows:

567—111.7(455J) Evaluation criteria. Each annual report shall be reviewed by the ~~council~~ department, and a determination as to whether a planning or service area's EMS is in compliance with Iowa Code section 455J.3 shall be made by ~~October~~ January 1 of each year. Reports shall be reviewed for the following:

1. Completeness in terms of addressing all of the elements set forth in 567—111.6(455J).
2. Progress toward achieving the objectives and targets set forth in the EMS.
3. Clear demonstration of continuous improvement in terms of progress toward achieving the objectives and targets set forth in the EMS.

Upon achievement of these objectives and targets, a reevaluation and decision will be needed to verify whether a new target should be assigned to an objective or, if the objectives and targets were not achieved, what new initiatives should be incorporated into the EMS. Planning and service areas shall review procedures on a regular basis and revise as appropriate.

ITEM 6. Amend rule 567—111.8(455J) as follows:

567—111.8(455J) Evaluation outcomes.

111.8(1) If the ~~council~~ 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 EMS and shall continue to be qualified for the incentives set forth in Iowa Code section 455J.5.

111.8(2) If the ~~council~~ department determines that the annual report clearly demonstrates that the planning or service area's EMS is no longer in compliance with Iowa Code section 455J.3, the ~~council~~ department may recommend to the environmental protection commission the revocation of the EMS designation. If the commission concurs with the ~~council's~~ department's recommendation, the planning or service area shall adhere to the comprehensive planning requirements in 567—Chapter 101.

111.8(3) Failure by a planning or service area to submit an annual report by September 1 in any year will result in revocation of the EMS designation, following which the planning or service area shall adhere to the comprehensive planning requirements in 567—Chapter 101.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3737C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to licensure and regulation of residential care facilities

The Department of Inspections and Appeals hereby amends Chapter 57, "Residential Care Facilities," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104(5) and 135C.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135C.14.

Purpose and Summary

Iowa Code section 135C.2(3)"b" allows the Department to establish by administrative rule special classifications within the residential care facility category for facilities intended to serve individuals who have special health care problems or conditions in common. Currently, Chapter 63 applies to residential care facilities for persons with an intellectual disability (RCFs/ID). After reviewing several chapters, the Department has determined that an entire chapter specific to RCFs/ID is not necessary as many of the provisions of Chapter 63 overlap with those in Chapter 57. These amendments add licensure for RCFs/ID to Chapter 57, "Residential Care Facilities." In an Adopted and Filed rule making published simultaneously with this rule making (see **ARC 3740**, herein), the Department is rescinding Chapter 63 and adopting in lieu thereof a new Chapter 63 specific to three- to five-bed residential care facilities.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 6, 2017, as **ARC 3472C**. A public hearing was held on January 3, 2018, at 10 a.m. in the Lucas State Office Building, Des Moines, Iowa. Comments about the Department's changes to Chapter 63 were discussed at the public hearing. However, no comments were received on these specific rules. The Department made one change to the rule making by adding a new Item 3, which requires training for staff relating to the identification and reporting of dependent adult abuse as required by Iowa Code section 235B.16.

Adoption of Rule Making

This rule making was initially reviewed by the State Board of Health at its November 8, 2017, meeting, and subsequently approved by the Board at its March 14, 2018, meeting. This rule making was adopted by the Department on March 14, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 481—57.1(135C), introductory paragraph, as follows:

481—57.1(135C) Definitions. ~~For the purposes of these rules, the following terms shall have the meanings indicated in this rule.~~ The following definitions apply to this chapter and to 481—Chapter 62. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in these rules.

ITEM 2. Amend rule 481—57.6(135C) as follows:

481—57.6(135C) Special ~~classification—memory care~~ classifications.

57.6(1) *Memory care.*

~~57.6(1)~~ *a. Designation and application.* A residential care facility may choose to care for residents who require memory care in a distinct part of the facility or designate the entire residential care facility as one that provides memory care. Residents in the memory care unit or facility shall meet the level of care requirements for a residential care facility. "Memory care" in a residential care facility means the care of persons with early Alzheimer's-type dementia or other disorders causing dementia. (I, II, III)

~~*a.*~~ (1) Application for approval to provide this category of care shall be submitted by the licensee on a form provided by the department. (III)

~~*b.*~~ (2) Plans to modify the physical environment shall be submitted to the department for review based on the requirements of 481—Chapter 60. (III)

~~*c.*~~ (3) If the unit or facility is to be a locked unit or facility, all locking devices shall meet the Life Safety Code and any requirements of the state fire marshal. If the unit or facility is to be unlocked, a system of security monitoring is required. (I, II, III)

~~57.6(2)~~ *b. Résumé of care.* A résumé of care shall be submitted to the department for approval at least 30 days before a separate memory care unit or facility is opened. For facilities with a memory care unit, this résumé of care is in addition to the résumé of care required by subrule 57.3(2). A new résumé of care shall be submitted when services are substantially changed. The résumé of care shall:

~~*a.*~~ (1) Describe the population to be served;

~~*b.*~~ (2) State the philosophy and objectives;

~~*c.*~~ (3) List criteria for transfer to and from the memory care unit or facility;

~~*d.*~~ (4) Include a copy of the floor plan;

~~*e.*~~ (5) List the titles of policies and procedures developed for the unit or facility;

~~*f.*~~ (6) Propose a staffing pattern;

~~*g.*~~ (7) Set out a plan for specialized staff training;

~~*h.*~~ (8) State visitor, volunteer, and safety policies;

~~*i.*~~ (9) Describe programs for activities, social services and families; and

~~*j.*~~ (10) Describe the interdisciplinary team and the role of each team member.

~~57.6(3)~~ *c. Policies and procedures.* Separate written policies and procedures shall be implemented in the memory care unit or facility and shall address the following:

~~*a.*~~ (1) Criteria for admission and the preadmission evaluation process. The policy shall require a statement from the primary care provider approving the placement before a resident may be moved into a memory care unit or facility. (II, III)

~~*b.*~~ (2) Safety, including a description of the actions required of staff in the event of a fire, natural disaster, ~~or~~ emergency medical event or catastrophic event. Safety procedures shall also explain steps to be taken when a resident is discovered to be missing from the unit or facility~~,~~ and when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit or facility~~,~~ and explain the manner in which the effectiveness of the security system will be monitored. (II, III)

~~*c.*~~ (3) Staffing requirements, including the minimum number, types and qualifications of staff in the unit or facility in accordance with resident needs. (II, III)

~~*d.*~~ (4) Visitation policies, including suggested times for visitation and ensuring the residents' rights to free access to visitors unless visits are contraindicated by the interdisciplinary team. (II, III)

~~*e.*~~ (5) The process and criteria which will be used to monitor and to respond to risks specific to the residents, including but not limited to drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

~~57.6(4)~~ *d. Assessment prior to transfer or admission.* Prior to the transfer or admission of a resident applicant to the memory care unit or facility, a complete assessment of the resident applicant's physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by facility staff and shall become part of the resident's permanent record upon admission. (II, III)

~~57.6(5)~~ *e. Staff training.* All staff working in a memory care unit or facility shall have training appropriate to the needs of the residents. (I, II, III)

~~*a.*~~ (1) Upon assignment to the unit or facility, all staff working in the unit or facility shall be oriented to the needs of residents requiring memory care. Staff members shall have at least six hours of special training appropriate to their job descriptions within 30 days of assignment to the unit or facility. (I, II, III)

~~*b.*~~ (2) Training shall include the following topics: (II, III)

~~(1)~~ 1. An explanation of Alzheimer's disease and related disorders, including symptoms, behavior and disease progression;

~~(2)~~ 2. Skills for communicating with persons with dementia;

~~(3)~~ 3. Skills for communicating with family and friends of persons with dementia;

~~(4)~~ 4. An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the caregiving role, and family dynamics;

~~(5)~~ 5. The importance of planned and spontaneous activities;

~~(6)~~ 6. Skills in providing assistance with activities of daily living;

~~(7)~~ 7. Skills in working with challenging residents;

~~(8)~~ 8. Techniques for cueing, simplifying, and redirecting;

~~(9)~~ 9. Staff support and stress reduction;

~~(10)~~ 10. Medication management and nonpharmacological interventions.

~~*c.*~~ (3) Nursing staff, certified medication aides, medication managers, social services personnel, housekeeping and activity personnel shall have a minimum of six hours of in-service training annually. This training shall be related to the needs of memory care residents. The six-hour initial training required in ~~paragraph 57.6(5)*"a"*~~ subparagraph 57.6(1)*"e"*(1) shall count toward the required annual in-service training. (II, III)

~~57.6(6)~~ *f. Staffing.* There shall be at least one staff person on a memory care unit at all times. (I, II, III)

~~57.6(7)~~ *g. Others living in the memory care unit.* A resident not requiring memory care services may live in the memory care unit if the resident's spouse requiring memory care services lives in the unit or if no other beds are available in the facility and the resident or the resident's legal representative consents in writing to the placement. (II, III)

~~57.6(8)~~ *h. Revocation, suspension or denial.* The memory care unit license or facility license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and 481—Chapter 50.

57.6(2) *Residential care facility for persons with an intellectual disability (RCF/ID).*

a. Definition. For purposes of this rule, the following term shall have the meaning indicated.

"Qualified intellectual disability professional" means a psychologist, physician, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and has one year's experience working with persons with an intellectual disability.

b. Designation and application. A residential care facility may choose to care for persons with an intellectual disability in a distinct part of the facility or designate the entire residential care facility as a residential care facility for persons with an intellectual disability. Residents shall meet the level of care requirements for a residential care facility. (I, II, III)

(1) Application for approval to provide this category of care shall be submitted by the licensee on a form provided by the department. (III)

(2) Plans to modify the physical environment shall be submitted to the department for review based on the requirements of 481—Chapter 60. (III)

c. Résumé of care. A résumé of care shall be submitted to the department for approval at least 30 days before a residential care facility for persons with an intellectual disability is opened. A new résumé of care shall be submitted when services are substantially changed. The résumé of care shall:

(1) Describe the population to be served;

(2) Include a copy of the floor plan;

(3) List the titles of policies and procedures developed for the unit or facility;

(4) Set out a plan for specialized staff training;

(5) State visitor, volunteer, and safety policies;

(6) Describe programs for activities, social services and families; and

(7) Describe the interdisciplinary team and the role of each team member.

d. Policies and procedures. Separate written policies and procedures shall be implemented in the residential care facility for persons with an intellectual disability and shall address the following:

(1) Criteria for admission and the preadmission evaluation process. The policy shall require a statement from the primary care provider approving the placement before a resident may be moved into a residential care facility for persons with an intellectual disability. The policy shall require a primary diagnosis of an intellectual disability for admission. (II, III)

(2) Safety, including a description of the actions required of staff in the event of a fire, natural disaster, emergency medical event or catastrophic event. (II, III)

(3) Staffing requirements, including the minimum number, types and qualifications of staff in the facility in accordance with resident needs. (II, III)

(4) Visitation policies, including suggested times for visitation and ensuring the residents' rights to free access to visitors unless visits are contraindicated by the interdisciplinary team. (II, III)

(5) The process and criteria which will be used to monitor and to respond to risks specific to the residents, including but not limited to drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

e. Assessment prior to transfer or admission. Prior to the transfer or admission of a resident applicant to the facility, a complete assessment of the resident applicant's physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by facility staff and shall become part of the resident's permanent record upon admission. (II, III)

f. Administrator qualifications. In addition to meeting the requirements of subrule 57.10(1), the administrator of a residential care facility for persons with an intellectual disability shall have at least one year's documented experience in direct care or supervision of persons with an intellectual disability. An individual employed as an administrator on May 16, 2018, will be deemed to meet the requirements of this subrule.

g. In-service educational programming. The in-service educational programming required by paragraph 57.10(2)*"c"* shall include educational programming specific to serving persons with an intellectual disability.

h. Revocation, suspension or denial. The facility license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and 481—Chapter 50.

This rule is intended to implement Iowa Code sections 135C.2(3)*"b"* and 135C.14.

ITEM 3. Adopt the following **new** subrule 57.32(5):

57.32(5) Staff shall receive training relating to the identification and reporting of dependent adult abuse as required by Iowa Code section 235B.16. (I, II, III)

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3738C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to prohibition of mechanical restraints in residential care facilities

The Department of Inspections and Appeals hereby amends Chapter 57, "Residential Care Facilities," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 135C.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135C.14.

Purpose and Summary

The amendments add definitions of "mechanical restraint," "physical restraint" and "prone restraint"; add a requirement for facilities to provide staff with proper training on the use of physical restraints; and expressly prohibit the use of mechanical restraints in residential care facilities.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 6, 2017, as **ARC 3473C**. A public hearing was held on January 3, 2018, at 10 a.m. in the Lucas State Office Building, Des Moines, Iowa. The public hearing addressed four Notices of Intended Action. Representatives from Hillcrest Family Services and Community NeuroRehab submitted written comments concerning the proposed amendments to the Department's administrative rules dealing with residential care facilities. However, no comments addressed this specific rule making. The Department has made one change from the Notice by adding a new Item 2, which contains an amendment that requires facilities that use physical restraints as part of a crisis intervention program to provide staff with proper training on the use of physical restraints. Item 2 of the Notice has been renumbered as Item 3.

Adoption of Rule Making

This rule making was initially reviewed by the State Board of Health at its November 8, 2017, meeting, and subsequently approved by the Board at its March 14, 2018, meeting. This rule making was adopted by the Department on March 14, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definitions in rule **481—57.1(135C)**:

"Mechanical restraint" means restriction by the use of a mechanical device of a resident's mobility or ability to use the hands, arms or legs.

"Physical restraint" means direct physical contact on the part of a staff person to control a resident's physical activity for the resident's own protection or for the protection of others.

"Prone restraint" means a restraint in which a resident is in a face-down position against the floor or another surface.

ITEM 2. Amend rule 481—57.33(135C), introductory paragraph, as follows:

481—57.33(135C) Crisis intervention. If a facility utilizes physical restraints, ~~there~~ the facility shall ~~be~~ have written policies that define the uses of physical restraints, designate the administrator or designee as the person who may authorize their use, ~~and~~ establish a mechanism for monitoring and controlling their use, and provide staff with proper training. (I, II, III)

ITEM 3. Adopt the following **new** subrule 57.33(8):

57.33(8) Mechanical restraint is prohibited. Staff persons who find themselves involved in the use of a mechanical restraint when responding to an emergency must take immediate steps to end the mechanical restraint. (I, II)

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3739C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to licensure and regulation of residential care facilities for persons with mental illness

The Department of Inspections and Appeals hereby rescinds Chapter 62, "Residential Care Facilities for Persons with Mental Illness (RCF/PMI)," and adopts new Chapter 62, "Residential Care Facilities for Persons with Mental Illness (RCFs/PMI)," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104(5) and 135C.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135C.14.

Purpose and Summary

The Department completed a review of all chapters related to residential care facilities and determined that duplication could be eliminated by using Chapter 57, "Residential Care Facilities," as the primary chapter containing information common to all residential care facilities. This rule making rescinds Chapter 62 and replaces it with a new Chapter 62 that includes only those rules specific to RCFs/PMI and refers to Chapter 57 for general rules pertaining to RCFs.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 6, 2017, as **ARC 3474C**. A public hearing was held on January 3, 2018, at 10 a.m. in the Lucas State Office Building, Des Moines, Iowa. Comments were received regarding the Department's proposed changes to Chapter 63, as well as all the residential care facility rules. However, no comments were received on this specific rule making. One change from the Notice has been made to add the potential class of violation in subparagraph 62.5(4)"c"(13).

Adoption of Rule Making

This rule making was initially reviewed by the State Board of Health at its November 8, 2017, meeting, and subsequently approved by the Board at its March 14, 2018, meeting. This rule making was adopted by the Department on March 14, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making action is adopted:

Rescind 481—Chapter 62 and adopt the following **new** chapter in lieu thereof:

CHAPTER 62
RESIDENTIAL CARE FACILITIES FOR PERSONS WITH MENTAL ILLNESS (RCFs/PMI)

481—62.1(135C) Applicability. This chapter relates specifically to the licensing and regulation of residential care facilities for persons with mental illness (RCFs/PMI). Refer to 481—Chapter 57 for the licensing and regulation of all residential care facilities, including RCFs/PMI, and to 481—Chapter 60 for minimum physical standards for all residential care facilities.

481—62.2(135C) Definitions. In addition to the definitions in 481—Chapter 57 and Iowa Code chapter 135C, the following definitions apply.

"Commission" means the mental health and disability services commission.

"Department" means the Iowa department of inspections and appeals.

"Dependent adult abuse" is as defined in rule 481—52.1(235E).

"Evaluation services" means those activities designed to identify a person's current level of functioning and those factors which are barriers to maintaining the current level or achieving a higher level of functioning.

"Interdisciplinary team process" means an approach to assessment, service planning, and service implementation in which members of an interdisciplinary team utilize the skills, competencies, insights and perspectives provided by each member's training and experience to develop a single, integrated, individual program plan to meet a resident's needs for services.

"Level of functioning" means a person's current physiological and psychological status and current academic, community living, self-care, and vocational skills.

"Mental health counselor" means a person who is certified or eligible for certification as a mental health counselor by the National Academy of Certified Clinical Mental Health Counselors.

"Mental illness" means a substantial disorder of thought or mood which significantly impairs judgment, behavior, or the capacity to recognize reality or the ability to cope with the ordinary demands of life. Mental disorders include the organic and functional psychoses, neuroses, personality disorders, alcoholism and drug dependence, behavioral disorders and other disorders as defined by the current edition of American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

"Physical or physiological treatment" means those activities designed to prevent, halt, control, relieve, or reverse symptoms or conditions which interfere with the physical or physiological functioning of the human body.

"Psychiatric advanced registered nurse practitioner" means an individual currently licensed as a registered nurse under Iowa Code chapter 152 or 152E who holds a national certification in psychiatric mental health care and who is licensed by the board of nursing as an advanced registered nurse practitioner.

"Psychiatric nurse" means a person who meets the requirements of a certified psychiatric nurse, is eligible for certification by the American Nursing Association, and is licensed by the state of Iowa to practice nursing as defined in Iowa Code chapter 152.

"Psychiatrist" means a doctor of medicine or osteopathic medicine and surgery who is certified by the American Board of Psychiatry and Neurology or who is eligible for certification.

"Psychologist" means a person who is licensed to practice psychology in the state of Iowa, or is certified by the Iowa department of education as a school psychologist, or is eligible for certification, or meets the requirements for eligibility for a license to practice psychology in the state of Iowa that were effective prior to July 1, 1985.

"Psychotherapeutic treatment" means those activities designed to assist a person in the identification or modification of beliefs, emotions, attitudes, or behaviors in order to maintain or improve the person's functioning in response to the physical, emotional and social environment.

"Qualified mental health professional" or *"QMHP"* means a person who:

1. Is a psychiatrist, psychologist, social worker, certified psychiatric nurse, psychiatric advanced registered nurse practitioner, or mental health counselor; or

2. Is a doctor of medicine or osteopathic medicine, a physician assistant, or an advanced registered nurse practitioner and has at least one year's documented supervised experience in providing mental health services; or

3. Has a master's degree with coursework focusing on diagnosis, evaluation, and psychotherapeutic treatment of mental health problems and mental illness; or

4. Is employed by a community mental health center or mental health service provider accredited by the commission and has less than a master's degree but at least a bachelor's degree and sufficient education and experience as determined by the chief administrative officer of the community mental health center, with the approval of the commission, with coursework and experience focusing on diagnosis and evaluation and treatment of persons with mental health problems and mental illness.

If the person is practicing in a field covered by an Iowa licensure law, the person shall hold a current Iowa license.

"Resident" means a person who has been admitted to the facility to receive care and services.

"Social worker" means a person who is licensed to practice social work in the state of Iowa or who is eligible for licensure.

481—62.3(135C) Personnel. In addition to personnel requirements found in 481—Chapter 57, the RCF/PMI shall provide for services of a qualified mental health professional, by direct employment or contract, whose responsibilities shall include, but not be limited to: (II, III)

1. Approval of each resident's service plan; (II, III)
2. Monitoring the implementation of each resident's service plan; (II, III)
3. Recording each resident's progress; and (II, III)
4. Participating in a periodic review of each resident's service plan. (II, III)

481—62.4(135C) Admission criteria. In addition to admission criteria found in 481—Chapter 57, the facility's admission criteria shall include but not be limited to age, sex, diagnosis from the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, substance abuse, dual diagnosis and criteria that are consistent with the résumé of care. (III)

481—62.5(135C) Evaluation services.

62.5(1) Evaluation services shall be provided to each resident. An annual evaluation of each resident shall be completed no later than 12 months from the date of the last available evaluation. For residents who are on leave from a state mental health institution, the institution shall be responsible for the completion of the evaluation. The facility shall ensure the completion of the evaluation of all other residents. The annual evaluation shall identify physical health and current level of functioning and need for services. (II, III)

62.5(2) The portion of the evaluation to identify the resident's physical health shall:

a. Result in identification of current illness and disabilities and recommendations for physical and physiological treatment and services. (II, III)

b. Include an evaluation of the resident's ability for health maintenance. (III)

c. Be performed by a primary care provider. (II, III)

62.5(3) Evaluation.

a. The portion of the evaluation to identify the resident's current level of functioning and need for services shall:

(1) Identify the resident's level of functioning and need for services in each of the following areas: self-care, community living skills, psychotherapeutic treatment, vocational skills, and academic skills. (II, III)

(2) Be of sufficient detail to determine the appropriateness of placement according to the skills and needs of the resident. (II, III)

(3) Be made without regard to the availability of services. (III)

(4) Be performed by a QMHP, in consultation with the interdisciplinary team. (II, III)

b. If an evaluation is available from the referral source, the evaluation shall be secured by the facility prior to the admission of the applicant. (III)

c. If an evaluation is not available or does not contain all the required information, the facility shall ensure an evaluation to the extent necessary to determine if the applicant meets the criteria for admission. For those admitted, the remainder of the evaluation shall be performed prior to the development of a service plan. (III)

d. Results of all evaluations shall be in writing and maintained in the resident's record. Evaluations subsequent to the initial evaluation shall be performed in sufficient detail to determine changes in the resident's physical health, skills and need for services. (II, III)

62.5(4) A narrative social history shall be completed for each resident within 30 days of admission and approved by the qualified mental health professional prior to the development of the service plan. (III)

a. When the social history was secured from another provider, the information contained shall be reviewed within 30 days of admission. The date of the review, signature of the staff reviewing the history, and a summary of significant changes in the information shall be entered in the resident's record. (III)

b. An annual review of the information contained within the social history shall be incorporated into the service plan progress note. (III)

c. The social history shall minimally address the following areas:

(1) Referral source and reason for admission, (II, III)

(2) Legal status, (II, III)

(3) A description of previous living arrangements, (III)

(4) A description of previous services received and summary of current service involvements, (II, III)

(5) A summary of significant medical conditions including, but not limited to, illnesses, hospitalizations, past and current drug therapies, and special diets, (II, III)

(6) Substance abuse history, (II, III)

(7) Work history, (III)

(8) Educational history, (III)

(9) Relationship with family, significant others, and other support systems, (III)

(10) Cultural and ethnic background and religious affiliation, (II, III)

(11) Hobbies and leisure time activities, (III)

(12) Likes, dislikes, habits, and patterns of behavior, (II, III)

(13) Impressions and recommendations. (II, III)

These rules are intended to implement Iowa Code section 135C.14(7).

[Filed 3/14/18, effective 5/16/18]
[Published 4/11/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3740C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to specialized licensure for three- to five-bed residential care facilities for the intellectually disabled

The Department of Inspections and Appeals hereby rescinds Chapter 63, "Residential Care Facilities for the Intellectually Disabled," and adopts a new Chapter 63, "Residential Care Facility—Three- to Five-Bed Specialized License," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104(5) and 135C.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135C.14.

Purpose and Summary

Iowa Code section 135C.2(3)"b" allows the Department to establish by administrative rule special classifications within the residential care facility category for facilities intended to serve individuals who have special health care problems or conditions in common. Iowa Code section 135C.2(5) requires the Department to establish a special classification within the residential care facility category in order to foster the development of three- to five-bed residential care facilities that serve persons with an intellectual disability, chronic mental illness, a developmental disability, or brain injury.

Currently, Chapter 63 addresses licensure of residential care facilities for the intellectually disabled. After a review of the administrative rules related to licensure of several residential care facility types, the Department determined that an entire chapter specific to residential care facilities for the intellectually disabled was not necessary because many of the provisions of Chapter 63 overlapped with those in Chapter 57, "Residential Care Facilities."

Additionally, the Department has determined that the current rule regarding licensure of these specialized units (481—63.47(135C)) is confusing as written and should be given its own chapter as the number of this type of facility is increasing in Iowa. Therefore, the amendment rescinds the current Chapter 63 and replaces it with a new Chapter 63, which details the specialized licensure of three- to five-bed residential care facilities serving persons with an intellectual disability, chronic mental illness, a developmental disability, or brain injury.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 6, 2017, as **ARC 3475C**. A public hearing was held on January 3, 2018, at 10 a.m. in the Lucas State Office Building, Des Moines, Iowa. Representatives from Hillcrest Family Services and Community NeuroRehab were in attendance. Both companies operate small three- to five-bed residential care facilities, and both submitted written comments to the Department prior to the public hearing held on January 3, 2018. Both the written comments and the oral comments focused on clarification of the rules, and the Department agreed with many of the comments. In response to the comments, the Department made several changes to the rule making, including lessening the burden on operators of three- to five-bed facilities, clarifying the rules regarding group homes, reducing confusion regarding the difference between RCFs and the smaller three- to five-bed facilities, correcting an oversight by adding the mechanical restraint prohibition to the rule making, and updating language to reflect industry terminology.

Adoption of Rule Making

This rule making was initially reviewed by the State Board of Health at its November 8, 2017, meeting, and subsequently approved by the Board at its March 14, 2018, meeting. This rule making was adopted by the Department on March 14, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making action is adopted:

Rescind 481—Chapter 63 and adopt the following **new** chapter in lieu thereof:

CHAPTER 63
RESIDENTIAL CARE FACILITY—THREE- TO FIVE-BED SPECIALIZED LICENSE

481—63.1(135C) Definitions. For the purpose of these rules, the following terms shall have the meanings indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in the rules.

"Accommodation" means the provision of lodging, including sleeping, dining, and living areas.

"Administrator" means a person approved by the department who administers, manages, supervises, and is in general administrative charge of a three- to five-bed residential care facility, whether or not such individual has an ownership interest in such facility, and whether or not the functions and duties are shared with one or more individuals.

"Ambulatory" means the condition of a person who immediately and without aid of another person is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

"Basement" means that part of a building where the finish floor is more than 30 inches below the finish grade of the building.

"Board" means the regular provision of meals.

"Change of ownership" means the purchase, transfer, assignment or lease of a licensed three- to five-bed residential care facility.

"Communicable disease" means a disease caused by the presence within a person's body of a virus or microbial agents which may be transmitted either directly or indirectly to other persons.

"Department" means the state department of inspections and appeals.

"Interdisciplinary team" means the group of persons who develop a single, integrated, individual program plan to meet a resident's needs for services. The interdisciplinary team consists of, at a minimum, the resident, the resident's legal guardian if applicable, the resident's advocate if desired by the resident, a referral agency representative, other appropriate staff members, other providers of services, and other persons relevant to the resident's needs.

"Legal representative" means the resident's guardian or conservator if one has been appointed or the resident's power of attorney.

"Mechanical restraint" means restriction by the use of a mechanical device of a resident's mobility or ability to use the hands, arms or legs.

"Medication" means any drug, including over-the-counter substances.

"Nonambulatory" means the condition of a person who immediately and without the aid of another person is not physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

"Personal care" means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and eating, and supervision over medications which can be self-administered.

"Physical restraint" means direct physical contact on the part of a staff person to control a resident's physical activity for the resident's own protection or for the protection of others.

"Primary care provider" means any of the following who provide primary care and meet licensure standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

"Program of care" means all services being provided for a resident in a health care facility.

"Prone restraint" means a restraint in which a resident is in a face-down position against the floor or another surface.

"Rate" means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these rules.

"Records" includes electronic records.

"Responsible party" means the person who signs or cosigns the residency agreement required by rule 481—63.12(135C) or the resident's legal representative. In the event that a resident has neither a legal representative nor a person who signed or cosigned the resident's residency agreement, the term "responsible party" shall include the resident's sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, a religious group, fraternal organization, or foundation that assumes responsibility and advocates for its client patients and pays for their health care.

"Restraints" means the measures taken to control a resident's physical activity for the resident's own protection or for the protection of others.

"Specialized residential care facility license" means a license for three- to five-bed residential care facilities serving persons with an intellectual disability, chronic mental illness, a developmental disability or brain injury.

481—63.2(135C,17A) Waiver or variance. A waiver or variance from these rules may be granted by the director of the department in accordance with 481—Chapter 6. A request for waiver or variance will be granted or denied by the director within 120 calendar days of receipt.

481—63.3(135C) Application for licensure.

63.3(1) *Application and licensing—new facility or change of ownership.* In order to obtain a specialized residential care facility license for a facility not currently licensed as a specialized residential care facility or for a specialized residential care facility when a change of ownership is contemplated, the applicant must:

a. Make application at least 30 days prior to the proposed opening date of the facility. Application shall be made on forms provided by the department.

b. Meet all of the rules, regulations, and standards contained in this chapter and in 481—Chapters 50 and 60. Exceptions noted in 481—subrule 60.3(2) shall not apply.

c. Submit a letter of intent and a written résumé of care. The résumé of care shall meet the requirements of subrule 63.3(2).

d. Submit a floor plan of each floor of the residential care facility. The floor plan of each floor shall be drawn on 8½″ × 11″ paper, show room areas in proportion, room dimensions, window and door locations, designation of the use of each room, and the room numbers for all rooms, including bathrooms.

e. Submit a photograph of the front and side of the residential care facility.

f. Submit the fee for a specialized residential care facility license in accordance with 481—paragraph 50.3(2)*"a."*

g. Comply with all other local statutes and ordinances in existence at the time of licensure.

h. Submit a certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations.

63.3(2) *Résumé of care.* The résumé of care shall describe the following:

a. Purpose of the facility;

b. Criteria for admission to the facility;

c. Ownership of the facility;

d. Composition and responsibilities of the governing board;

e. Qualifications and responsibilities of the administrator;

f. Medical services provided to residents, to include the availability of emergency medical services in the area and the designation of a primary care provider to be responsible for residents in an emergency;

g. Dental services provided to residents and available in the area;

h. Nursing services provided to residents, if applicable;

i. Personal services provided to residents, including supervision of or assistance with activities of daily living;

j. Activity program;

k. Dietary services, including qualifications of the person in charge, consultation service (if applicable) and meal service;

l. Other services available as applicable, including social services, physical therapy, occupational therapy, and recreational therapy;

m. Housekeeping;

n. Laundry;

o. Physical plant; and

p. Staffing provided to meet residents' needs.

63.3(3) *Renewal application.* In order to obtain a renewal of the specialized residential care facility license, the applicant must submit the following:

a. The completed application form 30 days prior to the annual license renewal date of the residential care facility license;

b. The fee for a specialized residential care facility license in accordance with 481—paragraph 50.3(2)*"a"*;

c. An approved current certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations;

d. Changes to the résumé of care, if any; and

e. Changes to the current residency agreement, if any.

481—63.4(135C) Issuance of license. Licenses are issued to the person, entity or governmental unit with responsibility for the operation of the facility and for compliance with all applicable statutes, rules and regulations.

481—63.5(135C) General requirements.

63.5(1) The license shall be displayed in the facility in a conspicuous place which is accessible to the public. (III)

63.5(2) The license shall be valid only in the possession of the licensee to whom it is issued.

63.5(3) The posted license shall accurately reflect the current status of the facility. (III)

63.5(4) The license shall expire one year after the date of issuance or as indicated on the license.

63.5(5) The licensee shall:

a. Assume the responsibility for the overall operation of the facility. (I, II, III)

b. Be responsible for compliance with all applicable laws and with the rules of the department. (I, II, III)

c. Provide an organized continuous 24-hour program of care commensurate with the needs of the residents. (I, II, III)

63.5(6) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (I, II, III)

481—63.6(135C) Required notifications to the department. The department shall be notified:

63.6(1) Thirty days before any proposed change in the residential care facility's functional operation or addition or deletion of required services; (III)

63.6(2) Thirty days before the beginning of the renovation, addition, functional alteration, change of space utilization, or conversion in the residential care facility or on the premises; (III)

63.6(3) Thirty days before closure of the residential care facility; (III)

63.6(4) Within two weeks of any change in administrator; (III)

63.6(5) Ninety days before a change in the category of license; (III)

63.6(6) Thirty days before a change of ownership. The licensee shall:

a. Inform the department of the pending change of ownership; (III)

b. Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee; (III)

c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's residential care facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

481—63.7(135C) Administrator. Each facility shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these rules. (III)

63.7(1) *Qualifications of an administrator.*

a. The administrator shall be at least 21 years of age and shall have a high school diploma or equivalent. (III) In addition, this person shall meet at least one of the following conditions:

(1) Have a two-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of two years' experience in the field; or (III)

(2) Have a four-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year of experience in the field; or (III)

(3) Have a master's degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year of experience in the field; or (III)

(4) Be a licensed nursing home administrator; or (III)

(5) Have completed a one-year educational training program approved by the department for residential care facility administrators; or (III)

(6) Have passed the National Association of Long Term Care Administrator Boards (NAB) RC/AL administrator licensure examination; or

(7) Have two years of direct care experience and at least six months of administrative experience in a residential care facility. (III)

b. The administrator shall have at least one year of documented experience in a supervisory or direct care position working with persons with an intellectual disability, mental illness, a developmental disability, or brain injury.

c. An individual employed as an administrator on May 16, 2018, will be deemed to meet the requirements of this subrule.

63.7(2) *Duties of an administrator.* The administrator shall:

a. Select and direct competent personnel who provide services for the residential care program. (III)

b. Provide in-service educational programming for all employees with direct resident contact and maintain records of programs and participants. (III) In-service educational programming offered during each calendar year shall include, at minimum, the following topics: (I, II, III)

(1) Infection control.

(2) Emergency preparedness (e.g., fire, tornado, flood, 911).

(3) Meal time procedures/dietary.

(4) Resident activities.

(5) Mental illness, brain injury or intellectual disabilities, including behavioral intervention, de-escalation, and crisis intervention techniques.

(6) Resident safety/supervision.

(7) Resident rights.

(8) Medication education, to include administration, storage and drug interactions.

(9) Resident service plans/programming/goals.

63.7(3) *Administrator serving at more than one residential care facility.* The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

a. An administrator of more than one facility shall designate in writing an administrative staff person in each facility who shall be responsible for directing programs in the facility.

b. The administrative staff person designated by the administrator shall:

(1) Have at least one year of documented experience in a supervisory or direct care position working with persons with an intellectual disability, mental illness, a developmental disability, or brain injury; (II, III)

(2) Be knowledgeable of the operation of the facility; (II, III)

(3) Have access to records concerned with the operation of the facility; (II, III)

(4) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (II, III)

(5) Be at least 21 years of age; (III)

(6) Be empowered to act on behalf of the licensee concerning the health, safety and welfare of the residents; and (II, III)

(7) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

c. If an administrator serves more than one facility, the administrator must designate in writing regular and specific times during which the administrator will be available to consult with staff and residents to provide direction and supervision of resident care and services. (II, III)

63.7(4) *Provisional administrator.* A provisional administrator may be appointed on a temporary basis by the residential care facility licensee to assume the administrative responsibilities for a residential care facility for a period not to exceed one year when the facility has lost its administrator and has not been able to replace the administrator, provided that the department has been notified and has approved the provisional administrator prior to the date of the provisional administrator's appointment. (III) The provisional administrator must meet the requirements of paragraph 63.7(3)*"b."*

63.7(5) *Temporary absence of administrator.*

a. In the temporary absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

(1) Be knowledgeable of the operation of the facility; (III)

(2) Have access to records concerned with the operation of the facility; (III)

(3) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)

(4) Be at least 21 years of age; (III)

(5) Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)

(6) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

b. If the administrator is absent for more than six weeks, a provisional administrator must be appointed pursuant to subrule 63.7(4).

481—63.8(135C) Personnel.

63.8(1) *Alcohol and drug use prohibited.* No person under the influence of intoxicating drugs or alcoholic beverages shall be permitted to provide services in a residential care facility. (I, II)

63.8(2) *Job description.* There shall be a written job description developed for each category of worker. The job description shall include the job title, responsibilities and qualifications. (III)

63.8(3) *Employee criminal record, child abuse and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse.* The facility shall comply with the requirements found in Iowa Code section 135C.33 and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

63.8(4) *Personnel record.* A personnel record shall be kept for each employee and shall include but not be limited to the following information about the employee: name and address; social security number; date of birth; date of employment; position; job description; experience and education; results of criminal record checks, child abuse checks and dependent adult abuse checks; and date of discharge or resignation. (III)

63.8(5) *Supervision and staffing.*

a. The facility shall provide sufficient staff to meet the needs of the residents served. (I, II, III)

b. Personnel in a specialized residential care facility shall provide 24-hour coverage for residential care services. Personnel shall be up and dressed when residents are awake. (I, II, III)

c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (I, II, III)

d. Staff shall be aware of and provide supervision levels based on the present needs of the residents in the staff's care. The facility shall document the supervision of residents who require more than general supervision, as defined by facility policy. (I, II, III)

e. The facility shall maintain an accurate record of actual hours worked by employees. (III)

63.8(6) *Physical examination and screening.* Employees shall have a physical examination within 12 months prior to beginning employment and every four years thereafter. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

481—63.9(135C) General policies. The licensee shall establish and implement written policies and procedures as set forth in this rule. The policies and procedures shall be available for review by the department, other agencies designated by Iowa Code section 135C.16(3), staff, residents, residents' families or legal representatives, and the public and shall be reviewed by the licensee annually. (II)

63.9(1) *Facility operation.* The licensee shall establish written policies for the operation of the facility, including but not limited to the following: (III)

a. Personnel; (III)

b. Admission; (III)

c. Evaluation services; (II, III)

d. Programming and individual program plans; (II, III)

e. Registered sex offender management; (II, III)

f. Crisis intervention; (II, III)

g. Discharge or transfer; (III)

h. Medication management, including self-administration of medications and chemical restraints; (III)

i. Resident property; (II, III)

j. Resident finances; (II, III)

k. Records; (III)

l. Health and safety; (II, III)
m. Nutrition; (III)
n. Physical facilities and maintenance; (III)
o. Resident rights; (II, III)
p. Investigation and reporting of alleged dependent adult abuse; (II, III)
q. Investigation and reporting of accidents or incidents; (II, III)
r. Transportation of residents; (II, III)
s. Resident supervision; (II, III)
t. Smoking; (III)
u. Visitors; (III)
v. Disaster/emergency planning; (III) and
w. Infection control. (III)

63.9(2) *Personnel policies.* Written personnel policies shall include the hours of work and attendance at educational programs. (III)

63.9(3) *Infection control.* The facility shall have a written and implemented infection control program, which shall include policies and procedures based on guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. The infection control program shall address the following:

a. Techniques for hand washing; (I, II, III)
b. Techniques for the handling of blood, body fluids, and body wastes; (I, II, III)
c. Dressings, soaks or packs; (I, II, III)
d. Infection identification; (I, II, III)
e. Resident care procedures to be used when there is an infection present; (I, II, III)
f. Sanitation techniques for resident care equipment; (I, II, III)
g. Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III) and
h. Techniques for use and disposal of needles, syringes, and other sharp instruments. (I, II, III)

63.9(4) *Resident care techniques.* The facility shall have written and implemented procedures to be followed if a resident needs any of the following treatment or devices:

a. Intravenous or central line catheter; (I, II, III)
b. Urinary catheter; (I, II, III)
c. Respiratory suction, oxygen or humidification; (I, II, III)
d. Decubitus care; (I, II, III)
e. Tracheostomy; (I, II, III)
f. Nasogastric or gastrostomy tubes; (I, II, III)
g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

63.9(5) *Emergency care.* The facility shall establish written policies for the provision of emergency medical care to residents and employees in case of sudden illness or accident. The policies shall include a list of those individuals to be contacted in case of an emergency. (I, II, III)

481—63.10(135C) Admission, transfer and discharge.

63.10(1) *General admission policies.*

a. Residents shall be admitted to a specialized residential care facility only on a written order signed by a primary care provider or psychiatrist, specifying the level of care, and certifying that the individual being admitted requires no more than personal care and supervision and does not require routine nursing care. (II, III)

b. No residential care facility shall admit or retain a resident who is in need of greater services than the facility can provide. (I, II, III)

c. No residential care facility shall admit more residents than the number of beds for which the facility is licensed. (II, III)

d. A residential care facility is not required to admit an individual through court order, referral or other means without the express prior approval of the administrator. (III)

e. The admission of a resident shall not grant the residential care facility the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and the safe and orderly management of the residential care facility as required by these rules. (III)

f. Individuals under the age of 18 shall not be admitted to a residential care facility without prior written approval by the department. A distinct part of a residential care facility, segregated from the adult section, may be established based on a résumé of care that is submitted by the licensee or applicant and is commensurate with the needs of the residents of the residential care facility and that has received the department's review and approval. (III)

g. No health care facility and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident's property unless such resident is related within the third degree of consanguinity to the person acting as guardian. (III)

63.10(2) *Discharge or transfer.*

a. Notification shall be made to the legal representative, primary care provider, psychiatrist, if any, and sponsoring agency, if any, prior to the transfer or discharge of any resident. (III)

b. The licensee shall not refuse to discharge or transfer a resident when the primary care provider, family, resident, or legal representative requests such transfer or discharge. (II, III)

c. Advance notification will be made to the receiving facility prior to the transfer of any resident. (III)

d. When a resident is transferred or discharged, the appropriate record will accompany the resident to ensure continuity of care. "Appropriate record" includes the resident's face sheet, service plan, most recent orders of the primary care provider and any notifications of upcoming scheduled appointments. (II, III)

e. When a resident is transferred or discharged, the resident's unused prescriptions shall be sent with the resident or with a legal representative only upon the written order of a primary care provider. (II, III)

481—63.11(135C) Involuntary discharge or transfer.

63.11(1) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

a. Medical reasons;

b. The resident's welfare or that of other residents;

c. Repeated refusal by the resident to participate in the resident's service plan;

d. Due to action pursuant to Iowa Code chapter 229; or

e. Nonpayment for the resident's stay, as described in the residency agreement for the resident's stay.

63.11(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

63.11(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Written documentation that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

63.11(4) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

a. The notice shall contain all of the following information:

(1) The stated reason for the proposed transfer or discharge. (II)

(2) The effective date of the proposed transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads as follows: (II)

> You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. In emergency circumstances, extension of the 14-day requirement may be permitted upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of (1) 30 days following receipt of the original notice of the discharge or transfer, or (2) 5 days following final decision of such hearing, including exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. The notice required by paragraph 63.11(4)*"a"* shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs: (II)

(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.11(6).

63.11(5) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following transfer or discharge. (II, III)

a. A copy of this notice must be placed in the resident's file. The notice must contain all of the following information:

(1) The stated reason for the transfer or discharge. (II)

(2) The effective date of the transfer or discharge. (II)

(3) A statement, in not less than 12-point type, that reads: (II)

> You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have the right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; and the person or agency responsible for the resident's placement, maintenance, and care in the facility. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.11(6).

63.11(6) *Hearing.*

a. Request for hearing.

(1) The resident must request a hearing within 7 days of receiving the written notice.

(2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after receipt of the request by the department unless the resident requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or the resident's legal representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, the responsible party, and the office of the long-term care ombudsman not later than 5 full business days after receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. A representative of the office of the long-term care ombudsman shall have the right to appear at the hearing.

f. The administrative law judge's written decision shall be mailed by certified mail to the licensee, resident, responsible party, and the office of the long-term care ombudsman within 10 working days after the hearing has been concluded.

63.11(7) *Nonpayment.* If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

63.11(8) *Discussion of involuntary transfer or discharge.* Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 63.11(5) and emergency notice is provided within 48 hours.

63.11(9) *Transfer or discharge planning.*

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall be offered counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling, if accepted, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6). Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 63.11(9)*"b"* does not apply if the discharge has already occurred pursuant to subrule 63.11(5) and emergency notice is provided within 48 hours.

d. The receiving health care facility of a resident involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

63.11(10) *Transfer upon revocation of license or voluntary closure.* Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

63.11(11) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) Incompatibility with or disturbing to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(4) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(5) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in subparagraph 63.11(11)*"a"*(4). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 63.11(11)*"a"*(1). (II)

(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 63.11(11)*"a,"* the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II, III)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation, and such notification shall be documented. (II, III)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility, and not as an intrafacility transfer. (II, III)

481—63.12(135C) Residency agreement.

63.12(1) Each residency agreement shall:

a. State the base rate or scale per day or per month, the services included, and the method of payment. (III)

b. Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the agreement shall:

(1) Stipulate that no further additional fees shall be charged for items not contained in the complete schedule of services; (III)

(2) State the method of payment for additional charges; (III)

(3) Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

(4) State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services provided by a barber, beautician, and such. (III)

c. Contain an itemized list of services to be provided to the resident based on an assessment at the time of the resident's admission and in consultation with the administrator and including the specific fee the resident will be charged for each service and the method of payment. (III)

d. Include the total fee to be charged initially to the resident. (III)

e. State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (II, III) Furthermore, the agreement shall provide that the facility shall give:

(1) Written notification to the resident, or the responsible party when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to the effective date of such changes; (II, III)

(2) Notification to the resident, or the responsible party when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made. (II, III)

f. State the terms of agreement in regard to a refund of all advance payments in the event of the transfer, death, or voluntary or involuntary discharge of the resident. (II, III)

g. State the terms of agreement concerning the holding of and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall contain a provision that the bed will be held at the request of the resident or the resident's responsible party. (II, III)

(1) The facility shall ask the resident or responsible party whether the resident's bed should be held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II, III)

(2) The facility shall inform the resident or responsible party that, when requested, the bed may be held beyond the number of days designated by the funding source, as long as payments are made in accordance with the agreement. (II, III)

h. State the conditions under which the involuntary discharge or transfer of a resident would be effected. (II, III)

i. Set forth any other matters deemed appropriate by the parties to the agreement. No agreement or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (II, III)

63.12(2) Each party to the residency agreement shall be provided a copy of the signed agreement. (II, III)

481—63.13(135C) Medical examinations.

63.13(1) Each resident in a residential care facility shall have a designated primary care provider who may be contacted when needed. (II, III)

63.13(2) Each resident admitted to a residential care facility shall have a physical examination prior to admission. (II, III)

a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the primary care provider, shall be a part of the resident's record. (II, III)

b. The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, physical examination, diagnosis, statement of medical concerns, and results of any diagnostic procedures. (II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

63.13(3) The person in charge shall immediately notify the primary care provider of any accident, injury or adverse change in the resident's condition that has the potential for requiring further medical treatment. (I, II, III)

63.13(4) Each resident shall be visited by or shall visit the resident's primary care provider at least once each year. The one-year period shall be measured from the date of admission and does not include the resident's preadmission physical. (III)

481—63.14(135C) Records.

63.14(1) *Resident record.* The licensee shall keep a permanent record on all residents admitted to a specialized residential care facility with all entries current, dated, and signed. (III) The record shall include:

a. Name and previous address of resident; (III)

b. Birth date, sex, and marital status of resident; (III)

c. Church affiliation; (III)

d. Primary care provider's name, telephone number, and address; (III)

e. Dentist's name, telephone number, and address; (III)

f. Name, address, and telephone number of next of kin or legal representative; (III)

g. Name, address, and telephone number of person to be notified in case of emergency; (III)

h. Mortuary's name, telephone number, and address; (III)

i. Pharmacist's name, telephone number, and address; (III)

j. Physical examination and medical history; (III)

k. Certification by the primary care provider that the resident requires no more than personal care and supervision, but does not require nursing care; (III)

l. Primary care provider's orders for medication, treatment, and diet in writing and signed by the primary care provider; (III)

m. A notation of yearly or other visits to primary care provider or other professional services; (III)

n. Any change in the resident's condition; (II, III)

o. If the primary care provider has certified that the resident is capable of taking prescribed medications, the resident shall be required to keep the administrator advised of current medications, treatments, and diet. The administrator shall keep a listing of medication, treatments, and diet prescribed by the primary care provider for each resident; (III)

p. If the primary care provider has certified that the resident is not capable of taking prescribed medication, it must be administered by a qualified person of the facility. A qualified person shall be defined as either a registered or licensed practical nurse or an individual who has completed the state-approved training course in medication administration, including a medication manager or certified medication aide; (II)

q. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication; (II, III)

r. A notation describing the resident's condition on admission, transfer, and discharge; (III)

s. In the event of a resident's death, notations in the resident's record shall include the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time that the resident's family and primary care provider were notified of the resident's death; (III)

t. A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)

u. Disposition of valuables; (III)

v. Current individual program plans. (II, III)

63.14(2) *Confidentiality of resident records.*

a. Each resident shall be ensured confidential treatment of all information contained in the resident's records. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)

b. The facility shall limit access to any medical records to staff and consultants providing professional service to the resident. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

c. Similar procedures shall safeguard the confidentiality of residents' personal records, e.g., financial records and social services records. Only those personnel concerned with the financial affairs of the residents may have access to the financial records. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)

d. The resident or the resident's responsible party shall be entitled to examine all information contained in the resident's record and shall have the right to secure full copies of the record at reasonable cost upon request, unless the primary care provider determines the disclosure of the record or section thereof is contraindicated in which case this information will be deleted before the record is made available to the resident or responsible party. This determination and the reasons for it must be documented in the resident's record. (II)

63.14(3) *Incident record.*

a. Each residential care facility shall maintain an incident record report and shall have available incident report forms. (II, III)

b. Report of incidents shall be in detail on an incident report form. (III)

c. The person in charge at the time of the incident shall oversee the preparation of and sign the incident report. The administrator or designee shall review, sign and date the incident report within 72 hours of the accident, incident or unusual occurrence. (II, III)

d. An incident report shall be completed for every accident or incident where there is apparent injury or where an injury of unknown origin may have occurred. (II)

e. An incident report shall be completed for every accident, incident or unusual occurrence within the facility or on the premises that affects a resident, visitor, or employee. (II, III)

f. A copy of the incident report shall be kept on file in the facility. (II, III)

63.14(4) *Retention of records.*

a. Records shall be retained in the facility for five years following the termination of services to a resident. (III)

b. Records shall be retained within the facility upon change of ownership. (III)

c. When the facility ceases to operate, a copy of the resident's record shall be released to the facility to which the resident is transferred. (III)

d. When the facility ceases to operate, records shall be maintained for five years in a clean, dry secured storage area. (III)

63.14(5) *Electronic records.* In addition to the access provided in 481—subrule 50.10(2), an authorized representative of the department shall be provided unrestricted access to electronic records pertaining to the care provided to the residents of the facility. (II, III)

a. If access to an electronic record is requested by the authorized representative of the department, the facility may provide a tutorial on how to use its particular electronic system or may designate an individual who will, when requested, access the system, respond to any questions or assist the authorized representative as needed in accessing electronic information in a timely fashion. (II, III)

b. The facility shall provide a terminal where the authorized representative may access records. (II, III)

c. If the facility is unable to provide direct print capability to the authorized representative, the facility shall make available a printout of any record or part of a record on request in a time frame that does not intentionally prevent or interfere with the department's survey or investigation. (II, III)

63.14(6) *Reports to the department.* The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

63.14(7) *Personnel record.*

a. Personnel records for each employee shall be kept in accordance with subrule 63.8(4). (III)

b. The personnel records shall be made available for review upon request by the department. (III)

481—63.15(135C) Resident care and personal services.

63.15(1) A complete change of bed linens shall be provided at least once a week and more often if necessary. (III)

63.15(2) Residents shall receive sufficient supervision to promote personal cleanliness. (II, III)

63.15(3) Residents shall have clean clothing as needed. Clothing shall be appropriate to residents' activities and to the weather. (III)

63.15(4) Residents shall be encouraged to bathe at least twice a week. (II, III)

63.15(5) All nonambulatory residents shall be housed on the grade level floor unless the facility has a suitably sized elevator. (II)

481—63.16(135C) Drugs.

63.16(1) *Drug storage.*

a. Residents who have been certified in writing by their primary care provider as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided, with staff and the resident having access, and the drug storage shall be kept locked when not in use. Monitoring of the storage, administration, and documentation by the resident shall be carried out by a person who meets the requirements of subrule 63.16(3) and is responsible for administering medications. (II, III)

b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

(1) Locked storage for drugs, solutions, and prescriptions shall be provided. (III)

(2) A bathroom shall not be used for drug storage. (III)

(3) The drug storage shall be kept locked when not in use. (III)

(4) The drug storage key shall be secured and available only to those employees charged with the responsibility of administering medications. (II, III)

(5) Schedule II drugs, as defined by Iowa Code chapter 124, shall be kept in a locked box within the locked drug storage. (II, III)

(6) Medications requiring refrigeration shall be kept locked in a refrigerator and separated from food and other items. (II, III)

(7) Drugs for external use shall be stored separately from drugs for internal use. (II, III)

(8) All potent, poisonous, or caustic materials shall be stored separately from drugs, shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom, and shall be made accessible only to authorized persons. (I, II)

(9) Inspection of drug storage shall be made by the administrator or designee and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but not be limited to, certification of the absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current primary care provider's order, and drugs improperly stored. (III)

(10) Bulk supplies of prescription drugs for multiresident use shall not be kept in a residential care facility. (III)

63.16(2) *Drug safeguards.*

a. All prescribed medications shall be clearly labeled indicating the resident's full name, primary care provider's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or primary care provider issuing the drug. Where unit dose is used, prescribed medications shall, at a minimum, indicate the resident's full name, primary care provider's name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. (III)

b. Sample medications provided by the resident's primary care provider shall clearly identify to whom the medications belong. (III)

c. Medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or primary care provider for relabeling or disposal. (III)

d. The medication for each resident shall be kept or stored in the original containers unless the resident is participating in an individualized medication program. (II, III)

e. Unused prescription drugs shall be destroyed by the person in charge, in the presence of a witness, and with a notation made on the resident's record or shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the resident's primary care provider. (II, III)

g. Medications prescribed for one resident shall not be administered to or allowed in the possession of another resident. (I, II)

h. Instructions shall be requested from the Iowa board of pharmacy concerning disposal of unused Schedule II drugs prescribed for a resident who has died or for whom the Schedule II drug was discontinued. (III)

i. Discontinued medications shall be destroyed within a specified time by a responsible person, in the presence of a witness, and with a notation made to that effect or shall be returned to the pharmacist for destruction. Drugs listed under the Schedule II drugs shall be destroyed in accordance with the requirements established by the Iowa board of pharmacy. (II, III)

j. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time period. The automatic-stop order may vary for different types of drugs. The resident's primary care provider, in conjunction with the pharmacist, shall institute these policies and provide procedures for review and endorsement. (II, III)

k. No resident shall be allowed to possess any medications unless the primary care provider has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

l. No medications or prescription drugs shall be administered to a resident without a written order signed by the primary care provider. (II)

m. The facility shall establish a policy to govern the distribution of prescribed medications to residents who are on leave from the facility. (II, III)

(1) Medications may be issued to residents who will be on leave from a facility for less than 24 hours. Only those medications needed for the time period that the resident will be on leave from the facility may be issued. Non-child-resistant containers may be used. Instructions shall be provided and include the date, the resident's name, the name of the facility, and the name of the medication, its strength, dose and time of administration. (II, III)

(2) Medication for residents on leave from a facility for longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy. (II, III)

(3) Medication for residents on leave from a facility may be issued only by facility personnel responsible for administering medication. (II, III)

63.16(3) *Drug administration—authorized personnel.*

a. A properly trained person shall be charged with the responsibility of administering medications as ordered by a primary care provider. (II, III)

b. The person shall have knowledge of the purpose of the drugs and their dangers and contraindications. (II, III)

c. The person shall be a licensed nurse or primary care provider or an individual who has completed the state-approved training course in medication administration, including a medication manager or certified medication aide. (II, III)

d. Prior to taking a department-approved medication aide course, the person shall:

(1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination; (III)

(2) Have a letter of recommendation for admission to the medication aide course from the employing facility. (III)

e. A person who is a nursing student or a graduate nurse may take the medication aide challenge examination in place of taking a course. The person shall do all of the following before taking the challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination; (III)

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination; (III)

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating that the person is competent in medication administration. (III)

f. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination. The requirements of paragraph 63.16(3)*"d"* do not apply to this person. (III)

63.16(4) *Drug administration.*

a. Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. In facilities where the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by observing the actual act of swallowing the oral medication and by charting the medication. Medications shall be prepared on the same shift of the same day that they are administered unless the unit dose system is used. (II)

b. Injectable medications shall be administered as permitted by Iowa law by a registered nurse, licensed practical nurse, primary care provider or pharmacist. For purposes of this subrule, "injectable medications" does not include an epinephrine autoinjector, e.g., an EpiPen. (II, III)

c. A resident certified by the resident's primary care provider as capable of injecting the resident's own insulin may do so. Insulin may be administered pursuant to paragraph 63.16(4)*"b"* or as otherwise authorized by the resident's primary care provider. (II, III) Authorization shall:

(1) Be in writing,

(2) Be maintained in the resident's record,

(3) Be renewed quarterly,

(4) Include the name of the person authorized to administer the insulin,

(5) Include documentation by the primary care provider that the authorized person is qualified to administer insulin to that resident. (II, III)

d. A resident may participate in the administration of the resident's own medication if the primary care provider has certified in writing in the resident's medical record that the resident is mentally and physically capable of participating and has explained in writing in the resident's medical record what the resident's participation may include.

e. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident, with an accurate count and authorized signatures at every shift. (II)

f. The facility may use a unit dose system.

g. Medication aides and medication managers may administer PRN medications without contacting a licensed nurse or primary care provider if all of the following apply: (I, II, III)

(1) A written order from the resident's primary care provider specifies the purpose of the PRN medication and the frequency, dosage and strength of the PRN medication.

(2) The resident's primary care provider provides in writing specific criteria for administering PRN medications.

(3) The pharmacist assesses the resident's use of PRN medications when conducting the inspection of drug storage as required by subparagraph 63.16(1)*"b"*(9).

h. The pharmacist shall assess the use of PRN medications when conducting the inspection of drug storage as required by subparagraph 63.16(1)*"b"*(9). (II, III)

i. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication. (I, II, III)

481—63.17(135C) Dental services.

63.17(1) The residential care facility personnel shall assist residents in obtaining annual and emergency dental services and shall arrange transportation for such services. (III)

63.17(2) Dental services shall be performed only on the request of the resident, responsible party, legal representative, or primary care provider. The resident's primary care provider shall be advised of the resident's dental problems. (III)

63.17(3) All dental reports or progress notes shall be included in the resident record as available. The facility shall make reasonable efforts to obtain the records following the provision of services. (III)

63.17(4) Personal care staff shall assist the resident in carrying out the dentist's recommendations. (III)

481—63.18(135C) Dietary.

63.18(1) *Dietary staffing.* Personnel who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection. (III)

63.18(2) *Nutrition and menu planning.*

a. Menus shall be planned and followed to meet the nutritional needs of residents in accordance with the primary care provider's orders. Diet orders should be reviewed as necessary, but at least quarterly, by the primary care provider. (II, III)

b. In facilities where residents plan and prepare their own meals, education and support shall be provided to residents regarding proper food preparation, dietary guidelines, and food safety.

c. In facilities where food is regularly prepared for residents, the following shall apply:

(1) Menus shall be planned and served to include foods and amounts necessary to meet federal dietary guidelines. (II, III)

(2) At least three meals or their equivalent shall be offered daily, at regular hours. (II, III)

1. There shall be no more than a 14-hour span between offering a substantial evening meal and breakfast. (II, III)

2. Unless contraindicated, evening snacks shall be offered routinely to all residents. Special nourishments shall be available when ordered by the primary care provider. (II, III)

(3) Menus shall include a variety of foods prepared in various ways. (III)

(4) Menus shall be written at least one week in advance. The current menu shall be located in an accessible place for easy use by persons purchasing, preparing, and serving food. (III)

(5) Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary or requested, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

(6) The facility shall provide an alternative choice at scheduled meal times. (III)

63.18(3) *Dietary storage, food preparation, and service.*

a. All food shall be handled, prepared, served and stored in compliance with the Food Code adopted pursuant to Iowa Code section 137F.2. (I, II, III)

b. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a two-day period shall be maintained on the premises. Minimum food portion requirements for a low-cost plan shall conform to information supplied by the bureau of nutrition and health promotion of the department of public health. (II, III)

c. Dishes shall be free of cracks, chips, and stains. (III)

d. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

63.18(4) *Sanitation in food preparation area.* There shall be written procedures established for cleaning all work and serving areas. (III)

481—63.19(135C) Orientation and service plan.

63.19(1) *Orientation.* Within 24 hours of admission, each resident shall receive orientation to the facility. The orientation program shall be documented in the resident's file and shall include, but shall not be limited to, a review of the resident's rights, the daily schedule, house rules and the facility's evacuation plan. (II, III)

63.19(2) *Initial service plan.* Within 48 hours of admission, the administrator or the administrator's designee shall develop an initial service plan to address any immediate health and safety needs. The plan shall be based on information gathered from the resident, family, referring party, primary care provider, and other significant persons. The plan shall be followed until the service plan required in subrule 63.19(3) is complete. (I, II, III)

63.19(3) *Service plan.* Within 30 days of admission, the administrator or the administrator's designee, in conjunction with the resident and the resident's interdisciplinary team, shall develop a written, individualized, and integrated service plan for the resident. The service plan shall be developed and implemented to address the resident's priorities and assessed needs, such as activities of daily living, rehabilitation, activity, and social, behavioral, emotional, physical and mental health. (I, II, III)

a. The service plan shall include measurable goals and objectives and the specific service(s) to be provided to achieve the goals. Each goal shall include the date of initiation and anticipated duration of service(s). Any restriction of rights shall be included in the service plan. (I, II, III)

b. The service plan shall include the documentation procedure for each goal and objective. (II, III)

c. The service plan should be modified to add or delete goals and objectives as the resident's needs change. Communications related to service plan changes or changes in the resident's condition shall occur within five working days of the change and shall be conveyed to all individuals inside and outside the residential care facility who work with the resident, as well as to the resident's responsible party. (I, II, III)

d. The service plan shall be reviewed at least quarterly by relevant staff, the resident and appropriate others, such as the resident's family, case manager and responsible party. The review shall include a written report which addresses a summary of the resident's progress toward goals and objectives and the need for continued services. (I, II, III)

481—63.20(135C) Resident activities program.

63.20(1) *Activities program.* Each residential care facility shall provide suitable group and individual activities for residents. (III)

a. The activities provided shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's primary care provider. This shall include helping residents continue in their individual interests or hobbies. (III)

b. Residents shall be encouraged, but not required, to participate in activities. (III)

63.20(2) Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the primary care provider or interdisciplinary team as appropriate in the resident's record. (II)

63.20(3) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

63.20(4) *Supplies, equipment, and storage.*

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III)

b. Storage shall be provided for recreational equipment and supplies. (III)

481—63.21(135C) Residents' rights.

63.21(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, the provisions of this rule and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, residents' families or legal representatives and the public and shall be reviewed annually. (II, III)

63.21(2) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible parties and for ensuring a response and disposition by the facility. (II, III) The written procedures shall:

a. Ensure the provision of assistance to residents as necessary to complete and submit complaints and recommendations; (II, III)

b. Ensure protection of the resident from any form of reprisal or intimidation; (II, III)

c. Include designation of an employee responsible for handling grievances and recommendations; (II, III)

d. Include a method of investigating and assessing the validity of a grievance or recommendation; (II, III) and

e. Include methods of recording grievances and actions taken. (II, III)

63.21(3) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II, III)

63.21(4) Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon the resident's admission or, in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies. (II, III)

a. The facility shall communicate to residents prior to or within five days after admission what residents may expect from the facility and its staff and what is expected from residents. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following the resident's admission. (II, III)

b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English-speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities, and these questions shall be answered. (II, III)

c. A statement shall be signed by the resident, or the resident's responsible party if applicable, indicating an understanding of these rights and responsibilities and shall be maintained in the resident's record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party. (II, III)

d. In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II, III)

e. All residents shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be utilized to inform non-English-speaking, deaf or blind residents of changes. (II, III)

63.21(5) Choice of primary care provider. Each resident shall be permitted free choice of a primary care provider, and pharmacy, if accessible. The facility may require the selected pharmacy to utilize a drug distribution system compatible with the system currently used by the facility. (II)

63.21(6) Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and treatment, which may include, but shall not be limited to, medical care, nutritional needs, activities, and social work services. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a resident with a responsible party, the responsible party shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment and to be informed of the resident's medical condition. (II, III)

63.21(7) Each resident shall be encouraged and assisted throughout the resident's period of stay to exercise the resident's rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

63.21(8) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of changes in policies and services that are more restrictive, and their views shall be solicited prior to action. (II)

63.21(9) The facility shall post in a prominent area the text of Iowa Code section 135C.46 (Retaliation by facility prohibited) and the name, telephone number, and address of the long-term care ombudsman, the department, and the local law enforcement agency to provide residents a further course of redress. (II)

63.21(10) All rights and responsibilities of the resident devolve to the resident's responsible party or any legal surrogate designated in accordance with state law, to the extent permitted by state law. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II, III)

481—63.22(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs. (I, II)

63.22(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (I, II)

63.22(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

63.22(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

63.22(4) Privacy of a resident's body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

63.22(5) Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This shall not apply under emergency conditions. (II)

481—63.23(135C) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents, and may send and receive personal mail unopened. (II)

63.23(1) Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

63.23(2) Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

a. The resident refuses to see the visitor(s). (II)

b. The resident's primary care provider documents specific reasons why such a visit would be harmful to the resident's health. (II)

c. The visitor's behavior is unreasonably disruptive to the functioning of the facility. This judgment must be made by the administrator, and the reasons shall be documented and kept on file. (II)

63.23(3) Decisions to restrict a visitor are reviewed and reevaluated:

a. Each time the medical orders are reviewed by the primary care provider;

b. At least quarterly by the facility's staff; or

c. At the resident's request. (II)

63.23(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

63.23(5) Telephones shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

63.23(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

63.23(7) Residents, including residents court-ordered to the facility, shall be permitted to leave the facility at reasonable times unless there are justifiable reasons established in writing by court order, the primary care provider, the interdisciplinary team, or the facility administrator for refusing permission. (II)

63.23(8) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

481—63.24(135C) Resident property.

63.24(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The facility shall offer the resident the opportunity to have personal property itemized and documented on an inventory sheet upon the resident's admission. The inventory sheet shall be kept in a safe location which is convenient for the resident to review and update. At discharge, residents may sign off on a list of the personal property they are taking with them. (II, III)

63.24(2) The facility shall provide for the safekeeping of personal effects, funds and other property of its residents. The facility may require that items of exceptional value or that would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

63.24(3) Any funds or other property belonging to or due a resident, or expendable for the resident's account, which is received by the facility shall be trust funds; shall be kept separate from the funds and property of the facility and of its other residents, or specifically credited to such resident; and shall be used or otherwise expended only for the account of the resident. (III)

481—63.25(135C) Financial affairs—management. Each resident who has not been assigned a guardian or conservator by the court may manage the resident's own personal financial affairs. To the extent the facility assists in management, under written authorization by the resident, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

63.25(1) The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

63.25(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

63.25(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24. Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a resident with impaired decision-making skills, the resident's legal representative shall designate a method of disbursing the resident's funds. (II)

63.25(4) If the facility makes financial transactions on a resident's behalf, the facility must document that it has prepared and sent an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

63.25(5) A resident's personal funds shall not be used without the written consent of the resident or the resident's legal representative. (I, II)

63.25(6) A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's legal representative. The department may report findings that resident funds have been used without written consent to the department's investigations division or to the local law enforcement agency, as appropriate. (II)

481—63.26(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code section 347B.5. (II)

63.26(1) Residents may not be used to provide a source of labor for the facility against their will. Approval by the primary care provider or physiatrist is required for all work programs. (I, II)

63.26(2) Residents who perform work for the facility must receive compensation unless the work is part of their approved training program. Persons on the resident census who perform work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

481—63.27(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. (I, II)

63.27(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (I, II)

63.27(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (I, II)

63.27(3) Drugs such as tranquilizers shall only be used in accordance with orders of the primary care provider. (I, II)

63.27(4) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

63.27(5) Staff shall receive training relating to the identification and reporting of dependent adult abuse as required by Iowa Code section 235B.16. (I, II, III)

481—63.28(135C) Crisis intervention. If a facility utilizes physical restraints, the facility shall have written policies that define the uses of physical restraints, designate the administrator or designee as the person who may authorize their use, establish a mechanism for monitoring and controlling their use, and provide staff with proper training. (I, II)

63.28(1) Temporary physical restraint of residents shall be used only under the following conditions: (I, II)

a. An emergency to prevent injury to the resident or to others; or (I, II)

b. For crisis intervention, but shall not be used for punishment, for the convenience of staff or as a substitution for supervision or programming; (I, II) and

c. No staff person shall use any restraint that obstructs the airway of the resident. (I, II)

63.28(2) Authorization for the use of physical restraints must be prior to or immediately after application of the restraint. (I, II)

63.28(3) Prone restraint is prohibited. Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint. (I, II)

63.28(4) The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the resident's rights and to ensure safety shall be clearly set forth in the resident's record by the responsible staff persons. (I, II)

63.28(5) The primary care provider, the interdisciplinary team and the resident's responsible party shall be notified of any restraints administered. (I, II, III)

63.28(6) The facility shall provide to the staff a department-approved training program by qualified professionals on physical restraint techniques. (I, II)

a. The facility shall keep a record of training for review by the department and shall include attendance. (II, III)

b. Only staff with documented training in physical restraint and techniques shall be authorized to assist with physical restraint of a resident. (I, II)

c. Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident. (I, II)

63.28(7) Residents shall not be kept behind locked doors. (I, II)

63.28(8) Mechanical restraint is prohibited. Staff persons who find themselves involved in the use of a mechanical restraint when responding to an emergency must take immediate steps to end the mechanical restraint. (I, II)

481—63.29(135C) Safety. The licensee of a residential care facility shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (I, II, III)

63.29(1) *Fire safety.*

a. All residential care facilities shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)

b. The size of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

63.29(2) *Safety duties of administrator.* The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (III)

a. The plan shall be prominently posted in a common area of the building. (III)

b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (II, III)

63.29(3) *Resident safety.*

a. Smoking shall be prohibited, except as allowed by Iowa Code chapter 142D, the smokefree air Act. (II, III)

b. Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)

c. Residents shall receive adequate supervision to ensure against hazard from themselves, others, or elements in the environment. (I, II, III)

d. Storage areas for cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials shall be locked. Residents permitted to access these materials shall have an order by their primary care provider stating the resident is able to utilize such materials, and staff shall supervise the residents as identified in the resident's service plan. (I, II, III)

e. Sufficient numbers of noncombustible trash containers with covers shall be available. (III)

f. Residents' personal possessions that may constitute a hazard to residents or others shall be removed and stored. (III)

63.29(4) *First-aid kit.* A first-aid emergency kit shall be available on each floor in every facility. (II, III)

481—63.30(135C) Housekeeping.

63.30(1) Each resident room shall be cleaned on a routine schedule. (III)

63.30(2) All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (II, III)

63.30(3) A hallway or corridor shall not be used for storage of equipment. (II, III)

63.30(4) All odors shall be kept under control by cleanliness and proper ventilation. (III)

63.30(5) Clothing worn by personnel shall be clean and washable. (III)

63.30(6) All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (II, III)

63.30(7) Polishes used on floors shall provide a nonslip finish. (II, III)

63.30(8) Throw or scatter rugs shall have nonskid backing. (II, III)

63.30(9) Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

481—63.31(135C) Maintenance.

63.31(1) The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (II, III)

63.31(2) Window treatments and furniture shall be clean and in good repair. (II, III)

63.31(3) Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (II, III)

63.31(4) The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the National Electric Code. (II, III)

63.31(5) All plumbing fixtures shall function properly and comply with the state plumbing code. (II, III)

63.31(6) Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (II, III)

63.31(7) The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (II, III)

63.31(8) The facility shall be kept free of flies, other insects, and rodents. (II, III)

481—63.32(135C) Laundry.

63.32(1) Residents' personal laundry shall be marked with an identification if commingled with other residents' personal laundry. (III)

63.32(2) Bed linens, towels, and washcloths shall be clean and stain-free. (III)

63.32(3) If laundry is done in the facility, a clean, dry, well-lit area to accommodate a washer and dryer of adequate size to serve the needs of the facility shall be provided. (III)

481—63.33(135C) Garbage and waste disposal.

63.33(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

63.33(2) All containers for refuse shall be watertight and rodent-proof and have tight-fitting covers. (III)

63.33(3) All unlined containers inside of the facility shall be thoroughly cleaned each time the containers are emptied. (III)

63.33(4) All waste shall be properly disposed of in compliance with local ordinances and state codes. (III)

481—63.34(135C) Supplies.

63.34(1) *Linen supplies.*

a. There shall be an adequate supply of linens so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Adequate storage shall be provided for linens, pillows, and bedding. (III)

63.34(2) *Supplies, equipment and storage.*

a. All equipment shall be properly cleaned and sanitized before use by another resident. (III)

b. Clean and sanitary storage shall be provided for equipment and supplies. (III)

c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

481—63.35(135C) Buildings, furnishings, and equipment.

63.35(1) *Buildings—general requirements.*

a. All windows shall be supplied with window treatments that are kept clean and in good repair. (III)

b. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

c. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

63.35(2) *Furnishings and equipment.*

a. All furnishings and equipment shall be durable, cleanable, and appropriate to their function. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere. (III)

63.35(3) *Dining areas and living rooms.*

a. Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. Living rooms shall be suitably furnished. (III)

b. Dining areas shall be furnished with dining tables and chairs appropriate to the size and function of the facility. Dining rooms and furnishings shall be kept clean and sanitary. (III)

63.35(4) *Bedrooms.*

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)

c. There shall be a comfortable chair, either a rocking chair or armchair, per resident bed. The resident's personal wishes shall be considered. (III)

d. There shall be drawer space for each resident's clothing. In a bedroom in which more than one resident resides, drawer space shall be assigned to each resident. (III)

e. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)

f. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless the radiator is covered so as to protect the resident from contact with it or from excessive heat. (III)

g. There shall be a wardrobe or closet in each resident's room. Minimum clear dimensions shall be 1 foot 10 inches deep by 1 foot 8 inches wide with full hanging space and provide a clothes rod and shelf. In a multiple bedroom, closet or wardrobe space shall be assigned each resident sufficient for the resident's needs. (III)

h. Each room shall have sufficient accessible mirrors to serve resident's needs. (III)

i. Useable floor space of a room shall be no less than 8 feet in any major dimension. (III)

j. Bedrooms shall have a minimum of 60 square feet of useable floor space per bed for a double room, 80 square feet of useable floor space for a single room. (III)

k. There shall be no more than two residents per room. (III)

63.35(5) *Bath and toilet facilities.*

a. All sinks shall have paper towel dispensers and an available supply of soap. (III)

b. Toilet paper shall be readily available to residents. (III)

c. There shall be a minimum of one toilet and bath facility for five residents. (III)

63.35(6) *Heating.* A centralized heating system shall be maintained in good working order and capable of maintaining a comfortable temperature for residents of the facility. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (II, III)

63.35(7) *Water supply.*

a. Private sources of water supply shall be tested annually and the report made available for review by the department upon request. (III)

b. A bacterially unsafe source of water supply shall be grounds for denial, suspension, or revocation of license. (III)

c. The department may require testing of private sources of water supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)

d. Hot and cold running water under pressure shall be available in the facility. (II, III)

e. Prior to construction of a new facility or new water source, private sources of water supply shall be surveyed and shall comply with the requirements of the department. (III)

481—63.36(135C) Family and employee accommodations. If the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for the residents. (III)

481—63.37(135C) Animals. No animals shall be allowed to reside in the facility except with written approval of the department and under controlled conditions. (II, III)

These rules are intended to implement Iowa Code chapter 135C.

[Filed 3/14/18, effective 5/16/18]
[Published 4/11/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3741C

INSURANCE DIVISION[191]

Adopted and Filed

Rule making related to securities

The Insurance Division hereby amends Chapter 50, "Regulation of Securities Offerings and Those Who Engage in the Securities Business," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 502.605.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 502.

Purpose and Summary

These amendments implement Iowa Code chapter 502, the Iowa Uniform Securities Act, which regulates the sale of securities in Iowa. The amendments do the following:

- Amend the filing procedures for an investment adviser's business continuity and succession plan from license applications to an examination procedure under Iowa Code section 502.411(4).
- Adopt the model rule of the North American Securities Administrators Association (NASAA) regarding merger and acquisition brokers.
- Adopt provisions regarding intrastate crowdfunding offerings.
- Conform to the implementation by the Financial Industry Regulatory Authority (FINRA) of the Securities Industry Essentials Exam.
- Mandate use of NASAA's electronic filing depository (EFD) system for unit investment trust notice filings by a person who is the issuer of a federal covered security under Section 18(b)(2) of the Securities Act of 1933.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 14, 2018, as **ARC 3615C**. A public hearing was held on March 6, 2018, at 10:30 a.m. at the Division offices, Fourth Floor, Two Ruan Center, 601 Locust Street, Des Moines, Iowa. No one attended the public hearing.

Changes to the Noticed rules, based on written comments received by the Division and on observations of the Division, were made based on the reasoning as follows:

- The requirement for a written acknowledgment in subparagraph 50.90(11)"c"(2) was changed to a requirement for an affirmative representation that the purchaser acknowledges receipt of the disclosure statement provided to the purchaser by the issuer pursuant to subrule 50.90(8). This requirement mirrors the requirement for an affirmative representation in subparagraph 50.90(11)"c"(3).
- Concerns were expressed about allowing unauthenticated users to access the intermediary website forum of paragraph 50.90(11)"e." The following sentence was added to the end of the paragraph to allow reasonable means to prevent that from happening: "The intermediary may adopt reasonable rules and procedures for the website forum, including registration and authentication requirements."
- The requirement for notice to be distributed in Iowa was relaxed in paragraph 50.90(14)"a" by removing the words "within Iowa" because of the difficulty in limiting email distribution or website visitation to one state.
- Revisions for clarity were made to subparagraph 50.90(2)"a"(2) in Item 13.

Adoption of Rule Making

This rule making was adopted by the Division on March 21, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

The Division's general waiver provisions of 191—Chapter 4 apply to these rules.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 50.10(10):

50.10(10) Registration exemption for merger and acquisition brokers.

a. Definitions. For purposes of rule 191—50.10(502), in addition to the definitions set forth in rule 191—50.1(502), the following definitions apply:

(1) *"Control"* means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract or otherwise. There is a presumption of control for any person who meets at least one of the following conditions:

1. Is a director, general partner, member, or manager of a limited liability company, or officer exercising executive responsibility (or similar status or functions).

2. Has the right to vote 20 percent or more of a class of voting securities or the power to sell or direct the sale of 20 percent or more of a class of voting securities.

3. In the case of a partnership or limited liability company, has the right to receive upon dissolution, or has contributed, 20 percent or more of the capital.

(2) *"Eligible privately held company"* means a company that meets both of the following conditions:

1. The company does not have any class of securities:

- Registered, or required to be registered, pursuant to the Securities Exchange Act of 1934 (15 U.S.C. Section 781); or
- For which the company files, or is required to file, periodic information, documents, and reports pursuant to the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(d)).

2. In the fiscal year ending immediately before the fiscal year in which the services of the merger and acquisition broker are initially engaged with respect to the securities transaction, the company meets either or both of the following conditions (determined in accordance with the historical financial accounting records of the company):

- The earnings of the company before interest, taxes, depreciation, and amortization are less than $25 million.
- The gross revenues of the company are less than $250 million.

(3) *"Merger and acquisition broker"* means any broker-dealer and any person that is associated with a broker-dealer:

1. That is engaged in the business of effecting securities transactions solely in connection with the transfer of ownership of an eligible privately held company; and

- That is thus engaged regardless of whether that broker-dealer acts on behalf of a seller or buyer; and
- That is thus engaged through the purchase, sale, exchange, issuance, repurchase, or redemption of, or a business combination involving, securities or assets of the eligible privately held company; and

2. That meets both of the following conditions:

- The broker-dealer reasonably believes that, upon consummation of the transaction, any person acquiring securities or assets of the eligible privately held company, acting alone or in concert, will control and, directly or indirectly, will be active in the management of the eligible privately held company or the business conducted with the assets of the eligible privately held company; and
- If any person offered securities in exchange for securities or assets of the eligible privately held company, such person will, prior to becoming legally bound to consummate the transaction, receive or have reasonable access to both of the following:

o The most recent fiscal year-end financial statements of the issuer of the securities as customarily prepared by its management in the normal course of operations; and

o If the financial statements of the issuer are audited, reviewed or compiled, all of the following:

♦ Any related statement by the independent accountant;

♦ A balance sheet dated not more than 120 days before the date of the exchange offer;

♦ Information pertaining to the management, business, and results of operations for the period covered by the foregoing financial statements; and

♦ Any material loss contingencies of the issuer.

(4) *"Public shell company"* means a company that, at the time of a transaction with an eligible privately held company, meets all three of the following conditions:

1. Has any class of securities registered, or required to be registered, with the SEC pursuant to the Securities Exchange Act of 1934 (15 U.S.C. Section 781), or with respect to which the company files, or is required to file, periodic information, documents, and reports pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)).

2. Has no or nominal operations.

3. Has assets consisting of one of the following:

- No or nominal assets.
- Cash and cash equivalents.
- Any amount of cash and cash equivalents and nominal other assets.

b. Merger and acquisition broker exemption from registration requirements.

(1) Exemption. Except as provided in subparagraphs 50.10(10)*"b"*(2) and (3), a merger and acquisition broker is exempt from the broker-dealer registration requirements and procedures of Iowa Code sections 502.401 and 502.406.

(2) Activities not exempt. A merger and acquisition broker is not exempt from the broker-dealer registration requirements of Iowa Code sections 502.401 and 502.406 if the merger and acquisition broker does any of the following:

1. Directly or indirectly, in connection with the transfer of ownership of an eligible privately held company, receives, holds, transmits, or has custody of the funds or securities to be exchanged by the parties to the transaction.

2. Engages on behalf of an issuer in a public offering of any class of securities that is registered, or is required to be registered, with the SEC under the Securities Exchange Act of 1934 (15 U.S.C. Section 781) or with respect to which the issuer files, or is required to file, periodic information, documents, and reports under the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(d)).

3. Engages on behalf of any party in a transaction involving a public shell company.

(3) Disqualifications. A merger and acquisition broker is not exempt from registration under this subrule if the merger and acquisition broker is subject to any of the following:

1. Suspension or revocation of registration under the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(b)(4));

2. A statutory disqualification described in the Securities Exchange Act of 1934 (15 U.S.C. Section 78c(a)(39));

3. A disqualification under the rules adopted by the SEC pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. Section 77d note)); or

4. A final order described in the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(b)(4)(H)).

(4) Rule of construction. Nothing in this subrule shall be construed to limit any other authority of the administrator to exempt any person, or any class of persons, from Iowa Code chapter 502 or from any provision of this chapter.

c. Inflation adjustment. On July 1, 2023, and every five years thereafter, each dollar amount in 50.10(10)*"a"*(2)"2" shall be adjusted by the following calculation, and the dollar amount determined under the calculation shall be rounded to the nearest multiple of $100,000:

(1) Dividing the annual value of the Employment Cost Index for Wages and Salaries, Private Industry Workers (or any successor index), as published by the Bureau of Labor Statistics, for the calendar year preceding the calendar year in which the adjustment is being made by the annual value of such index (or successor index) for the calendar year ending December 31, 2017; and

(2) Multiplying the dollar amount in 50.10(10)*"a"*(2)"2" by the quotient obtained under subparagraph 50.10(10)*"c"*(1), above.

ITEM 2. Amend paragraph **50.12(1)"b"** as follows:

b. Pass the appropriate qualifying examination administered by ~~the Financial Industry National Regulatory Authority (FINRA)~~ FINRA. In the event that an applicant for registration as an agent has received a waiver by FINRA of a FINRA examination otherwise required by this paragraph, the FINRA waiver will be accepted in lieu of the examination requirement;

ITEM 3. Amend subrule 50.33(1) as follows:

50.33(1) Except as exempted by subrule 50.33(2), a person applying to be registered as an investment adviser representative shall provide the administrator with proof that the person has obtained ~~a passing score on one of the following examinations~~ either:

a. ~~The~~ A passing score on the Series 65 examination ~~as implemented January 1, 2000; or~~.

b. ~~The~~ Passing scores on both the Series 7 examination and the Series 66 examination ~~as implemented January 1, 2000~~ and, if the application is received by the administrator on or after October 1, 2018, FINRA's Securities Industry Essentials Exam. In the event that an applicant for registration as an investment adviser representative has received a waiver by FINRA of the Series 7 examination

otherwise required by this paragraph, the FINRA waiver will be accepted in lieu of the examination requirement.

ITEM 4. Amend paragraph **50.39(4)"c"** as follows:

c. "Independent certified public accountant" means a certified public accountant that meets the standards of independence described in SEC Rule 2-01(b) and (c) of Regulation S-X (17 CFR 210.2-01(b) and (c)).

ITEM 5. Adopt the following **new** paragraph **50.42(1)"x"**:

x. A copy of a written business continuity and succession plan as required by rule 191—50.47(502).

ITEM 6. Amend subrule 50.42(9) as follows:

50.42(9) Compliance with any substantially similar record-keeping requirements of ~~Rules 17a-3 [17 CFR 240.17a-3] and 17a-4 [17 CFR 240.17a-4] of the Securities Exchange Act of 1934~~ SEC Rules 17a-3 and 17a-4 (17 CFR 240.17a-3 and 17 CFR 240.17a-4) shall be deemed to be in compliance with this rule.

ITEM 7. Amend rule 191—50.45(502) as follows:

191—50.45(502) Registration exemption for investment advisers to private funds.

50.45(1) *Definitions.* For purposes of this rule, the following definitions shall apply:

"3(c)(1) fund" means a qualifying private fund that is eligible for the exclusion from the definition of an investment company under ~~Section 3(c)(1) of~~ the Investment Company Act of ~~1940, 15 U.S.C. 80a-3(c)(1)~~ 1940 (15 U.S.C. Section 80a-3(c)(1)).

"Private fund adviser" means an investment adviser who provides advice solely to one or more qualifying private funds.

"Qualifying private fund" means a private fund that meets the definition of a qualifying private fund in SEC Rule ~~203(m)-1, 17 CFR § 275.203(m)-1~~ 203(m)-1 (17 CFR 275.203(m)-1).

"Value of primary residence" means the fair market value of a person's primary residence, less the amount of debt secured by the property up to its fair market value.

"Venture capital fund" means a private fund that meets the definition of a venture capital fund in SEC Rule ~~203(l)-1, 17 CFR § 275.203(l)-1~~ 203(l)-1 (17 CFR 275.203(l)-1).

50.45(2) *Exemption for private fund advisers.* Subject to the additional requirements of subrule 50.45(3), a private fund adviser shall be exempt from the registration requirements of Iowa Code section 502.403 if the private fund adviser satisfies each of the following conditions:

a. Neither the private fund adviser nor any of its advisory affiliates are subject to a disqualification as described in SEC Rule 262 of ~~SEC~~ Regulation ~~A, 17 CFR § 230.262;~~ A (17 CFR 230.262).

b. The private fund adviser files with the state each report and amendment thereto that an exempt reporting adviser is required to file with the SEC pursuant to SEC Rule ~~204-4, 17 CFR § 275.204-4;~~ 204-4 (17 CFR 275.204-4).

c. No change.

50.45(3) *Additional requirements for private fund advisers to certain 3(c)(1) funds.* In order to qualify for the exemption described in subrule 50.45(2), a private fund adviser who advises at least one 3(c)(1) fund that is not a venture capital fund shall, in addition to satisfying each of the conditions specified in paragraph 50.45(3)*"b,"* comply with the following requirements:

a. The private fund adviser shall advise only those 3(c)(1) funds (other than venture capital funds) whose outstanding securities (other than short-term paper) are beneficially owned entirely by persons who, after deducting the value of the primary residence from the person's net worth, would each meet the definition of a qualified client in SEC Rule ~~205-3, 17 CFR § 275.205-3,~~ 205-3 (17 CFR 275.205-3) at the time the securities are purchased from the issuer.

b. and *c.* No change.

50.45(4) to **50.45(8)** No change.

This rule is intended to implement Iowa Code section 502.403.

ITEM 8. Amend subrule 50.47(1) as follows:

50.47(1) On and after July 1, 2017, every investment adviser registered in Iowa shall ~~establish, implement, and maintain~~ make and maintain records, pursuant to Iowa Code section 502.411(3)*"a,"* of the establishment, implementation and maintenance of a written business continuity and succession plan. The business continuity and succession plan shall be created and implemented in a manner consistent with the NASAA Guidance on Business Continuity and Succession Planning for State-Registered Investment Advisers, which is available on the Iowa insurance division's ~~Web site, www.iid.iowa.gov~~ website, iid.iowa.gov. In developing the procedures for the business continuity and succession plan, the investment adviser shall consider, among other things, the size of the firm, the types of services provided and the number of locations of the investment adviser. The business continuity and succession plan shall provide for, at a minimum, all of the following:

a. to *e.* No change.

ITEM 9. Amend subrule 50.47(2) as follows:

50.47(2) Every investment adviser registered in Iowa shall ~~include a copy of~~ annually review the investment adviser's written business continuity and succession plan ~~with the first registration renewal required by Iowa Code section 502.402 that the investment adviser files on and after July 1, 2017~~ and, if it has been changed since it was submitted, or if it was not previously submitted, shall file it for examination by the administrator, pursuant to Iowa Code section 502.411(4). The administrator shall review an investment adviser's written business continuity and succession plan to determine whether it is consistent with the NASAA Guidance on Business Continuity and Succession Planning for State-Registered Investment Advisers and whether it takes into account the considerations listed in subrule 50.47(1). The administrator may request the investment adviser to modify the filed business continuity and succession plan according to the administrator's suggestions. After the initial filing, the investment ~~adviser shall submit to the administrator~~ adviser's filing of any change shall identify any substantive amendment to the business continuity and succession plan with the registration renewal following the amendment. The administrator may request from the investment adviser at any time information regarding the business continuity and succession plan~~, including but not limited to evidence that it has been implemented and maintained~~ made since the last filing of the plan.

ITEM 10. Adopt the following **new** subrule 50.60(7):

50.60(7) Effective January 1, 2019, when notice filings of the records and fees are required by this rule for the offer or sale of unit investment trusts (as defined in the Investment Company Act of 1940 (15 U.S.C. Section 80a-4(2)), the filings shall be submitted electronically through NASAA's electronic filing depository system at efdnasaa.org.

ITEM 11. Rescind and reserve rule **191—50.80(502)**.

ITEM 12. Amend rule 191—50.81(502) as follows:

191—50.81(502) Notice filings for Rule 506 offerings. An issuer offering a security that is a covered security pursuant to Section ~~18(b)(4)(E)~~ 18(b)(4)(F) of the Securities Act of 1933 shall submit no later than 15 days after the first sale of such federal covered security in Iowa an electronic filing and fees through www.efdnasaa.org, under "filers and issuers."

This rule is intended to implement Iowa Code section 502.302(3).

ITEM 13. Rescind rule 191—50.90(502) and adopt the following **new** rule in lieu thereof:

191—50.90(502) Intrastate crowdfunding exemption.

50.90(1) *Definitions.* For purposes of this rule, in addition to the definitions set forth in rule 191—50.1(502), the definitions in Iowa Code section 502.202(24)*"a"* and the following definitions apply:

"Administrator's website" means the Internet site of the Iowa insurance division, iid.iowa.gov.

"Escrow agent" means a bank, trust company, savings bank, national banking association, building and loan association, mortgage banker, credit union, insurance company, or any other independent escrow agent acceptable to the commissioner.

"Issuer" means a person that is authorized to do business in Iowa and has been approved by the administrator as a crowdfunding issuer pursuant to subrule 50.90(5).

"Management" means an issuer's directors, executive officers, or the individuals who perform such functions for the issuer.

"Portal website" means the Internet site through which a registered Iowa crowdfunding portal conducts offers and sales of exempt securities under Iowa Code section 502.202(24).

"Principal place of business" means the state or territory from which the officers, partners, or managers of a corporation, partnership, limited liability company, trust or other form of business primarily direct, control and coordinate the activities of the business. "Principal place of business" is not related to "place of business" as defined in Iowa Code section 502.102(21).

50.90(2) *Exemption from registration.*

a. Under the authority delegated to the administrator to promulgate rules in Iowa Code sections 502.203 and 502.605(1), a transaction is exempt from the registration provisions of the Act if all of the conditions in subparagraphs (1) to (4) are met:

(1) The issuer of the securities is at the time of any offers and sales a person that is a resident and doing business within the state of Iowa. The issuer shall be deemed to be a resident of the state of Iowa if it has its principal place of business in Iowa. The issuer shall be deemed to be doing business within Iowa if the issuer satisfies at least one of the following requirements:

1. The issuer derived at least 80 percent of its consolidated gross revenues from the operation of a business or of real property located in or from the rendering of services within the state of Iowa.

2. The issuer had, at the end of its most recent semiannual fiscal year prior to an initial offer of securities in any offering or subsequent offering pursuant to this rule, at least 80 percent of its assets and those of its subsidiaries on a consolidated basis located in the state of Iowa.

3. The issuer intends to use and uses at least 80 percent of the net proceeds to the issuer from sales made pursuant to this rule in connection with the operation of a business within, the operation of real property within, the purchase of real property located in, or the rendering of services within the state of Iowa.

4. A majority of the issuer's employees are based in the state of Iowa.

(2) Sales of securities pursuant to this rule are made only to residents of the state of Iowa or to persons who the issuer reasonably believes, at the time of the sale, are residents of the state of Iowa. An individual shall be deemed to be a resident of the state of Iowa if such individual has, at the time of sale, the individual's principal residence in the state of Iowa. A trust that is not deemed by Iowa law to be a separate legal entity is deemed to be a resident of the state of Iowa only if all of the trust's trustees are residents of the state of Iowa. For purposes of determining the residence of a purchaser:

1. A corporation, partnership, limited liability company, trust or other form of business organization shall be deemed a resident of the state of Iowa if, at the time of sale to it, it has its principal place of business within the state of Iowa.

2. A corporation, partnership, trust or other form of business organization that is organized for the specific purpose of acquiring securities offered pursuant to this rule shall not be a resident of Iowa unless all of the beneficial owners of such organization are residents of Iowa.

(3) The issuer is not, before or as a result of the offering, any of the following:

1. An investment company registered or required to be registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

2. A hedge fund, commodity pool, or similar investment vehicle.

3. A development stage company that either has no specific business plan or purpose or has indicated that the company's business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

4. A company with a class of securities registered under the federal Securities Exchange Act of 1934.

(4) The offering is sold in compliance with the requirements of SEC Rule 147A (17 CFR 230.147A).

b. All offers and sales of securities made in reliance upon this rule shall be made through an intermediary's Internet site.

50.90(3) *Integration.*

a. Offers and sales made in reliance on this rule may be integrated with other offers and sales when the following factors apply:

(1) The sales are part of a single plan of financing;

(2) The sales involve the issuance of the same class of securities;

(3) The sales have been made at or about the same time;

(4) The same type of consideration is received; and

(5) The sales are made for the same general purpose.

b. Offers and sales made in reliance on this rule shall not be integrated with offers and sales made more than six months before the start of the offering or more than six months after completion of an offering, so long as during those six-month periods there are no offers or sales of securities by or for the issuer that are of the same class or of a similar class as those offered or sold under these rules, other than those offers or sales of securities under an employee benefit plan.

50.90(4) *Bad actor disqualification.*

a. The exemption of 50.90(2) shall not be available if the issuer; any predecessor of the issuer; any affiliated issuer; any director, executive officer, other officer participating in the offering, general partner or managing member of the issuer; any beneficial owner of 20 percent or more of the issuer's outstanding voting equity securities, calculated on the basis of voting power; any promoter connected with the issuer in any capacity at the time of such offer or sale; any investment manager of an issuer that is a pooled investment fund; any person that has been or will be paid (directly or indirectly) remuneration for solicitation of purchasers in connection with such offer or sale of securities; any general partner or managing member of any such investment manager or solicitor; or any director, executive officer, or other officer participating in the offering of any such investment manager or solicitor or general partner or managing member of such investment manager or solicitor:

(1) Has been convicted, within ten years before such offer or sale (or five years, in the case of issuers, their predecessors and affiliated issuers), of any felony or misdemeanor that is any of the following:

1. In connection with the purchase or sale of any security.

2. Involving any making of any false filing with the SEC or a state securities commission or agency or state official performing like functions.

3. Arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of securities;

(2) Is subject to any order, judgment or decree of any court of competent jurisdiction, entered within five years before such offer or sale that, at the time of such offer or sale, restrains or enjoins such person from engaging or continuing to engage in any conduct or practice that is any of the following:

1. In connection with the purchase or sale of any security.

2. Involving the making of any false filing with the SEC or a state securities commission or agency or state official performing like functions.

3. Arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchaser of securities;

(3) Is subject to a final order of a state securities commission or agency or state official performing like functions; a state authority that supervises or examines banks, savings associations, or credit unions; a state insurance commission or agency or state official performing like functions; an appropriate federal banking agency; the U.S. Commodity Futures Trading Commission; or the National Credit Union Administration that:

1. At the time of such offer or sale, bars the person from:

- Association with an entity regulated by such commission, authority, agency, or officer;
- Engaging in the business of securities, insurance or banking; or

- Engaging in savings association or credit union activities; or

2. Constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct, including making untrue statements of material facts or omitting to state material facts, entered within ten years before such offer or sale;

(4) Is subject to an order of the SEC entered pursuant to the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(b) or 78o-4(c)) or the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-3(e) or (f)) that, at the time of such offer or sale:

1. Suspends or revokes such person's registration as a broker, dealer, municipal securities dealer or investment adviser;

2. Places limitations on the activities, functions or operations of such person; or

3. Bars such person from being associated with any entity or from participating in the offering of any penny stock;

(5) Is subject to any order of the SEC entered within five years before such offer or sale that, at the time of such offer or sale, orders the person to cease and desist from committing or causing a violation or future violations of:

1. Any scienter-based, antifraud provision of the federal securities laws, including without limitation the Securities Act of 1933 (15 U.S.C. Section 77q(a)(1)); the Securities Exchange Act of 1934 (15 U.S.C. Section 78j(b) and 17 CFR 240.10b-5); the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(c)(1)); the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-6(1)); or any other rule or regulation thereunder; or

2. Section 5 of the Securities Act of 1933 (15 U.S.C. 77e);

(6) Is suspended or expelled from membership in, or suspended or barred from association with a member of, a registered national securities exchange or a registered national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade;

(7) Has filed (as a registrant or issuer), or was or was named as an underwriter in, any registration statement or Regulation A offering statement filed with the SEC that, within five years before such offer or sale, was the subject of a refusal order, stop order, or order suspending the Regulation A exemption, or is, at the time of such offer or sale, the subject of an investigation or proceeding to determine whether a stop order or suspension order should be issued;

(8) Is subject to a United States Postal Service false representation order entered within five years before such offer or sale, or is, at the time of such offer or sale, subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States Postal Service to constitute a scheme or device for obtaining money or property through the mail by means of false representations;

(9) Has filed a registration statement which is subject to a final stop order entered under any state's securities law within five years before such offer or sale; or

(10) Is currently subject to any final state administrative enforcement order or judgment entered by a state's securities administrator within five years prior to such offer or sale.

b. Paragraph 50.90(4)*"a"* shall not apply under either of the following circumstances:

(1) Upon a showing of good cause and without prejudice to any other action by the commissioner, if the commissioner determines that it is not necessary under the circumstances that the exemption be denied; or

(2) If the issuer establishes that it did not know and, in the exercise of reasonable care, could not have known that a disqualification existed under this subrule. An issuer will not be able to establish that it has exercised reasonable care unless it has made, in light of the circumstances, factual inquiry into whether any disqualifications exist. The nature and scope of the factual inquiry will vary based on the facts and circumstances concerning, among other things, the issuer and the other offering participants.

c. Events relating to any affiliated issuer that occurred before the affiliation arose will be not considered disqualifying if the affiliated entity is not:

(1) In control of the issuer; or

(2) Under common control with the issuer by a third party that was in control of the affiliated entity at the time of such events.

50.90(5) *Filing requirements for issuers.*

a. An issuer may declare an offering exempt for a maximum of 12 months and rely on this intrastate sales exemption if the issuer submits at the administrator's website, and receives approval from the administrator, at least 30 days prior to the offer of any security in reliance upon Iowa Code section 502.202(24), all of the following:

(1) A properly completed Iowa Crowdfunding Notice Filing Form (available at the administrator's website).

(2) The issuer's articles of incorporation or other charter documents pursuant to which the issuer is organized.

(3) The issuer's bylaws or operating agreement and all amendments thereto.

(4) A copy of any resolutions setting forth terms and provisions of the securities being issued.

(5) The issuer's financial statements as of the end of the issuer's most recent fiscal year, prepared in accordance with generally accepted accounting principles. If the date of the most recent fiscal year end is more than 90 days prior to the date of the filing, the issuer must also submit an unaudited balance sheet and unaudited statement of income or operations, both prepared in accordance with generally accepted accounting principles for the issuer's most recent fiscal year.

(6) A copy of any agreements between the issuer and any intermediary.

(7) A copy of any subscription agreement for the purchase of securities in the offering.

(8) A copy of the escrow agreement between the issuer and an escrow agent for the deposit of offering proceeds.

(9) A specimen or copy of the security to be offered, including required legends, if the issuer will issue physical certificates.

(10) A copy of all advertising and other materials directed to or to be furnished to investors in the offering.

(11) A copy of all disclosure documents directed to or to be furnished to investors in the offering.

(12) Any other information reasonably requested by the commissioner.

(13) A filing fee of $100.

b. If an issuer will make offers and sales of an offering after the exempt offering period declared by the issuer on the Iowa Crowdfunding Notice Filing Form, the issuer must renew the offering exemption by submitting at the administrator's website, and receiving approval of the administrator, at least 30 days prior to the expiration of the original exempt offering period, all of the following:

(1) A report of sales as of the most recent practical date that includes the following information:

1. The time period in which the offering was open.
2. The number of shares or units sold in the offering.
3. The number of investors that purchased shares or units in the offering.
4. The dollar amount sold in the offering.

(2) A copy of the issuer's updated Iowa Crowdfunding Notice Filing Form.

(3) The issuer's financial statements as of the end of the issuer's most recent fiscal year, prepared in accordance with generally accepted accounting principles. If the end date of the most recent fiscal year is more than 90 days prior to the date of renewal, the issuer also shall submit an unaudited balance sheet and an unaudited statement of income or operations, both prepared in accordance with generally accepted accounting principles for the issuer's most recent fiscal quarter.

(4) A renewal filing fee of $100.

c. Upon completion of an offering made in reliance upon this rule, an issuer shall file at the administrator's website, and receive the administrator's approval of, a final sales report that includes all of the following information:

(1) The time period in which the offering was open.

(2) The number of shares or units sold in the offering.

(3) The number of investors that purchased shares or units in the offering.

(4) The total dollar amount sold in the offering.

50.90(6) *Minimum offering amount.* The issuer shall establish a minimum offering amount that is sufficient, together with other sources of financing, to implement the business plan of the issuer, as disclosed in the submitted offering information.

50.90(7) *Escrow agreement.* The issuer must enter into an escrow agreement with an independent escrow agent to hold funds in an escrow account, and the escrow agreement shall include all of the following terms:

a. All offering proceeds shall be maintained in an account controlled by the escrow agent.

b. All offering proceeds will be released to the issuer only when the aggregate capital raised from all purchasers that have signed commitments to invest is equal to or greater than the minimum offering amount disclosed in the offering materials submitted to the administrator with the issuer's filing of paragraph 50.90(5)*"a."*

c. If the proceeds do not meet the minimum offering amount disclosed in the offering materials within one year of the earlier of the commencement of the offering or the first posting of the offering on the Internet, the issuer shall return all funds to investors.

d. None of the following shall have any claim to the escrowed proceeds:

(1) A creditor of an escrow agent.

(2) An affiliate of an escrow agent.

(3) A creditor of the issuer.

(4) An affiliate of the issuer.

(5) A creditor of an intermediary engaged by the issuer.

(6) An affiliate of an intermediary engaged by the issuer.

e. The escrow agent agrees to maintain its independence from the issuer, any intermediary or Iowa crowdfunding portal assisting with the offering, and the officers, directors, managing members, and affiliates of the issuer or any Iowa crowdfunding portal assisting with the offering.

f. The commissioner may inspect the records of the impound account maintained by the escrow agent at any reasonable time at the location of the records and copy any record.

g. The escrow agreement must be signed by an officer of the issuer and an authorized representative of the escrow agent.

h. The escrow agent may not be affiliated with the issuer, any Iowa crowdfunding portal assisting with the offering, or any officers, director, managing member, or affiliate of the issuer or any intermediary assisting with the offering.

i. If the minimum offering amount is not received by the end of the offering period, the proceeds shall be returned to the purchasers within 30 days.

j. All purchasers shall have the right to withdraw their investments, without deduction of any kind, until such time as offering proceeds totaling at least the minimum offering amount are received.

50.90(8) *Disclosure requirements for issuers.*

a. Nothing in this exemption is intended to or should be in any way construed as relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the requirements of rule 191—50.90(502) and the antifraud provisions of Iowa Code chapter 502. The issuer is required to provide full and fair disclosure to investors of all material facts relating to the issuer and the securities being offered. If eligible, the issuer may use Form U-7, which may be obtained from the NASAA website at www.nasaa.org.

b. Among other risk disclosures, the issuer must provide the substance of all of the following disclosures to all prospective purchasers and investors:

(1) There is no ready market for the sale of the securities acquired in this offering. It may be difficult or impossible for an investor to sell or otherwise dispose of this investment. An investor may be required to hold and bear the financial risks of this investment indefinitely.

(2) No federal or state securities commission or regulatory authority has confirmed the accuracy or determined the adequacy of the disclosures provided.

(3) In making an investment decision, investors must rely on their own examination of the issuer and the terms of the offering, including the merits and risks involved.

(4) The securities have not been registered under federal or state securities laws and, therefore, cannot be resold unless the securities are registered or qualify for an exemption from registration under federal and state law.

50.90(9) *Books and records.* An issuer that has filed under this rule must keep and maintain written or electronic records relating to offers and sales of securities made in reliance upon this rule for at least six years following termination of the offering. These records are subject to such reasonable audits or inspections by the administrator or a representative of the administrator as the administrator considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The administrator may copy, and remove for audit or inspection copies of, all records the administrator reasonably considers necessary or appropriate to conduct the audit or inspection.

50.90(10) *Iowa crowdfunding portal registration.*

a. To register as an Iowa crowdfunding portal, a person shall submit to the administrator at the administrator's website all of the following:

(1) A completed Iowa Crowdfunding Portal Registration Form, available on the administrator's website, including all required schedules and supplemental information.

(2) A completed Form U-4, available on the administrator's website, for each agent as defined in Iowa Code section 502.102(2).

(3) Any other information requested by the administrator to determine the financial responsibility, business reputation, or qualifications of the Iowa crowdfunding portal.

(4) The registration fee of $100.

b. The person must receive approval of the submission and registration by the administrator before the person may operate as an Iowa crowdfunding portal.

c. Registration expires at the close of the calendar year in which a registration was issued, but the registration may be renewed for the succeeding year by submission to the administrator at the administrator's website of both a $100 registration fee and a written request for renewal, including any material changes to the information submitted in the prior registration submission.

50.90(11) *Duties of an Iowa crowdfunding intermediary.*

a. Maintenance of intermediary website. An Iowa crowdfunding intermediary shall create and maintain the intermediary website and make information and services available on or through the intermediary website in compliance with this rule.

b. Background and regulatory checks. Prior to offering securities to residents of Iowa, the intermediary shall conduct a reasonable investigation of the background and history of each issuer whose securities are offered on the intermediary website and of each issuer's control persons. "Control persons" for the purpose of this subrule means the issuer's officers; directors; or other persons having the power, directly or indirectly, to direct the management or policies of the issuer, whether by contract or otherwise; and persons holding more than 20 percent of the outstanding equity of the issuer. The intermediary shall deny an issuer access to the intermediary website if there is a reasonable basis to believe that one or more of the following are true:

(1) The issuer or any of its control persons is subject to disqualification under subrule 50.90(3).

(2) The issuer has engaged in, the issuer is engaging in, or the offering involves any act, practice, or course of business that will, directly or indirectly, operate as a fraud or deceit upon any person.

(3) The intermediary cannot adequately or effectively assess the risk of fraud by the issuer or by the issuer's potential offering.

c. Purchaser screening. Before a security is sold through the intermediary, the intermediary shall ensure that the purchaser does all of the following:

(1) Reviews the information provided in the offering documents.

(2) Provides to the intermediary an affirmative representation from the purchaser acknowledging receipt of the disclosure statement provided to the purchaser by the issuer pursuant to subrule 50.90(8).

(3) Provides to the intermediary an affirmative representation that the purchaser is an Iowa resident.

d. Information about the issuer and the offering. The intermediary shall make available on the intermediary website information about the issuer and the offering. The information shall include all of the following:

(1) A copy of the disclosure statement required by subrule 50.90(8).

(2) A summary of the offering, including all of the following:

1. A description of the entity; its form of business, principal office, history, and business plan; and its intended use of offering proceeds, including compensation paid to any owner, executive officer, director, or manager.

2. The identity of the executive officers, directors, and managers, including their titles and their prior experience and the identity of all persons owning more than 20 percent of the ownership interests of any class of securities of the company.

3. A description of the securities being offered and any outstanding securities of the company, the amount of the offering, and the percentage of ownership of the company represented by the offered securities.

e. Intermediary website forum. The intermediary shall maintain a forum on the intermediary website. The forum shall be available to all potential purchasers as well as to the administrator. The intermediary website shall contain a disclaimer that reflects that access to securities offered on the intermediary website is limited to Iowa residents and that sales of the securities appearing on the intermediary website are limited to persons that are Iowa residents. Potential purchasers may ask questions and receive answers concerning the terms and conditions of the offering and may obtain additional information which the crowdfunding issuer possesses or can acquire without unreasonable effort or expense necessary to verify the accuracy of or to clarify the information provided on the intermediary website. The intermediary may adopt reasonable rules and procedures for the website forum, including registration and authentication requirements.

f. Enforcement of limits. The intermediary shall take reasonable measures to ensure that no purchaser exceeds the limits set forth in Iowa Code section 502.202(24)*"c"* and *"d."*

g. Administrator access. The intermediary shall provide the administrator purchaser-level access at all times to the intermediary website, pursuant to Iowa Code section 502.202(24)*"g"*(8).

50.90(12) *Prohibited conduct for intermediaries.* An intermediary and individuals of the intermediary's management:

a. Shall not have ownership or other financial interest greater than 20 percent in the crowdfunding issuer.

b. Shall not hold, manage, possess, or otherwise handle purchaser funds. Proceeds are to be held in escrow until the minimum impound amount has been met.

c. Shall not compensate employees, agents or other persons not registered with the administrator for soliciting offers or sales of securities displayed or referenced on the intermediary website.

50.90(13) *Commissions, fees or other remuneration.* Commissions, fees or other remuneration for soliciting any prospective purchaser in connection with the offering shall only be paid to intermediaries or any other persons who are appropriately registered or licensed with the commissioner.

50.90(14) *Advertising and communications.*

a. Advertising. The crowdfunding issuer shall not advertise the specific details of the offering, except for notices which direct potential purchasers to the intermediary website. Notwithstanding the foregoing, the issuer may distribute a notice that the issuer is conducting an offering of securities, the name of the intermediary through which the offering is being conducted, and a link directing the potential investor to the intermediary. The notice shall contain a disclaimer that the sale of the security is limited to persons who are Iowa residents.

b. Communications. All communications between the issuer and potential purchasers taking place pursuant to Iowa Code section 502.202(24) shall occur through the intermediary website of the intermediary. During the time the securities are being offered on the intermediary website, the intermediary shall, pursuant to paragraphs 50.90(11)*"d"* and *"e,"* provide channels through which potential purchasers can communicate with one another and with the issuer about the securities being offered. These communications shall be visible to all those with access to the intermediary website.

(1) An issuer shall respond within ten days to requests for information made by potential purchasers or by the administrator through the intermediary website.

(2) If such additional information is material and not previously included on the intermediary website, the crowdfunding issuer and the Iowa crowdfunding portal shall immediately amend the information contained on the intermediary website.

50.90(15) *Offering price.* The offering price of the securities offered and sold pursuant to this exemption shall be the same for all purchasers and shall not be increased during the offering period. The offering price may be lowered, but only if all previous purchasers in the particular offering are notified of the change and allowed to rescind their previous investment and participate at the lower offering price.

50.90(16) *Resale of securities.* On the document that is to serve as evidence of ownership, the issuer shall place a prominent notice which states that the securities have not been registered and which sets forth limitations on resale contained in SEC Rule 147A(e) (17 CFR 230.147A(e)), including that, for a period of six months from the date of last sale by the issuer of the securities in the offering, resale by any person shall be made only to Iowa residents.

This rule is intended to implement Iowa Code section 502.202.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3742C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rule making related to conveyance regulations

The Elevator Safety Board hereby amends Chapter 71, "Administration of the Conveyance Safety Program," Chapter 72, "Conveyances Installed On or After January 1, 1975," and Chapter 73, "Conveyances Installed Prior to January 1, 1975," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 89A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 89A.

Purpose and Summary

These amendments update the codes adopted by reference to the most current national safety standards; ease regulation of the wind tower industry; and eliminate obsolete language.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3503C**. No public comments were received. In Item 2, the conjunction "or" was added to paragraph 71.11(4)"c." In Items 4 and 5, the date January 24, 2018, was replaced with May 16, 2018, to coincide with the first possible effective date for this rule making.

Adoption of Rule Making

This rule making was adopted by the Elevator Safety Board on March 20, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Procedures for waivers are set forth in 875—Chapter 66.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **71.11(3)"a"** as follows:

a. The labor commissioner's designee shall inspect altered conveyances, construction elevators, CPHs, previously dormant conveyances being returned to service, ~~wind tower lifts exempted from ASME A17.1 by rule 875—72.12(89A),~~ relocated conveyances, and new conveyances.

ITEM 2. Amend subrule 71.11(4) as follows:

71.11(4) *Inspection standards.* Inspections shall be performed in accordance with applicable safety codes or documents such as:

a. CCD;

b. ASME A17.1, Sections 8.10 and 8.11, except Section 8.11.1.1;

c. ANSI A10.4-2007; or

~~*d. Rule 875—72.12(89A) for wind tower lifts exempted from ASME A17.1 by rule 875—72.12(89A); or*~~

~~*e.*~~ *d.* ASME A18.1.

ITEM 3. Amend paragraph **71.14(1)"b,"** introductory paragraph, as follows:

b. Category 1 safety tests of wind turbine tower elevators shall be conducted after two years of operation, and category 5 safety tests of wind turbine tower elevators shall be performed after ten years of operation. Safety tests shall be made on all other conveyances pursuant to the schedules and procedures set forth in:

ITEM 4. Amend subrule 72.1(10), introductory paragraph, as follows:

72.1(10) For installations ~~on or after~~ between January 14, 2015, and May 16, 2018:

ITEM 5. Adopt the following **new** subrule 72.1(11):

72.1(11) For installations on or after May 16, 2018:

a. ASME A17.1 shall mean ASME A17.1-2016/CSA B44-16;

b. ASME A17.7 shall mean ASME A17.7-2012/CSA B44.7-12;

c. ASME A17.8 shall mean ASME A17.8-2016/CSA B44.8-16;

d. ASME A18.1 shall mean ASME A18.1 (2014), except Chapters 4, 5, 6, and 7;

e. ANSI A117.1 shall mean ANSI A117.1 (2017), except for requirement 407.4.7.1.2; and

f. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2016).

ITEM 6. Amend subrule 72.13(2) as follows:

72.13(2) *Exemption for button renumbering.* All maintenance, repairs and alterations to devices covered by ANSI A117.1 shall comply with ANSI A117.1 ~~(2003), except for Rule 407.4.6.2.2~~ (2017), except for requirement 407.4.7.1.2.

ITEM 7. Amend subrule 73.8(2) as follows:

73.8(2) *Exemption for button numbering.* All maintenance, repairs and alterations to devices covered by ANSI A117.1 shall comply with ANSI A117.1 ~~(2003), except for Rule 407.4.6.2.2~~ (2017), except for requirement 407.4.7.1.2.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3743C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to cannabidiol products

The Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," and Chapter 37, "Iowa Prescription Monitoring Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 124.301, 124.552 and 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 124.552 and 2017 Iowa Acts, chapters 152 and 162.

Purpose and Summary

2017 Iowa Acts, chapter 162, requires the Board to adopt rules to administer new Iowa Code section 124.201A, which relates to cannabidiol investigational products and which requires the Board to reschedule a cannabidiol product upon being approved by FDA and rescheduled by DEA. 2017 Iowa Acts, chapter 152, allows the Board to provide information from the drug prescribing and dispensing information program (Iowa Prescription Monitoring Program) to a medical examiner investigator recognized by the State Medical Examiner's office when the information relates to an investigation being conducted by the medical examiner or investigator. This rule making implements those legislative provisions. The rule making also increases the frequency of a dispenser's reporting of controlled substance dispensing to the Iowa Prescription Monitoring Program (PMP) from "at least weekly" to "no later than the next business day following dispensing" to provide prescribers and pharmacists more timely information when utilizing this data in their prescribing and dispensing decision making.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3505C**. Comments supporting the adoption of these amendments were received from one pharmacist and from the Iowa Pharmacy Association. No opposing comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board of Pharmacy on March 14, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 10.38(3):

10.38(3) *Cannabidiol investigational product.* If a cannabidiol investigational product approved as a prescription drug medication by the United States Food and Drug Administration is eliminated from or revised in the federal schedule of controlled substances by the DEA and notice of the elimination or revision is given to the board, the board shall similarly eliminate or revise the prescription drug medication in the schedule of controlled substances. Such action by the board shall be immediately effective upon the date of publication of the final regulation containing the elimination or revision in the Federal Register.

ITEM 2. Amend subrule 37.3(3) as follows:

37.3(3) *Reporting periods.* A record of each reportable prescription dispensed shall be submitted by each dispenser ~~at least weekly~~ no later than the next business day following dispensing. Records may be submitted with greater frequency than required by this subrule. ~~Records of reportable prescriptions dispensed between Sunday and Saturday each week shall be submitted no later than the following Wednesday. However, a pharmacy that is currently submitting prescription dispensing records to another state's PMP on an alternative weekly reporting schedule may request authority to submit records to the Iowa PMP pursuant to that established schedule. The request shall be submitted in writing via e-mail, fax, or regular mail to the PMP administrator. The request shall identify the pharmacy by name, address, and Iowa pharmacy license number and shall define the alternative reporting period and the reason for the requested alternative reporting period. The PMP administrator is hereby authorized to approve or deny the pharmacy's alternative weekly reporting schedule.~~

ITEM 3. Adopt the following **new** subrule 37.4(9):

37.4(9) *Medical examiner or medical examiner investigator.* A medical examiner or medical examiner investigator may obtain PMP information when the information requested by the examiner or investigator relates to an investigation being conducted by the examiner or investigator.

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ARC 3744C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to social work

The Board of Social Work hereby amends Chapter 280, "Licensure of Social Workers," Chapter 281, "Continuing Education for Social Workers," Chapter 282, "Practice of Social Workers," and Chapter 283, "Discipline for Social Workers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 154C.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 154C.4.

Purpose and Summary

This rule making is part of a rolling review of social work chapters to update any outdated language. The rule making adds continuing education for practicum supervisors as well as new language regarding electronic services in social work.

Item 1 removes the definition of "private practice" as that term is not used in Chapter 280. Item 2 updates information on how to apply for a license. Item 3 updates contact information for agencies that provide equivalency evaluations of educational credentials. Item 4 reorganizes the supervision requirements. As part of the reorganization, the requirement for face-to-face meetings before starting supervision via electronic means was reduced from two meetings to one meeting. No other substantive changes were made to the supervision requirements as part of the reorganization. Item 5 rescinds paragraph 280.9(2)"f," which requires licensees to reactivate an inactive license before they can apply for a higher level license, and Item 6 reletters paragraph 280.9(2)"g" as "f." Items 7 and 8 remove outdated language. Item 9 replaces a reference to a specific diagnosis manual with the current edition. Item 10 allows supervisors of social work practicum students to receive continuing education credit. Item 11 updates language on informed consent. Item 12 adds new language requiring that policies be adopted regarding electronic communication. Item 13 clarifies that the Board considers an emotional or employment relationship with a client to be a dual relationship. Item 14 adds new language requiring social workers to take reasonable steps to identify a client and assess the client's suitability when social work services are being provided via electronic means. Item 15 reorganizes existing language regarding grounds for discipline.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 8, 2017, as **ARC 3433C**. A public hearing was held on November 28, 2017, at 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa.

Two members of the public attended the public hearing. One commenter questioned the addition of "an emotional relationship" in paragraph 282.2(8)"a" in Item 13, the concern being that "an emotional relationship" could be construed too broadly. The other commenter expressed a general overall support for the proposed rule changes.

Seven written comments were received in support of allowing continuing education credits for student practicum supervisors.

No changes from the Notice have been made. The Board discussed the concerns regarding the addition of "an emotional relationship" to the definition of "dual relationship" in paragraph 282.2(8)"a." The Board felt the definition clearly defined that the Board was only looking at emotional relationships in the context of therapists who are assuming a secondary role separate from a client-to-therapist relationship. The consensus of the Board was to keep "an emotional relationship" in the definition of "dual relationship."

Adoption of Rule Making

This rule making was adopted by the Board of Social Work on February 12, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board of Social Work for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Rescind the definition of "Private practice" in rule **645—280.1(154C)**.

ITEM 2. Amend subrule 280.3(1) as follows:

280.3(1) The applicant shall complete a board-approved application ~~packet~~. Application forms may be obtained from the board's Web site ~~(http://www.idph.state.ia.us/licensure)~~ (www.idph.iowa.gov/licensure) or directly from the board office, or the applicant may complete the

application online at ibplicense.iowa.gov. All paper applications shall be sent to Board of Social Work, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 3. Amend paragraph **280.5(4)"a"** as follows:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or obtain a certificate of equivalency from the Council on Social Work Education, ~~1725~~ 1701 Duke Street, Suite ~~500~~ 200, Alexandria, Virginia 22314-3457, telephone (703)683-8080, Web site http://www.cswe.org. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation.

ITEM 4. Rescind rule 645—280.6(154C) and adopt the following **new** rule in lieu thereof:

645—280.6(154C) Period of supervised professional practice for LISW. To qualify for licensure at the independent level, an LMSW shall complete a period of supervised professional practice in accordance with the requirements of this rule.

280.6(1) *Minimum requirements.* The period of supervised professional practice shall:

a. Not begin prior to licensure at the master's level.

b. Have a duration of at least two calendar years.

c. Consist of a minimum of 4,000 hours of social work practice at the master's level.

d. Include at least 110 hours of direct supervision equitably distributed throughout the period and in compliance with the requirements of subrule 280.6(3).

e. Be done pursuant to one or more written supervision plans that comply with the requirements of subrule 280.6(7).

280.6(2) *Content of supervised professional practice.* The supervisor shall ensure that the period of supervised professional practice includes the following:

a. Psychosocial assessments, including evaluation of symptoms and behaviors and the effects of the environment on behavior;

b. Diagnostic practice using the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association;

c. Treatment, including the establishment of treatment goals, psychosocial therapy, and differential treatment planning;

d. Practice management skills;

e. Skills required for continued competence;

f. Training on ethical standards and legal and regulatory requirements; and

g. Development of professional identity.

280.6(3) *Direct supervision.* The required 110 hours of direct supervision may be obtained through individual meetings between the supervisor and supervisee or through group supervision meetings consisting of the supervisor and more than one supervisee.

a. The first supervision meeting must occur in person. After the first supervision meeting, the remaining supervision may occur through in-person meetings or through electronic meetings using an interactive real-time system that provides for visual and audio interaction between the supervisor and supervisee.

b. A maximum of 60 hours of direct supervision may be obtained through group supervision meetings. A maximum of six supervisees may participate in any group supervision meeting.

280.6(4) *Supervisor eligibility requirements.*

a. To be eligible to serve as a supervisor for the period of supervised professional practice, a social worker shall:

(1) Hold an active license to practice social work at the independent level in Iowa. If the supervised professional practice occurs in another state, a social worker licensed in that state may serve as a supervisor if the social worker is licensed at a level equivalent to the independent level. A social

worker licensed in another state may provide direct supervision hours if the social worker is licensed at a level equivalent to the independent level.

(2) Have at least three years of social work practice at the independent level, which must include a minimum of 4,000 hours of practice.

(3) Complete a six-hour continuing education course pertaining to social work practice supervision or one master's level course in supervision.

b. Any request for a supervisor who does not meet these requirements must be submitted to the board for approval before supervision begins. The board will only approve an otherwise ineligible supervisor if the supervisee demonstrates that eligible supervisors are unavailable or unwilling to provide supervision. Any practice or supervision hours obtained under an ineligible supervisor prior to board approval cannot be counted toward completion of the period of supervised professional practice.

280.6(5) *Supervisor responsibilities.* A supervisor shall provide adequate supervision to all supervisees. Failure to provide adequate supervision may be grounds for disciplinary action. A supervisor shall be responsible for:

a. Timely submission of the supervision plan;

b. Providing supervision in accordance with this rule;

c. Directing the supervisee to obtain written releases of information from patients when legally required for purposes of providing supervision;

d. Providing periodic evaluations and feedback regarding the supervisee's performance to the supervisee;

e. Answering questions and assisting supervisees as new or difficult issues arise;

f. Ensuring the supervisee's caseload is manageable;

g. Reporting to the board any violations of board rules by supervisees; and

h. Completing a supervision report.

280.6(6) *Supervisee responsibilities.* A supervisee shall comply with all statutes and rules governing the practice of social work. A supervisee shall be responsible for:

a. Timely submission of the supervision plan;

b. Obtaining supervision in accordance with this rule;

c. Obtaining written releases of information from patients when legally required for purposes of receiving supervision;

d. Asking the supervisor to provide periodic evaluations and feedback regarding the supervisee's performance;

e. Asking questions of the supervisor when assistance is needed or when new or difficult issues arise;

f. Reporting any issues related to caseload, including volume and difficulty, to the supervisor;

g. Reporting to the board any violations of board rules by the supervisor; and

h. Maintaining a copy of every supervision plan and supervision report until such time as the supervisee is issued a license to practice social work at the independent level.

280.6(7) *Supervision plan.* A current written supervision plan must be maintained throughout the period of supervised professional practice. Each supervisor who provides practice supervision or direct supervision hours shall be named on a supervision plan.

a. A written supervision plan must be established and submitted to the board before the period of supervised professional practice begins. The board will perform an initial review of each supervision plan and notify the supervisee of approval or denial of the plan within 45 days of receipt. A supervisee may begin supervised professional practice after submission of the supervision plan but cannot count any practice or supervision hours obtained pursuant to a supervision plan that is ultimately denied by the board.

b. If a supervisee is changing supervisors or adding an additional supervisor, a revised supervision plan shall be submitted to the board for approval at the time of the change or addition. A supervisee may continue supervised professional practice after submission of a revised supervision plan but cannot count any practice or supervision hours obtained pursuant to a revised supervision plan that is ultimately denied by the board.

c. The board maintains a supervision plan form that may be utilized to write the supervision plan. A supervision plan shall include:

(1) The name, license number, date of licensure, address, telephone number, and email address of the supervisor;

(2) The name, license number, address, telephone number, and email address of the supervisee;

(3) The name of the agency, institution, or organization providing the period of supervised professional practice;

(4) The start date and estimated date of completion of the period of supervised professional practice;

(5) The goals and objectives for the period of supervised professional practice;

(6) The nature, duration, and frequency of direct supervision, including the number of hours of direct supervision per week, the schedule for in-person and electronic supervision meetings, and the use of group supervision; and

(7) The signatures of the supervisor and supervisee, and the dates of the signatures.

280.6(8) *Completion of supervised professional practice.*

a. At the conclusion of the period of supervised professional practice, the supervisee shall have any and all supervisors complete a supervision report on the form provided by the board. Each supervision report must be signed and dated by the supervisor and supervisee.

b. The board will review each supervision report for approval of the hours pertaining to the particular report. The board may deny any practice or supervision hours that were not obtained in compliance with this rule. The board may deny any practice or supervision hours if the supervisor indicates that the supervisee did not adhere to the ethical standards and legal and regulatory requirements governing the practice of social work or if the supervisor does not recommend the supervisee for licensure at the independent level.

ITEM 5. Rescind paragraph **280.9(2)"f."**

ITEM 6. Reletter paragraph **280.9(2)"g"** as **280.9(2)"f."**

ITEM 7. Amend subrule 281.2(1) as follows:

281.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. ~~(To implement this rule change, the continuing education period for the December 31, 2000, renewal will run from July 1, 1998, to December 31, 2000.)~~ Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 27 hours of continuing education approved by the board.

ITEM 8. Rescind subrule **281.2(8)**.

ITEM 9. Amend subparagraph **281.3(1)"f"(2)** as follows:

(2) Assessment and treatment.

1. No change.

2. Utilization of the ~~DSM-IV TR~~ current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association;

3. to 6. No change.

ITEM 10. Adopt the following **new** paragraph **281.3(2)"k"**:

k. Supervision of a social work practicum student(s) from an accredited social work education program. A licensee may receive one credit for every 100 hours supervised, not to exceed six hours of continuing education credit per biennium.

ITEM 11. Amend paragraphs **282.2(1)"a"** and **"b"** as follows:

a. A licensee shall provide services to clients only in the context of a professional relationship based, when appropriate, on valid written informed consent. A licensee shall use clear and understandable language to inform clients ~~of the proposed~~ about the nature of available services, ~~purpose of the services, risks related to the services, limits to services because of the requirements of a third-party payer, relevant costs, reasonable alternatives, a client's right to refuse or withdraw consent,~~

~~and the time frame covered by the consent~~ potential benefits and risks, limits and risks of confidentiality, alternative ways of receiving assistance, applicable fees, and involvement of and sharing information with third parties.

b. If a client ~~is not literate or has difficulty understanding the primary language used in the practice setting~~ has difficulty communicating, a licensee shall attempt to ensure the client's comprehension. This may include providing the client with a detailed verbal explanation or arranging for a qualified interpreter or translator whenever possible. A licensee shall provide information in a manner that is understandable and culturally appropriate for the client. Clients shall be given sufficient opportunity to ask questions and receive answers about social work services, including electronic delivery of services, if appropriate.

ITEM 12. Adopt the following **new** paragraph **282.2(1)"g"**:

g. A licensee shall develop policies regarding the sharing, retention, and storage of digital and other electronic communications and records and shall inform clients of applicable policies.

ITEM 13. Amend paragraph **282.2(8)"a,"** introductory paragraph, as follows:

a. "Dual relationship" means that a licensee develops or assumes a secondary role with a client, including but not limited to a social relationship, an emotional relationship, an employment relationship, or a business association. For purposes of these rules, "dual relationship" does not include a sexual relationship. Standards governing sexual relationships are found in subrule 282.2(9).

ITEM 14. Adopt the following **new** subrule 282.2(19):

282.2(19) *Electronic social work services.* A licensee shall:

a. Assess the client's suitability and capacity for online and remote services at the point of the client's first contact and use professional judgment to determine whether an initial in-person, videoconference, or telephone consultation is warranted before undertaking electronic social work services.

b. Take reasonable steps to verify the client's identity, ability to consent to services, and location. When verification of a client's identity is not feasible, social workers shall inform the client of the limitations of services that can be provided.

c. Continually assess a client's suitability for electronic social work services during the course of the professional relationship.

ITEM 15. Amend rule 645—283.2(272C) as follows:

645—283.2(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—283.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

283.2(1) to **283.2(28)** No change.

283.2(29) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a client or coworker.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

~~*e.*~~ **283.2(30)** Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

~~*f.*~~ **283.2(31)** Being adjudged mentally incompetent by a court of competent jurisdiction.

~~**283.2(30)**~~ **283.2(32)** Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

~~**283.2(31)**~~ **283.2(33)** Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

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[Published 4/11/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3745C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to cytomegalovirus testing

The Department of Public Health hereby amends Chapter 3, "Early Hearing Detection and Intervention (EHDI) Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 135.131 and 2017 Iowa Acts, Senate File 51.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.131 and 2017 Iowa Acts, Senate File 51.

Purpose and Summary

Infants born to mothers infected with cytomegalovirus (CMV) during pregnancy may develop a congenital cytomegalovirus (cCMV) infection, which may lead to hearing loss or other serious complications. These amendments add definitions for "congenital cytomegalovirus" and "cytomegalovirus," add testing for CMV to the rule that outlines the procedure to accommodate parental objection, add a new rule 641—3.11(135) as described below, and outline the procedure for documentation of parental refusal of newborn testing for CMV.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 20, 2017, as **ARC 3519C**. No public comments were received. Since publication of the Notice, a new Item 4 has been added to adopt rule 641—3.11(135), which more clearly states the intent of 2017 Iowa Acts, Senate File 51, regarding when testing for cCMV should occur, information that shall be provided to parents, and the procedures for parental objection. A new Item 3 has also been added to renumber existing rule 641—3.11(135) as 641—3.12(135), and the original Item 3 has been renumbered as Item 5 herein.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on March 14, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's variance and waiver provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definitions of "Congenital cytomegalovirus" and "Cytomegalovirus" in rule **641—3.1(135)**:

"Congenital cytomegalovirus" or *"cCMV"* means an infection where cytomegalovirus is transmitted to the fetus in the prenatal period.

"Cytomegalovirus" or *"CMV"* means a kind of herpes virus that usually produces very mild symptoms in an infected person but may cause severe neurological damage in a person with a weakened immune system and in a newborn.

ITEM 2. Amend rule 641—3.2(135) as follows:

641—3.2(135) Purpose. The overall purpose of this chapter is to establish administrative rules in accordance with Iowa Code section 135.131 relative to the following:

1. Universal hearing screening of all newborns and infants in Iowa.
2. Facilitating the transfer of data to the department to enhance the capacity of agencies and practitioners to provide services to children and their families.
3. Establishing procedures for infants who were not screened or do not pass their initial hearing screening to receive appropriate follow-up to determine if the infants have normal hearing or have hearing loss.
4. Establishing the procedure for distribution of funds to support the purchase of hearing aids and audiologic services for children.
5. Establishing the procedure for documentation of parent refusal of newborn testing for congenital cytomegalovirus.

ITEM 3. Renumber rule **641—3.11(135)** as **641—3.12(135)**.

ITEM 4. Adopt the following **new** rule 641—3.11(135):

641—3.11(135) Congenital cytomegalovirus (cCMV) testing for newborns who do not pass the initial newborn hearing screening. If the newborn hearing screen indicates potential hearing loss, as evidenced when a newborn does not pass the initial newborn hearing screening, the birthing hospital, birth center, physician, or other health care professional required to ensure that the hearing screening is performed shall do the following:

3.11(1) Test the newborn or ensure that the newborn is tested for cCMV before the newborn is 21 days of age.

3.11(2) Provide information to the parent of the newborn regarding the birth defects caused by cCMV and early intervention and treatment resources and services available for children diagnosed with cCMV.

3.11(3) If a parent objects to the testing, follow the procedures in 641—3.13(135).

This rule is intended to implement Iowa Code sections 135.131(9)*"a"* and 136A.5B.

ITEM 5. Amend rule 641—3.13(135) as follows:

641—3.13(135) Procedure to accommodate parental objection. These rules shall not apply if the parent objects to the hearing screening, diagnostic audiologic assessment, or cCMV testing.

3.13(1) If a parent objects to the screening, the birthing hospital, birth center, physician, or other health care professional shall obtain a written refusal from the parent or guardian on the department newborn hearing screening or diagnostic audiologic assessment refusal form and shall maintain the original copy of the written refusal in the newborn's, infant's or child's medical record.

3.13(2) The birthing hospital, birth center, physician, or other health care professional shall send a copy of the written newborn hearing screening or diagnostic audiologic assessment refusal form to the department within six days of the birth of the newborn.

3.13(3) If a parent objects to a hearing rescreen or diagnostic audiologic assessment orally to a department EHDI staff member during follow-up, the staff member shall document the refusal in the department's designated reporting system and mail to the parent or guardian the department newborn hearing screening or diagnostic audiologic assessment refusal form in an attempt to obtain a written refusal to be maintained in the newborn's, infant's or child's medical record.

3.13(4) If a parent objects to cCMV testing, the birthing hospital, birth center, physician, or other health care professional required to ensure cCMV testing shall obtain, on the department cCMV testing refusal form, a written refusal from the parent or guardian, shall maintain the original copy of the written refusal in the child's medical record, and shall send a copy of the written refusal to the department within 21 days of the child's birth.

[Filed 3/14/18, effective 5/16/18]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3746C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to radiation machines and radioactive materials

The Department of Public Health hereby amends Chapter 37, "Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material," Chapter 38, "General Provisions for Radiation Machines and Radioactive Materials," Chapter 39, "Registration of Radiation Machine Facilities, Licensure of Radioactive Materials and Transportation of Radioactive Materials," Chapter 40, "Standards for Protection Against Radiation," Chapter 41, "Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials," and Chapter 45, "Radiation Safety Requirements for Industrial Radiographic Operations," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 136C.3.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 136C.3.

Purpose and Summary

Items 1, 7, 10, 13, 15, 16 and 17 amend rules to reflect current federal regulations. Items 4, 8, and 9 amend rules to update citations and remove language regarding a fee that the Department has not charged and does not intend to charge. The remaining items amend rules to meet United States Nuclear Regulatory Commission (NRC) compatibility requirements pursuant to the stipulations of Iowa's status as an NRC agreement state.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 17, 2018, as **ARC 3578C**. The Department received comments from the NRC requesting the inclusion of an additional subrule in rule 641—39.5(136C) in order to meet NRC compatibility requirements. The NRC determined that if its suggestions were incorporated in the proposed regulations, they would meet the compatibility and health and safety categories established in the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements." The requested subrule is incorporated in a new Item 12 in this adopted rule making, and the Items that were published as 12 to 24 under Notice of Intended Action have been renumbered as 13 to 25. No other comments were received.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on March 14, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's variance and waiver provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 37.1(4) as follows:

37.1(4) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~July 16, 2014~~ May 16, 2018.

ITEM 2. Amend paragraph **37.27(3)"a"** as follows:

a. For the purpose of complying with these rules, licensees shall use an appropriate method listed in 10 CFR 37.7 to submit to the U.S. Nuclear Regulatory Commission, Director, Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop TWB-05 B32M, Rockville, Maryland 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by writing the Office of the Chief Information ~~Services~~ Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling 1-630-829-9565, or by e-mail to FORMS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at http://www.nrc.gov/site-help/e-submittals.html.

ITEM 3. Amend paragraph **37.29(1)"j"** as follows:

j. Commercial vehicle drivers for road shipments of category 1 and category 2 quantities of radioactive material;

ITEM 4. Amend paragraph **37.41(1)"c"** as follows:

c. Any licensee that has not previously implemented the security orders or been subject to the provisions of these rules shall provide written notification to the agency as specified in rule ~~641—37.3(136C)~~ 641—37.7(136C) at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

ITEM 5. Amend subparagraph **37.77(1)"a"(1)** as follows:

(1) The notification must be made to the NRC and to the office of each appropriate governor or governor's designee. The contact information, including telephone and mailing addresses, of governors and governors' designees, is available on the NRC's ~~Web site~~ website at ~~http://nrc-stp.ornl.gov/special/designee.pdf~~ scp.nrc.gov/special/designee.pdf. A list of the contact information is also available upon request from the Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Notifications to the NRC must be to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the NRC may be made by e-mail to RAMQC_SHIPMENTS@nrc.gov or by fax to 1-301-816-5151.

ITEM 6. Adopt the following **new** paragraph **37.77(1)"f"**:

f. Protection of information. State officials, state employees, and other individuals, whether or not licensees of the commission or an agreement state, who receive schedule information of the kind specified in 37.77(1)*"b"* shall protect that information against unauthorized disclosure as specified in 37.43(4).

ITEM 7. Amend subrule 38.1(2) as follows:

38.1(2) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~November 5, 2014~~ May 16, 2018.

ITEM 8. Amend rule **641—38.2(136C)**, definition of "Decay-in-storage," as follows:

"Decay-in-storage" means the holding of radioactive material having half-lives of less than ~~65~~ 120 days, except Cobalt-57, until it decays to background levels. Before disposal in ordinary trash, the material must have been held for a minimum of ten half-lives and its radioactivity is indistinguishable from background as indicated by a survey meter set on its most sensitive scale with no interposing shielding.

ITEM 9. Amend paragraph **38.8(8)"b"** as follows:

b. Radioactive materials. Out-of-state persons wishing to bring sources of radioactive material into Iowa for business purposes may be subject to a reciprocity fee depending on the type of activity to be performed and the type of radioactive materials license possessed (refer to 641—subrule 39.4(90)). If a reciprocity fee is applicable, it shall be assessed at the rate for reciprocity specified in the radioactive materials fee schedule available through the agency for each 365-day reciprocity period. ~~In addition, if the agency performs an inspection of the out-of-state person's activities while in Iowa, the appropriate inspection fee as specified in the radioactive materials fee schedule will be assessed.~~

ITEM 10. Amend subrule 39.1(3) as follows:

39.1(3) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~July 16, 2014~~ May 16, 2018.

ITEM 11. Amend paragraph **39.4(52)"a"** as follows:

a. Each person who receives source or by-product material pursuant to a license issued pursuant to these rules shall keep records showing the receipt, transfer, and disposal of the source or by-product material as follows:

(1) The licensee shall retain each record of receipt of the source or by-product material as long as the material is possessed and for three years following transfer or ~~disposal~~ disposition of the source or by-product material.

(2) The licensee who transferred the material shall retain each record of transfer ~~for three years after each transfer unless a specific requirement in another part of these rules dictates otherwise~~ of the source or by-product material until the agency terminates each license that authorizes the activity that is subject to the record-keeping requirement.

(3) The licensee who disposed of the material shall retain each record of disposal of the source or by-product material until the agency terminates each license that authorizes disposal of the material.

ITEM 12. Amend rule 641—39.5(136C) as follows:

641—39.5(136C) Transportation of radioactive material.

39.5(1) All persons who transport radioactive material or deliver radioactive material to a carrier for transport must comply with the applicable provisions contained in 10 CFR Part 71 and 49 CFR Parts 170 through 189. The regulations in 10 CFR Part 71 apply to any licensee authorized by specific or general license to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage, or transports that material on public highways. No provision of 10 CFR Part 71 authorizes possession of licensed material.

39.5(2) The provisions of 10 CFR Part 71 are subject to the following conditions.

a. Not adopted by reference are 10 CFR 71.11, 71.14(b), 71.19, 71.31, 71.33, 71.35, 71.37, 71.38, 71.39, 71.41, 71.43, 71.45, 71.51, 71.55, 71.59, 71.61, 71.63, 71.64, 71.65, 71.70, 71.71, 71.73, 71.74, 71.75, 71.77, 71.85(a)-(c), 71.91(b), 71.101(c)(2), 71.101(d), 71.101(e), 71.107, 71.109, 71.111, 71.113, 71.115, 71.117, 71.119, 71.121, 71.123, and 71.125.

b. Where the words "NRC", "Commission", "Nuclear Regulatory Commission", "United States Nuclear Regulatory Commission" or "Administrator of the appropriate Regional Office" appear in 10 CFR Part 71, substitute the words "Iowa Department of Public Health" except when used in 10 CFR 71.5(b), 71.10, 71.17(c)(3), 71.17(e), 71.85(c), 71.88(a)(4), 71.93(c), 71.95, 71.97(c), 71.97(c)(3)(iii), and 71.97(f).

c. The terms "certificate of compliance" and "compliance holder or applicant" apply to the NRC as it is the sole authority for issuing a package certificate of compliance.

d. Iowa form "Notice to Employees" must be posted instead of NRC Form 3 that is specified in 10 CFR Part 71.

ITEM 13. Amend subrule 40.1(5) as follows:

40.1(5) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~November 5, 2014~~ May 16, 2018.

ITEM 14. Amend **641—Chapter 40**, Appendix D, Section I, "Manifest," third paragraph, as follows:

NRC Forms 540, 540A, 541, 541A, 542, and 542A, and the accompanying instructions, in hard copy, may be obtained by writing or calling the Office of the Chief Information ~~Services~~ Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0111, telephone (301)415-5877 or by visiting the NRC's ~~Web site~~ website at www.nrc.gov and selecting forms from the index found on the home page.

ITEM 15. Amend paragraph **41.1(1)"b"** as follows:

b. All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~November 5, 2014~~ May 16, 2018.

ITEM 16. Amend paragraph **41.2(1)"b"** as follows:

b. All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~November 5, 2014~~ May 16, 2018.

ITEM 17. Amend paragraph **45.1(1)"b"** as follows:

b. All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~November 5, 2014~~ May 16, 2018.

ITEM 18. Amend subrule **45.1(2)**, definitions of "Radiographic exposure device" and "Storage container," as follows:

"Radiographic exposure device" (also called a camera or a projector) means any instrument containing a sealed source fastened or contained therein, in which the sealed source or shielding thereof may be moved or otherwise changed from a shielded to unshielded position for purposes of making a radiographic exposure ~~(e.g., camera)~~, or any other X-ray industrial system whereby a permanent or semipermanent image is recorded on an image receptor by action of ionizing radiation.

"Storage container" means a ~~shielded device~~ container in which sealed sources are secured~~,~~ ~~transported,~~ and stored.

ITEM 19. Amend subrule 45.1(4) as follows:

45.1(4) *Receipt, transfer, and disposal of sources of radiation.* Each licensee and registrant shall maintain records showing the receipt, transfer, and disposal of sealed sources and devices using DU for shielding and machine-produced sources of radiation. These records shall include the date, the name of the individual making the record, the radionuclide, number of curies or mass (for DU), and the make, model, and serial number of each source of radiation and device, as appropriate. Records shall be maintained for three years after they are made.

ITEM 20. Amend subparagraph **45.1(10)"a"(1)** as follows:

(1) It has been documented on the appropriate agency form or equivalent that such individual has received copies of and has demonstrated an understanding of:

1. The subjects outlined in Appendix A, presented in a 40-hour course approved by the agency, another agreement state, or the U.S. Nuclear Regulatory Commission;

2. The rules contained in this chapter and the applicable sections of 641—~~Chapters~~ Chapter 38, the applicable U.S. Department of Transportation and NRC transportation regulations in 641—Chapter 39, and 641—Chapter 40;

3. The appropriate conditions of license(s) or certificate(s) of registration;

4. The licensee's or registrant's operating and emergency procedures;

5. And developed competence to use, under the personal supervision of the radiographer, the licensee's or registrant's radiographic exposure devices, sealed sources, associated equipment, and radiation survey instruments that the assistant will use;

6. And has demonstrated competence in the use of radiographic exposure devices, sources, survey instruments and associated equipment described in 45.1(10)*"a"*(1) by successful completion of a practical examination covering this material.

ITEM 21. Amend subparagraph **45.1(10)"d"(3)** as follows:

(3) The specific duties of the RSO include, but are not limited to, the following:

1. to 12. No change.

13. To ensure that annual refresher safety training has been provided for each radiographer and radiographer's assistant at intervals not to exceed 12 months.

ITEM 22. Amend paragraph **45.1(10)"e"** as follows:

e. Training and testing records. Each licensee and registrant shall maintain, for agency inspection, training and testing records which demonstrate that the applicable requirements of 45.1(10)*"a"* and *"b"* are met. Records of training for all industrial radiographic personnel must include personnel certification documents and verification of certification status, copies of written tests, dates of oral and practical examinations, and names of individuals conducting and receiving the oral and practical examinations. Records of annual refresher training and semiannual inspection of job performance for all industrial radiographic personnel must list the topics discussed during the refresher safety training, the dates the annual refresher safety training was conducted, and names of the instructors and attendees. For inspections of job performance, the records must also include a list showing the items checked and any noncompliances observed by the RSO. Records shall be maintained until disposal is authorized by the agency. The agency shall not release records for disposal unless the records have been maintained at least three years.

ITEM 23. Amend subparagraph **45.3(3)"a"(1)** as follows:

(1) The licensee may not use a source changer or a container to store licensed material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label bearing the standard trefoil radiation caution symbol in conventional colors, i.e., magenta, purple or ~~block~~ black on a yellow background, having a minimum diameter of 25 mm, and the wording: "CAUTION RADIOACTIVE MATERIAL, NOTIFY CIVIL AUTHORITIES (or name of company)~~,~~" or "DANGER RADIOACTIVE MATERIAL, NOTIFY CIVIL AUTHORITIES (or name of company)."

ITEM 24. Amend subparagraph **45.3(6)"a"(10)** as follows:

(10) The inspection, ~~and~~ maintenance, and operability checks of radiographic exposure devices, survey instruments, source changers, storage containers, and radiation machines;

ITEM 25. Rescind subparagraph **45.3(7)"c"(3)**.

[Filed 3/14/18, effective 5/16/18]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3747C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to local public health services

The Department of Public Health hereby amends Chapter 80, "Local Public Health Services," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 135.11 and 2017 Iowa Acts, House File 653, division III, section 3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.11 and 2017 Iowa Acts, House File 653, division III, section 3.

Purpose and Summary

The purposes of the local public health services (LPHS) contract are to implement the core public health functions, deliver essential public health services, and increase the capacity of local boards of health (LBOH) to promote healthy people and healthy communities. Currently, funding for the LPHS contract is from two funding streams. 2017 Iowa Acts, House File 653, division III, section 3(5), Essential Public Health Services, lists the total funding for the two funding streams to be merged into one funding stream. Instead of two formulas for distribution of funds, there will be one formula to accommodate the one funding stream. These amendments update several definitions to align with current standard definitions, add "evidence of staff supervision" to the contractor assurance, update educational requirements, and align the rules with the singular funding stream and formula.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 17, 2018, as **ARC 3577C**. One comment was received from a legislative analyst with the Legislative Services Agency. The analyst proposed changes to the wording of subrule 80.6(2) to clarify the percentages for the total formula allocations. Subrule 80.6(2) reflects the incorporation of the suggested changes.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on March 14, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's variance and waiver provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule **641—80.2(135)**, definitions of "Core public health functions" and "Essential public health services," as follows:

"Core public health functions" means the ~~scope of activities which serve as a broad framework for public health agencies. Core public health functions are~~ functions of assessment, policy development, and assurance:

1. Assessment~~, which~~ means ~~to regularly and systematically collect, assemble, analyze, and make available information on the health of the community, including statistics on health status, community health needs and personal health services and epidemiologic and other studies of health problems~~ regular collection, analysis, interpretation, and communication of information about health conditions, risks, and assets in a community.

2. Policy development~~, which~~ means ~~efforts to serve the public interest in the development of comprehensive public health policies by promoting the use of a scientific knowledge base in decision making about public health and by taking the lead in comprehensive public health policy~~ development, implementation, and evaluation of plans and policies, for public health in general and priority health needs in particular, in a manner that incorporates scientific information and community values in accordance with state public health policy.

3. Assurance~~, which~~ means ~~public health efforts to assure constituents that services necessary to achieve agreed-upon goals are provided either by encouraging actions by other entities (private or public sector), by requiring such action through regulation, or by providing services directly~~ ensuring, by encouragement, regulation, or direct action, that programs and interventions which maintain and improve health are carried out.

"Essential public health services" means activities carried out by the authorized agency fulfilling core public health functions. Essential public health services include:

1. Monitoring health status ~~and understanding health issues facing the community~~ to identify and solve community health problems.

2. ~~Protecting people from health problems and health hazards~~ Diagnosing and investigating health problems and health hazards in the community.

3. ~~Giving people information they need to make healthy choices~~ Informing, educating and empowering people about health issues.

4. ~~Engaging the community to identify and solve health problems~~ Mobilizing community partnerships and action to identify and solve health problems.

5. ~~Developing public health policies and plans~~ Developing policies and plans that support individual and community health efforts.

6. ~~Enforcing public health laws and regulations~~ Enforcing laws and regulations that protect health and ensure safety.

7. ~~Helping people receive health services~~ Linking people to needed health services and assuring the provision of health care when otherwise unavailable.

8. ~~Maintaining a competent public health workforce~~ Assuring a competent public health and personal health care workforce.

9. ~~Evaluating and improving programs and interventions~~ Evaluating effectiveness, accessibility, and quality of personal and population-based health services.

10. ~~Contributing to and applying the evidence base of public health~~ Researching for new insights and innovative solutions to health problems.

ITEM 2. Rescind the definitions of "Personal health services" and "Protective services" in rule **641—80.2(135)**.

ITEM 3. Amend rule 641—80.3(135) as follows:

641—80.3(135) Local public health services (LPHS). Local public health services improve the health of the entire community; prevent illness; enhance the quality of life; provide services to safeguard the health and wellness of the community; reduce, prevent, and delay institutionalization of consumers; and preserve and protect families.

80.3(1) *Priority population.* The LPHS contract serves individuals throughout the lifespan and prioritizes service to vulnerable populations in Iowa.

80.3(2) *Appropriations.* The fiscal appropriations which assist in supporting LPHS are determined annually by the general assembly.

80.3(3) *Contractor assurance.* In order to receive funding, the contractor shall provide to the department assurance that authorized agencies meet all applicable federal, state, and local requirements. The contractor may directly provide or subcontract all or part of the delivery of services. The contractor shall ensure that each authorized agency complies with Title IV of the Civil Rights Act, the Americans with Disabilities Act of 1990 (ADA), and Section 504 of the Rehabilitation Act of 1973 and with affirmative action requirements. In addition, the contractor shall ensure that each authorized agency has, at a minimum, the following:

a. A governing board;

b. Program policies and procedures;

c. A consumer appeals process;

d. Records appropriate to the level of consumer care;

e. Evidence of staff supervision;

~~*e.*~~ *f.* Personnel policies and procedures which, at a minimum, include:

(1) Delegation of authority and responsibility for agency administration;

~~(2) Staff supervision;~~

~~(3)~~ (2) A staff training program for the identification and reporting of child and dependent adult abuse to the department pursuant to Iowa Code sections 232.69 and 235B.3;

~~(4)~~ (3) An employee grievance procedure;

~~(5)~~ (4) Annual employee performance evaluations;

~~(6)~~ (5) A nondiscrimination policy;

~~(7)~~ (6) An employee orientation program; and

~~(8)~~ (7) Current job descriptions;

~~*f.*~~ *g.* Fiscal management, which shall, at a minimum, include:

(1) An annual budget;

(2) Fiscal policies and procedures which follow generally accepted accounting practices; and

(3) An annual audit performed according to usual and customary accounting principles and practices;

~~*g.*~~ *h.* Evaluation of agency and program activities which shall, at a minimum, include:

(1) Evidence of an annual evaluation; and

(2) Methods of reporting outcomes of evaluation to the LBOH.

80.3(4) *Coordination of public health services.*

a. The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals responsible for coordinating public health services shall meet one of the following criteria:

(1) Be a registered nurse (RN) who is licensed to practice nursing in the state of Iowa and who has a recommended minimum of two years of related public health experience; or

(2) Possess a bachelor's degree or higher in public health, health administration, nursing, health and human services, or other applicable field from an accredited college or university; or

(3) Be an individual with two years of related public health experience.

b. Individuals who are responsible for the coordination of public health services on or before June 30, 2015, are exempt from the criteria in paragraph 80.3(4)*"a."*

80.3(5) *Coordination of home care aide services.*

a. The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals performing coordination of home care aide services shall meet one of the following criteria:

(1) Be a registered nurse (RN) licensed to practice nursing in the state of Iowa; or

(2) Possess a bachelor's degree ~~in social work, sociology, family and consumer science, education, or other health or human services field;~~ or higher in public health, health administration, nursing, health and human services, or other applicable field from an accredited college or university; or

(3) Be a licensed practical nurse (LPN) licensed to practice nursing in the state of Iowa; or

(4) Be an individual with two years of related public health experience.

b. Individuals who are responsible for the coordination of home care aide services on or before June 30, 2015, are exempt from the criteria in paragraph 80.3(5)*"a."*

80.3(6) *Home care aide services.*

a. The authorized agency shall ensure that each individual assigned to perform home care aide services meets one of the following:

(1) Be an individual who has completed orientation to home care in accordance with agency policy. At a minimum, orientation shall include four hours on the role of the home care aide; two hours on communication; two hours on understanding basic human needs; two hours on maintaining a healthy environment; two hours on infection control in the home; and one hour on emergency procedures. The individual shall have successfully passed an agency written test and demonstrated the ability to perform skills for the assigned tasks; or

~~(2) Be an individual who is in the process of receiving education or has completed the educational requirements but is not licensed as an LPN or RN, has documentation of successful completion of coursework related to the tasks to be assigned, and has demonstrated the ability to perform the skills for the assigned tasks; or~~

~~(3)~~ (2) Be an individual who possesses a license to practice nursing as an LPN or RN in the state of Iowa~~; or~~.

~~(4) Be an individual who is in the process of receiving education or who possesses a degree in social work, sociology, family and consumer science, education, or other health and human services field; has documentation of successful completion of coursework related to the tasks to be assigned; and has demonstrated the ability to perform the skills for the assigned tasks.~~

b. Individuals who were hired under the requirements of Chapter 80 on or before May 16, 2018, are exempt from the criteria in paragraph 80.3(6)*"a."*

~~*b.*~~ *c.* The authorized agency shall ensure that services or tasks assigned are appropriate to the individual's prior education and training.

~~*c.*~~ *d.* The authorized agency shall ensure documentation of each home care aide's completion of at least 12 hours of annual in-service (prorated to employment).

~~*d.*~~ *e.* The authorized agency shall establish policies for supervision of home care aides.

~~*e.*~~ *f.* The authorized agency shall maintain records for each consumer. The records shall include:

(1) An initial assessment;
(2) A plan of care;
(3) Assignment of home care aide;
(4) Assignment of tasks;
(5) Reassessment;
(6) An update of the plan of care;
(7) Home care aide documentation; and
(8) Documentation of supervision of home care aides.

~~**80.3(7)** *Coordination of case management services.*~~

~~*a.* The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals responsible for coordinating case management services shall meet one of the following criteria:~~

~~(1) Be a registered nurse (RN) licensed to practice nursing in the state of Iowa; or~~

~~(2) Possess a bachelor's degree with at least one year of experience in the delivery of services to vulnerable populations; or~~

~~(3) Be a licensed practical nurse (LPN) licensed to practice nursing in the state of Iowa.~~

~~*b.* A home care aide with an equivalent of two years' experience may be delegated coordination of case management services as long as a qualified individual who meets one of the criteria in paragraph 80.3(7)*"a"* retains responsibility and provides supervision.~~

~~*c.* Individuals who are responsible for the coordination of case management services on or before June 30, 2015, are exempt from the criteria in paragraph 80.3(7)*"a."*~~

~~*d.* Case management services shall be provided at the direction of the consumer. The documentation to support the case management services shall include at a minimum:~~

~~(1) An initial assessment of the consumer's needs;~~

~~(2) Development and implementation of a service plan to meet the identified needs;~~

~~(3) Linking of the consumer to appropriate resources and natural supports; and~~

~~(4) Reassessment and updating of the consumer's service plan at least annually.~~

ITEM 4. Amend subparagraph **80.4(4)"f"(6)** as follows:

(6) No fee shall be charged for ~~protective services or~~ communicable disease follow-up services.

ITEM 5. Amend subparagraph **80.5(2)"a"(4)** as follows:

(4) Notification of the consumer's right to appeal to the contractor ~~(that is, the local board of health (LBOH))~~; and

ITEM 6. Amend rule 641—80.6(135) as follows:

641—80.6(135) ~~Community capacity/local board of health and healthy aging funds.~~ Essential public health service funds.

80.6(1) *Purpose.* The ~~purpose~~ purposes of ~~community capacity/local board of health and healthy aging funds is~~ essential public health service funds are to ~~assist an LBOH in implementing core public health functions, providing essential public health services that promote healthy aging throughout the lifespan, and enhancing health promotion and disease prevention services~~ provide essential public health services that reduce risks and to invest in promoting and protecting good health over the course of a lifetime with a priority given to older Iowans and vulnerable populations.

~~**80.6(1)** *Allocation for community capacity/local board of health.* The appropriation to each county board of health is determined by the following formula: 40 percent of the total allocation shall be divided so that an equal amount is available for use in each county in the state. The remaining 60 percent shall be allocated to each county according to the county's population based upon the published data by the U.S. Census Bureau, which is the data available three months prior to the release of the LPHS application.~~

~~**80.6(2)** *Allocation for healthy aging*. The allocation for the healthy aging appropriation is determined by the following formula: 15 percent of the total appropriation shall be divided so that an equal amount is available for use in each county in the state. The remaining 85 percent shall be allocated to each county according to that county's proportion of state residents with the following demographic characteristics:~~

~~*a.* Sixty percent of the funds shall be allocated according to the number of elderly persons living in the county based upon the bridged-race population estimates produced by the U.S. Census Bureau in collaboration with the National Center for Health Statistics (NCHS).~~

~~*b.* Forty percent of the funds shall be allocated according to the number of low-income persons living in the county based upon the U.S. Census Bureau's Small Area Income and Poverty Estimates (SAIPE).~~

80.6(2) *Allocation for essential public health service funds.* The appropriation to each county board of health is determined by the following formula:

a. Eighteen percent of the total allocation shall be divided so that an equal amount is available for use in each county in the state.

b. Eight percent of the total allocation shall be allocated to each county according to the county's population based upon the published data by the U.S. Census Bureau, which is the data available three months prior to the release of the LPHS application.

c. Forty-four percent of the total allocation shall be allocated according to the proportion of state residents who are elderly persons living in the county based upon the bridged-race population estimates produced by the U.S. Census Bureau in collaboration with the National Center for Health Statistics (NCHS).

d. Thirty percent of the total allocation shall be allocated according to the proportion of state residents who are low-income persons living in the county based upon the U.S. Census Bureau's small area income and poverty estimates (SAIPE).

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ARC 3748C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to stroke care reporting

The Department of Public Health hereby adopts Chapter 146, "Stroke Care Reporting," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 135 and 2017 Iowa Acts, House File 548.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2017 Iowa Acts, House File 548.

Purpose and Summary

The rules designate a statewide stroke database and provide clarity for comprehensive and primary stroke centers in Iowa on the reporting requirements for stroke care as implemented by 2017 Iowa Acts, House File 548. The rules were developed in partnership with the University of Iowa College of Public Health, Department of Epidemiology, and in consultation with Iowa hospitals and the informal Iowa stroke task force. The rules designate the American Heart Association's Get with the Guidelines (GWTG) data reporting site as the statewide stroke database. GWTG is a national database with current participation by all but three or four comprehensive and primary stroke centers in Iowa. Patient names and social security numbers are not required for GWTG data reporting.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 17, 2018, as **ARC 3575C**. The Department received one letter of support for the rule-making effort from the American Heart Association/American Stroke Association, one question requesting clarification about the ICD-10 codes listed in the table, and one comment requesting a longer time to report into the GWTG data-reporting site.

After considering the public comments regarding this rule making, and upon further discussion with stroke coordinators who will be primarily responsible for stroke reporting, the Department has incorporated a change to subrule 146.4(1) to increase the reporting time limit from 90 days to 120 days.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on March 14, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's variance and waiver provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making action is adopted:

Adopt the following **new** 641—Chapter 146:

CHAPTER 146
STROKE CARE REPORTING

641—146.1(135) Purpose. The purpose of this chapter is to identify the statewide stroke database where nationally certified comprehensive stroke centers and nationally certified primary stroke centers in the state are required to report stroke care data in accordance with Iowa Code chapter 135.

641—146.2(135) Definitions.

"Comprehensive stroke center" means a hospital certified as a comprehensive stroke center by a nationally recognized certifying body with certification criteria consistent with the most current nationally recognized, evidence-based stroke guidelines related to reducing the occurrence of and disabilities and death associated with stroke.

"Department" means the Iowa department of public health.

"Primary stroke center" means a hospital certified as a primary stroke center by a nationally recognized certifying body with certification criteria consistent with the most current nationally recognized, evidence-based stroke guidelines related to reducing the occurrence of and disabilities and death associated with stroke.

"Stroke" means a clinical diagnosis of acute stroke or principal International Classification of Disease, 10th Revision, Clinical Modification (ICD-10-CM) discharge code of "stroke," or "transient ischemic attack," or "cerebral infarction," or "cerebral hemorrhage."

"Stroke care" means care provided to individuals with confirmed cases of stroke.

641—146.3(135) Stroke care reporting.

146.3(1) *Iowa statewide stroke database.* The department designates the Get with the Guidelines stroke module of the American Heart Association/American Stroke Association as the Iowa stroke database established in Iowa Code section 135.191.

146.3(2) *Who is required to report.* All nationally certified comprehensive stroke centers and all nationally certified primary stroke centers operating in the state of Iowa are required to report stroke

data. Nationally certified acute stroke-ready hospitals and emergency medical services operating in the state of Iowa are encouraged to report stroke care data.

146.3(3) *What is required to be reported.* Reportable data of stroke care are required to be reported. Reportable data are those data identified by a clinical diagnosis of acute stroke or by the following ICD-10 coding:

ICD-10-CM Code	Short Description
I60.00 - I60.9	Nontraumatic subarachnoid hemorrhage
I61.0 - I61.9	Nontraumatic intracerebral hemorrhage
I63.00 - I63.9	Cerebral infarction (occlusion and stenosis of cerebral and precerebral arteries, resulting in cerebral infarction)
G45.0 - G45.2	TIA and related syndromes
G45.8 - G45.9	TIA and related syndromes
O99.411 - O99.43	Diseases of the circulatory system complicating pregnancy, childbirth and puerperium
G97.31 - G97.32	Intraoperative hemorrhage and hematoma of a nervous system organ or structure complicating a procedure
G97.51 - G97.52	Postprocedural hemorrhage and hematoma of a nervous system organ or structure following a procedure
I97.810 - I97.821	Intraoperative and postoperative cerebrovascular infarction

641—146.4(135) Method and frequency of reporting.

146.4(1) Stroke centers shall report the required stroke care information for any reportable stroke case no later than 120 days after the patient was discharged, transferred to another hospital, or pronounced dead.

146.4(2) Reports shall meet the data quality, format, and timeliness standards prescribed by the Iowa statewide stroke database.

641—146.5(135) Confidentiality. The Iowa statewide stroke database shall comply with federal and state law and other health information and data collection, storage, and sharing requirements of the department.

641—146.6(135) Penalties and enforcement. If a stroke center required to report under this chapter does not comply with the reporting requirements, the department may request a review of the certification of the comprehensive stroke center or the primary stroke center by the certifying entity.

These rules are intended to implement Iowa Code section 135.191.

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ARC 3749C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to adoption expense deduction and tax credit

The Department of Revenue hereby amends Chapter 41, "Determination of Taxable Income," and Chapter 42, "Adjustments to Computed Tax and Tax Credits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2016 Iowa Acts, House File 2468, and 2017 Iowa Acts, Senate File 433.

Purpose and Summary

These amendments are necessary to implement changes to the adoption expense deduction and the adoption tax credit contained in 2016 Iowa Acts, House File 2468, and 2017 Iowa Acts, Senate File 433. As required by 2016 Iowa Acts, House File 2468, the amendments provide for an increase in the adoption tax credit for tax years beginning on or after January 1, 2017. As required by 2017 Iowa Acts, Senate File 433, the amendments change the entities that can permanently place an adopted child for purposes of the deduction and the credit.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 17, 2018, as **ARC 3579C**. No public comments were received. Since publication of the Notice, some technical changes have been made for consistency.

Adoption of Rule Making

This rule making was adopted by the Department on February 21, 2018.

Fiscal Impact

For tax year 2017, the adoption tax credit changes in 2016 Iowa Acts, House File 2468, will decrease state income tax revenues by an estimated $342,000.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 41.5(3), introductory paragraph, as follows:

41.5(3) Adoption expense deduction. Unreimbursed amounts paid by the taxpayer in the adoption of a child if placed by ~~a licensed agency under Iowa Code chapter 238, by an agency that meets the provisions of the interstate compact in Iowa Code section 232.158 or by a person making an independent placement~~ an adoption service provider under Iowa Code chapter 600, which exceed 3 percent of the

taxpayer's net income, or the combined net income of a husband and wife in the case of married taxpayers filing a joint return, will be allowed as a deduction in the year paid. Qualifying expenses include all medical, hospital, legal fees, welfare agency fees, and all other costs relating to the adoption of a child. Those expenses claimed for adoption purposes may not be claimed elsewhere on the individual income tax return for tax years beginning before January 1, 2014. For tax years beginning on or after January 1, 2014, an adoption tax credit equal to ~~the first $2,500 of~~ certain qualified adoption expenses can be claimed in accordance with rule 701—42.52(422), but the expenses claimed for the credit cannot be allowed as a deduction under this subrule.

ITEM 2. Amend rule 701—42.52(422) as follows:

701—42.52(422) Adoption tax credit. Effective for tax years beginning on or after January 1, 2014, an adoption tax credit is available for individual income tax equal to the amount of qualified adoption expenses paid or incurred by a taxpayer during the tax year related to the adoption of a child ~~during the tax year, not to exceed $2,500 per adoption~~. For an adoption finalized on or after January 1, 2014, but before January 1, 2017, the total adoption tax credit claimed for the adoption may not exceed $2,500. For an adoption finalized on or after January 1, 2017, the total adoption tax credit claimed for the adoption may not exceed $5,000.

42.52(1) ~~*Definitions.* The following definitions are applicable to this rule:~~

~~*"Adoption"* means the permanent placement in Iowa of a child by the department of human services, by a licensed agency under Iowa Code chapter 238, by an agency that meets the provision of the interstate compact in Iowa Code section 232.158, or by a person making an independent placement according to the provisions of Iowa Code chapter 600.~~

~~*"Child"* means an individual who is under the age of 18 years.~~

~~*"Qualified adoption expenses"* means unreimbursed expenses paid or incurred in connection with the adoption of a child, including medical and hospital expenses of the biological mother which are incident to the child's birth, welfare agency fees, legal fees, and all other fees and costs related to the adoption of a child. Expenses which are eligible for the federal adoption credit as provided in Section 23(d)(1) of the Internal Revenue Code will be considered qualified adoption expenses. Expenses paid or incurred in violation of state or federal law are not qualified adoption expenses.~~

42.52(1) *Adoption.* For purposes of the credit, an adoption occurs when a child is permanently placed in Iowa by any of the following:

a. The department of human services;

b. An adoption service provider as defined in Iowa Code section 600A.2; or

c. An agency that meets the provisions of the interstate compact in Iowa Code section 232.158.

42.52(2) *Child.* A "child" is an individual who is under the age of 18 years. "Child" does not include any individual who is 18 years of age or older.

42.52(3) *Qualified adoption expenses.*

a. Generally. "Qualified adoption expenses" means unreimbursed expenses paid or incurred in connection with the adoption of a child. Qualified adoption expenses include all fees and costs related to the adoption of a child, such as:

(1) Medical and hospital expenses of the biological mother that are incident to the child's birth;

(2) Welfare agency fees and other reasonable and necessary adoption fees;

(3) Court costs, attorney fees, and other legal fees;

(4) Travel expenses, including amounts spent for meals and lodging while away from home; and

(5) All other fees and costs related to the adoption of a child.

b. Limitations. Expenses that are eligible for the federal adoption credit as provided in Section 23(d)(1) of the Internal Revenue Code will be considered qualified adoption expenses. Expenses paid or incurred in violation of state or federal law are not qualified adoption expenses. Expenses that have been reimbursed are not qualified adoption expenses.

~~**42.52(2)**~~ **42.52(4)** *Claiming the credit.* ~~The~~

a. Amount eligible for credit. For tax years beginning on or after January 1, 2014, but beginning before January 1, 2017, the first $2,500 of qualified adoption expenses is eligible for the credit. For tax

years beginning on or after January 1, 2017, the first $5,000 of qualified adoption expenses is eligible for the credit. The maximum credit amount is determined at the time the adoption becomes final. If the qualified adoption expenses are less than ~~$2,500~~ the maximum credit amount, then the total amount of qualified expenses can be claimed as a credit. The amount of tax credit claimed cannot be used as an itemized deduction for adoption expenses provided in 701—subrule 41.5(3).

b. Claiming the credit in the year the adoption becomes final. To claim an adoption tax credit, a taxpayer must claim the credit for all qualified adoption expenses paid or incurred in the tax year the adoption becomes final, up to the maximum credit amount provided in paragraph 42.52(4)*"a."*

EXAMPLE: Michael and Lori are married. Michael and Lori adopt a child who is permanently placed in Iowa. The adoption process begins and becomes final in 2015. Because the adoption becomes final on or after January 1, 2014, but prior to January 1, 2017, Michael and Lori qualify for a maximum credit amount of $2,500. Michael and Lori incur and pay unreimbursed qualified adoption expenses of $20,000 in 2015. Michael and Lori jointly file their Iowa individual income tax return in 2015. Michael and Lori may claim an Iowa adoption tax credit of $2,500 in 2015.

c. Claiming the credit in years other than the year the adoption becomes final. If a taxpayer cannot claim the maximum credit amount provided in paragraph 42.52(4)*"a"* for the year the adoption becomes final, the taxpayer may amend a prior year's return to claim any remaining credit for expenses paid in that prior year, or the taxpayer may claim any remaining credit on a subsequent year's return for expenses paid in that subsequent year. If a qualified adoption expense was incurred in one tax year and paid in another tax year, the taxpayer may only claim a credit for that expense in one year. The total adoption tax credit claimed for all years combined may not exceed the maximum credit amount per adoption provided in paragraph 42.52(4)*"a."* An adjustment to a prior year's return is subject to the limitations in rule 701—40.20(422).

EXAMPLE: Erin adopts a child as a single parent. The child is permanently placed in Iowa. The adoption process begins in 2016 and becomes final in 2017. Because the adoption becomes final on or after January 1, 2017, Erin qualifies for a maximum credit amount of $5,000. Erin pays and incurs unreimbursed qualified adoption expenses of $20,000 in 2016 and $1,000 in 2017. In tax year 2017, Erin may claim an Iowa adoption tax credit equal to the $1,000 in unreimbursed qualified adoption expenses paid and incurred in 2017. After claiming the credit for tax year 2017, Erin may amend the 2016 return to claim the remaining $4,000 credit for unreimbursed qualified adoption expenses paid and incurred in 2016.

d. Claiming the credit by two adoptive parents. The adoption tax credit may only be claimed by a person who adopted the child. When a married couple adopts a child together and the couple files jointly on the same return, the credit may only be claimed once between the couple. When any other two persons adopt a child together, including married persons filing separately on the same or different returns or any unmarried persons filing on separate returns, the credit must be divided between the adoptive parents. Two adoptive parents, other than persons who are married filing jointly, may agree to divide the credit in any way. The total adoption tax credit claimed for all years by both parents combined may not exceed the maximum credit amount per adoption provided in paragraph 42.52(4)*"a."*

EXAMPLE: Peyton and Kerry are unmarried individuals. Peyton and Kerry adopt a child together. The child is permanently placed in Iowa. The adoption process begins and ends in 2018. Because the adoption becomes final on or after January 1, 2017, Peyton and Kerry qualify for a maximum credit amount of $5,000. However, Peyton and Kerry pay and incur unreimbursed qualified adoption expenses of only $3,000 in 2018. Accordingly, Peyton and Kerry may claim an Iowa adoption tax credit of $3,000 in 2018, which must be divided between them. Peyton and Kerry agree that Peyton will claim $2,000 of the credit, and Kerry will claim $1,000 of the credit.

e. Adoption of a special needs child. If a taxpayer adopts a special needs child, the credit under this rule cannot exceed the amount of qualified adoption expenses paid or incurred by the taxpayer during the tax year. The amount of the federal adoption tax credit claimed for the adoption of a special needs child does not affect the amount of the credit under this rule.

EXAMPLE: Francis and Mandy are married. Francis and Mandy adopt a special needs child who is permanently placed in Iowa. The adoption process begins and ends in 2017. Francis and Mandy paid

and incurred $2,000 in unreimbursed qualified adoption expenses related to the adoption during 2017. For federal purposes, Francis and Mandy qualify for a maximum adoption tax credit of $13,570 for the adoption of a special needs child. For Iowa purposes, Francis and Mandy qualify for a maximum adoption tax credit of $2,000, which is equal to the amount of unreimbursed qualified adoption expenses they paid or incurred related to the adoption during the tax year.

f. *Adoption tax credit in excess of tax liability.* Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year. ~~The amount of tax credit claimed cannot be used as an itemized deduction for adoption expenses provided in 701—subrule 41.5(3).~~

This rule is intended to implement ~~2014 Iowa Acts, House File 2468~~ Iowa Code section 422.12A as amended by 2016 Iowa Acts, House File 2468, and by 2017 Iowa Acts, Senate File 433.

[Filed 3/14/18, effective 5/16/18]
[Published 4/11/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3750C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to hotel and motel tax

The Department of Revenue hereby amends Chapter 103, "State-Imposed and Locally Imposed Hotel and Motel Taxes—Administration," Chapter 104, "Hotel and Motel—Filing Returns, Payment of Tax, Penalty, and Interest," and Chapter 105, "Locally Imposed Hotel and Motel Tax," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 421.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 423A.

Purpose and Summary

These amendments are necessary to implement the local hotel and motel tax imposed by a land use district, as authorized in 2017 Iowa Acts, House File 609. These amendments define "land use district." These amendments also update the rules and procedures to provide for the imposition of a local hotel and motel tax by a land use district.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 17, 2018, as **ARC 3566C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on February 21, 2018.

Fiscal Impact

These amendments will have no fiscal impact if no land use district implements a hotel and motel tax. Implementation of a hotel and motel tax by a land use district will reduce county revenue by whatever portion of the current county hotel and motel tax revenue is derived from lodging within the land use district.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making 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 rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of "Land use district" in subrule **103.1(1)**:

"Land use district" means a district created under Iowa Code chapter 303, subchapter IV.

ITEM 2. Amend subrule 103.1(4) as follows:

103.1(4) A city, ~~or~~ county, or land use district may impose ~~by ordinance of the city council or by resolution of the county board of supervisors~~ a tax on lodging, at a rate not to exceed 7 percent, which shall be imposed in increments of one or more full percentage points upon the sales price from the renting of lodging. ~~When imposed by a city, the tax shall apply only within the corporate boundaries of that city and when imposed by a county shall apply only outside incorporated areas within that county.~~ See 701—Chapter 105 for more information on locally imposed hotel and motel tax.

ITEM 3. Amend rule **701—103.1(423A)**, implementation sentence, as follows:

This rule is intended to implement ~~2005~~ Iowa Code ~~Supplement~~ sections 423A.3 and 423A.4.

ITEM 4. Amend rule 701—103.14(423A) as follows:

701—103.14(423A) Notification. Before ~~a city's or county's~~ the local option hotel and motel tax of a city, county, or land use district can become effective, be revised, or be repealed, 45 days' notice of such action must be given to the director in writing by mail.

This rule is intended to implement ~~2005~~ Iowa Code ~~Supplement~~ section 423A.4.

ITEM 5. Amend rule 701—103.15(423A) as follows:

701—103.15(423A) Certification of funds. Within 45 days after the date that the quarterly returns and payments are due, the director will certify to the treasurer of state the amount of locally imposed tax to be transferred from the general fund to the local transient guest tax fund, which is to be distributed to

each city, ~~and~~ county ~~which~~, and land use district that has adopted the tax. Payments received after the date of certification will remain in the general fund until the next quarterly certification.

This rule is intended to implement ~~2005~~ Iowa Code ~~Supplement~~ section 423A.7.

ITEM 6. Amend rule 701—104.7(423A) as follows:

701—104.7(423A) Application of payments.

104.7(1) *Partial payments.* Since a combined hotel and motel tax and quarterly state sales tax return is utilized by the department, all payments received with the return will be applied to satisfy state sales tax and hotel and motel tax liabilities, which include penalty and interest. Application of partial payments received with the tax return and any subsequent partial payment received for that tax period will be applied based on a ratio formula, unless properly designated by the taxpayer as provided in Iowa Code section 421.60(2)*"d."* The denominator in the ratio shall be the total of the hotel and motel tax due and the state sales tax due less any monthly sales tax deposits. The numerators in the ratio formula shall be the amounts of hotel and motel tax due and the net state sales tax due.

EXAMPLE: XYZ hotel owes a total of $1,000 in net state sales tax and hotel and motel tax for the quarter. Of the $1,000 owed, $600 is for hotel and motel tax and $400 is for state sales tax. XYZ files its quarterly sales tax return accompanied by a $500 partial payment. The $500 partial payment would be applied based on the following computation:

$$\frac{600}{1000} \times 500 = \$300 \quad \text{Hotel and motel tax}$$

$$\frac{400}{1000} \times 500 = \$200 \quad \text{State sales tax}$$

104.7(2) *Locally imposed tax.*

a. Generally. All revenues received under Iowa Code chapter 423A are to be credited to the "local transient guest tax fund." Revenues include all interest and penalties applicable to any hotel and motel tax report or remittance, whether resulting from delinquencies or audits.

b. Termination by a city or county. All revenues received or moneys refunded 180 days after the date on which a city or county terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund. The 180-day limitation applies to actual receipts or disbursements and not to accrued but unpaid tax liabilities or potential refunds.

c. Termination by a land use district. If a land use district terminates its local hotel and motel tax, lodging within the district becomes subject to any local hotel and motel tax imposed by a city or county within the corporate boundaries of that district on the date of termination. If a city or county imposes a local hotel and motel tax within the district, all revenues received from or moneys refunded to lodging within the district after the date on which the land use district terminates its local hotel and motel tax shall be treated as collected from or refunded to lodging in such city or county. If no city or county imposes a local hotel and motel tax within the district, all revenues received from or moneys refunded to lodging within the district at least 180 days after the date on which the land use district terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund as described in paragraph 104.7(2)*"b."*

This rule is intended to implement ~~2005~~ Iowa Code ~~Supplement~~ section 423A.7.

ITEM 7. Amend rule 701—105.1(423A) as follows:

701—105.1(423A) Local option. A city ~~or county~~ may impose, by ordinance of the city council, ~~or by resolution of the board of supervisors~~ a hotel and motel tax ~~subject to the approval of its citizens. The tax when imposed by a city shall apply only~~ within the corporate boundaries of that city ~~and when imposed by a county shall apply only~~. A county may impose, by resolution of the board of supervisors, a hotel and motel tax outside incorporated areas within the county. A land use district may impose, by ordinance of the board of trustees, a hotel and motel tax within the corporate boundaries of that district. A city

or county cannot impose its hotel and motel tax within the corporate boundaries of a land use district during any period when the land use district imposes a hotel and motel tax. A city, ~~or~~ county, or land use district can impose the tax only after an election at which a majority of those voting on the question favors imposition.

This rule is intended to implement ~~2005~~ Iowa Code ~~Supplement~~ section 423A.4 as amended by 2017 Iowa Acts, House File 609.

[Filed 3/14/18, effective 5/16/18]
[Published 4/11/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.

ARC 3751C

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to electric power generating facilities

The Utilities Board hereby amends Chapter 24, "Location and Construction of Electric Power Generating Facilities," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 474.5, 476.2 and 476A.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 476A.

Purpose and Summary

The Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2). The purpose of this review is to identify and update or eliminate rules within Chapter 24 that are outdated or inconsistent with statutes and other administrative rules.

These specific amendments update and streamline the filing rules related to generating certificate dockets by updating statutory references, accommodating electronic filing, and removing outdated language. The amendments also add notice requirements relating to any potential request for the power of eminent domain. The amendments also clarify existing language and make other editorial changes.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 25, 2017, as **ARC 3416C**. The Board received comments from the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, and jointly from Interstate Power and Light Company and MidAmerican Energy Company (Joint Utilities). OCA stated it had no objections to the proposed amendments. The Joint Utilities stated they had no objection to the proposed amendments and proposed one additional amendment. Specifically, the Joint Utilities proposed amending the definition of "facility" to specifically exclude certain projects where each collector or gathering line would be connected to less than 25 megawatts of nameplate generating capacity. OCA filed reply comments opposing the proposed additional amendment. OCA stated the proposed amendment is too broad and would change the statutory definition promulgated by the legislature.

After consideration of the stakeholder comments, the Board did not adopt the additional amendment proposed by the Joint Utilities as the Board does not believe the current process regarding collector and

gathering lines needs to be formalized in the rules, especially in light of OCA's objections to the proposed amendment. No changes from the Notice have been made.

The Board issued an order adopting amendments on March 19, 2018. The order is available on the Board's electronic filing system under Docket No. RMU-2016-0026.

Adoption of Rule Making

This rule making was adopted by the Board on March 19, 2018.

Fiscal Impact

After analysis and review, the Board concludes that the amendments will have no effect on the expenditure of public moneys within the State of Iowa.

Jobs Impact

After analysis and review, the Board concludes that the amendments will not have a detrimental effect on employment in Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rules 199—1.3(17A,474,476) and 199—24.15(476A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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 rule making will become effective on May 16, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule **199—24.2(476A)**, definitions of "Intervenor" and "Significant alteration," as follows:

"Intervenor" means a person who received notice under 24.6(2)*"b," "c," "d," "e,"* or *"f"* and has filed with the board a written notice of intervention, ~~or, in all other cases, who, upon written petition of intervention is permitted in the proceeding pursuant to 199—subrule 7.2(8)~~ or a person granted permission to intervene by the board after filing a petition pursuant to rule 199—7.13(17A,476).

"Significant alteration" means:

a. A change in the generic type of fuel used by the major electric generating facility; or

b. Any change in the location, construction, maintenance, or operation of equipment at an existing facility that ~~results in a 10 percent increase or more in the maximum generator nameplate capacity of an existing facility if the increase is more than or equal to~~ increases the maximum generator nameplate capacity of the facility by at least 10 percent and at least 25 megawatts.

ITEM 2. Amend paragraph **24.3(1)"a"** as follows:

a. The application, associated documents, or other papers filed with the board in a certification proceeding shall be capable of being printed or typewritten and reproduced on sheets of 8½ inches by 11 inches (except for foldouts and special exhibits) ~~in loose leaf or equivalent replaceable sheet form with hard cover~~.

ITEM 3. Amend subrule 24.3(2) as follows:

24.3(2) *Manner and place of filing.*

a. An applicant shall file the ~~original and 20 copies of its application with the board by presentation or mailing to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069~~ application electronically unless otherwise permitted by the board.

~~*b.* Within ten days of receipt of the application the Executive Secretary shall acknowledge in writing receipt of the application, but said acknowledgment shall not constitute acceptance of the application.~~

~~*c.*~~ *b.* ~~Within ten days of the receipt of application, the board shall forward copies thereof to each regulatory agency listed in the application. In addition, that part of the application responding to 24.4(1)"a" through "c" will be forwarded to such~~ The board, through the use of its electronic filing system, shall include on the service list for the application each regulatory agency listed on the application in addition to other agencies as the board deems appropriate~~, including the office of state archaeologist, the division of community action agencies of the department of human rights, and the office of historical preservation of the state historical society of Iowa as interested agencies, and also to the Iowa department of transportation, and the Iowa department of natural resources, if such have not been designated as regulatory agencies~~.

~~*d.*~~ *c.* Any amendments to the application shall be filed in a manner similar to that required of the application.

ITEM 4. Amend rule 199—24.4(476A), introductory paragraph, as follows:

199—24.4(476A) Application for a certificate—contents. Each person or group of persons proposing to construct a facility ~~after January 1, 1977,~~ or a significant alteration to a facility shall file an application for certificate with the board, unless otherwise provided by these rules. The applicant may file a portion of an application and, in conjunction therewith, a request that the board accept such portion of the application pursuant to subrule 24.5(3) and conduct a separate phase of the proceeding with respect to issues presented by such portion of the application to the extent permitted pursuant to 24.5(3) and rule 199—24.9(476A). An application shall substantially comply with the following informational requirements:

ITEM 5. Amend paragraph **24.4(1)"j"** as follows:

j. The names and addresses of those owners and lessees of record ~~or~~ of real property identified in 24.6(2)*"d"* and *"e."*

ITEM 6. Adopt the following **new** paragraph **24.4(1)"k"**:

k. The names and addresses of those owners and lessees of record of real property for whom the applicant seeks the use of eminent domain.

ITEM 7. Amend paragraph **24.4(3)"b"** as follows:

b. A forecast of any temporary ~~stress~~ impact placed upon housing, schools or other community facilities as a result of a temporary influx of workers during the construction of the proposed facility.

ITEM 8. Amend subrule 24.5(2) as follows:

24.5(2) ~~Applicant~~ The applicant shall have 30 days from notification of deficiencies to amend or request, for good cause, a reasonable extension of time to amend. In the event the applicant fails to amend within the time allowed or, after amendment, the application or portion thereof filed is not in substantial compliance with the requirements of rule 199—24.4(476A) which pertain thereto, the board may reject the application or such portion thereof. Such rejection shall constitute final agency action, but shall not preclude reapplication.

ITEM 9. Amend paragraph **24.6(2)"f"** as follows:

f. ~~Other interested persons as determined by the board.~~ Owners and lessees of real property for which the applicant seeks the power of eminent domain.

ITEM 10. Adopt the following **new** paragraph **24.6(2)"g"**:

g. Other interested persons as determined by the board.

ITEM 11. Amend subrule 24.8(1) as follows:

24.8(1) *General.* The proceedings conducted by the board pursuant to this chapter shall be treated in the same manner as a contested case pursuant to the provisions of Iowa Code chapter 17A. Except where contrary to express provisions below, the hearing procedure shall conform to the board's rules of practice and procedure, 199—Chapter 7~~, IAC~~. The proceeding for the issuance of certificate may be consolidated with the contested case proceeding for determination of applicable ratemaking principles under Iowa Code section 476.53. All filings shall be made electronically unless otherwise permitted by the board.

ITEM 12. Amend paragraph **24.8(2)"a"** as follows:

a. Notice of intervention. An agency not receiving notice pursuant to 24.6(2)*"b"* may become a party to the contested case proceeding by filing ~~with the board an original and ten copies of~~ a notice of intervention. Such notice shall contain a statement of the jurisdiction or interest of the particular agency with respect to the proposed facility.

ITEM 13. Amend paragraph **24.8(2)"b"** as follows:

b. Petition to intervene. Any other person wishing to become a party to the contested case proceeding may request to intervene in the proceeding by petition to intervene filed at least 30 days prior to the date of the scheduled hearing, but not afterward except for good cause shown. Such application shall specify the issues in which petitioner may contest before a regulatory agency or otherwise. A petition to intervene shall substantially comply with the form prescribed in 199—subrule 2.2(10). ~~The original and ten copies of the petition shall be filed with the board.~~ All other parties to the proceeding shall have the right to resist or respond to the petition to intervene within seven days subsequent to the petitioner's service thereof.

ITEM 14. Amend subrule 24.8(5) as follows:

24.8(5) *Application for rehearing.* All applications for rehearing will be made and processed in accordance with Iowa Code ~~section~~ sections 17A.16(2) and 476.12. Applications for rehearing after ~~decision~~ decisions made by the board must state the specific grounds upon which the application is based and must specify such findings of fact and conclusions of law and such terms or conditions of any certificate or amendment to certificate as are claimed to be erroneous, with a brief statement of the grounds of error. An application for rehearing shall substantially comply with the form prescribed in 199—subrule 2.2(13). ~~The original and ten copies of the application shall be filed with the board.~~

ITEM 15. Amend subrule 24.10(4) as follows:

24.10(4) *Denial.* In the event the applicant fails to amend in a timely fashion, or after amendment or reopening the record, or both, the board is still unable to make an affirmative finding, the board will deny the application. ~~Applicant~~ The applicant may request rehearing on such denial in accordance with Iowa Code ~~section~~ sections 17A.16(2) and 476.12.

ITEM 16. Amend subrule 24.11(1) as follows:

24.11(1) In the event no certificate has been issued after 90 days from the commencement of the hearing, the board may permit the applicant to begin work to prepare the site for construction of the facility. Any activities conducted pursuant to this ~~section~~ rule shall have no probative value to the board's decision concerning the actual issuance of a certificate.

ITEM 17. Amend subrule 24.12(2) as follows:

24.12(2) *Eminent domain.* The certificate shall give the applicant the power of eminent domain to the extent and under such conditions as the board approves, prescribes, and finds necessary for the public convenience, use, and necessity, proceeding in the manner of works of internal improvement under Iowa Code chapter ~~472~~ 6B.

ITEM 18. Amend rule 199—24.15(476A) as follows:

199—24.15(476A) Waiver. The board, if it determines that the public interest would not be adversely affected, may waive any of the requirements of this chapter. In determining whether the public interest would not be adversely affected, the board will consider the following factors:

1. The purpose of the facility.
2. The type of facility.
3. If the facility is for the applicant's own needs.
4. The effect of the facility on existing transmission systems.
5. Any other relevant factors.

In addition to other service requirements, the applicant must serve a copy of the waiver request on all owners of record of real property that adjoins the proposed facility site. A request for a waiver shall also comply with rule 199—1.3(17A,474,476).

This rule is intended to implement Iowa Code sections 476A.1, 476A.2, 476A.4, 476A.6, 476A.7 and 476A.15.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/11/18.