IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Monday, September 8, 2025, at 10 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at jack.ewing@legis.iowa.gov. The following rules will be reviewed:

NOTE: See also Agenda published in the August 20, 2025, Iowa Administrative Bulletin.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
Comprehensive emergency plan—standards adopted by reference, 7.3(4)"d" Notice **ARC 9524C** 9/3/25

HUMAN SERVICES DEPARTMENT[441]
Refugee cash assistance—time limit for eligibility, 60.7 Notice **ARC 9525C** 9/3/25

INSPECTIONS AND APPEALS DEPARTMENT[481]
Licensure of physician assistants, ch 780 Filed **ARC 9536C** 9/3/25
Sign language interpreters and transliterators—license reactivation, 961.6 Notice **ARC 9535C** 9/3/25

IOWA FINANCE AUTHORITY[265]
Private activity bond allocation, ch 8 Notice **ARC 9534C** 9/3/25
Water pollution control works and drinking water facilities financing program, ch 26 Notice **ARC 9531C** 9/3/25
Wastewater and drinking water treatment financial assistance program, ch 28 Notice **ARC 9532C** 9/3/25
Water quality financing program, ch 46 Notice **ARC 9533C** 9/3/25

PUBLIC HEALTH DEPARTMENT[641]
Brain injury services program, ch 56 Notice **ARC 9527C** 9/3/25
Tobacco use prevention and control community partnership initiative, rescind ch 151 Notice **ARC 9526C** 9/3/25

WORKFORCE DEVELOPMENT DEPARTMENT[871]
Apprenticeship training program, ch 65 Notice **ARC 9528C** 9/3/25
Future ready Iowa registered apprenticeship development fund, ch 66 Notice **ARC 9529C** 9/3/25
Future ready Iowa expanded registered apprenticeship opportunities program, ch 67 Notice **ARC 9530C** 9/3/25

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

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Vice Chair
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Senator Mike Bousselot
Senate District 21

Senator Dan Dawson
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Senator Sarah Trone Garriot
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Representative Rick Olson
House District 39

Representative Mike Sexton
House District 7

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NOTICE: The Administrative Code Editor is evaluating the value of publishing this list of public hearings in the Iowa Administrative Bulletin. Public hearing information can also be found in each individual document as required by Iowa Code chapter 17A.

The Administrative Code Editor currently plans to **discontinue** publication of this list beginning with the October 15, 2025, Iowa Administrative Bulletin. Any users of this list are urged to email their feedback on its value by **October 1, 2025**, to: jack.ewing@legis.iowa.gov.

APPEAL BOARD, STATE[543]

Red tape review, adopt chs 1 to 5; rescind chs 6, 7 IAB 8/6/25 **ARC 9460C**	Room G14 Iowa Capitol Building Des Moines, Iowa	September 5, 2025 9 to 10 a.m.

COLLEGE STUDENT AID COMMISSION[283]

Red tape review, adopt chs 1 to 4, 6, 7; rescind ch 5 IAB 8/20/25 **Regulatory Analyses**	Room B50 Grimes State Office Building Des Moines, Iowa	September 9, 2025 4 p.m.
Iowa minority grants for economic success; chiropractic loan forgiveness program rescind chs 22, 33 IAB 8/20/25 **ARC 9487C**, **ARC 9488C**	Room B50 Grimes State Office Building Des Moines, Iowa	September 9, 2025 4 to 4:30 p.m. September 10, 2025 9 to 9:30 a.m.

ECONOMIC DEVELOPMENT AUTHORITY[261]

Seed investor tax credit program, ch 114; tax credits for investments in qualifying businesses, rescind ch 115; tax credits for investments in certified innovation funds, ch 116 IAB 9/3/25 **Regulatory Analyses**	1963 Bell Avenue Des Moines, Iowa Information about virtual participation can be found at opportunityiowa.gov/about/iowa-economic-development-authority/ieda-red-tape-review	September 23, 2025 9:15 to 9:30 a.m.

EDUCATION DEPARTMENT[281]

Orientation and gender identity—terminology, 12.3, 79.2, 80.1; accreditation standards, school health services, extracurricular interscholastic competition, 12.5, 12.8, 14.2, 36.2; civics examination, 12.5(5), 32.1; foster parents as special education decision-makers, 41.30(1)"b," 120.27(1)"b"; out-of-state placements, 41.116(8); abuse of students by school employees, ch 102 IAB 8/20/25 **Regulatory Analyses**	Room B50 Grimes State Office Building Des Moines, Iowa	September 9, 2025 9 to 10 a.m.

EDUCATION DEPARTMENT[281](cont'd)

Vaccination—notification of religious exemptions, 14.2(4), 21.62(9)"f"; extracurricular athletic activity conference for member schools, ch 37 IAB 8/20/25 **Regulatory Analyses**	Room B50 Grimes State Office Building Des Moines, Iowa	September 9, 2025 1 to 2 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Red tape review, adopt chs 2, 5, 6; rescind ch 4 IAB 9/3/25 **Regulatory Analyses**	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa A meeting registration link will be provided prior to the hearing	September 24, 2025 1 to 2 p.m.
Underground storage tank certification programs, ch 134 IAB 9/3/25 **Regulatory Analysis**	6200 Park Avenue, Suite 200 Des Moines, Iowa Also via videoconference call A meeting registration link will be provided prior to the hearing	September 23, 2025 10 to 11 a.m.
Technical standards and corrective action requirements for owners and operators of underground storage tanks, ch 135 IAB 9/3/25 **Regulatory Analysis**	6200 Park Avenue, Suite 200 Des Moines, Iowa Also via videoconference call A meeting registration link will be provided prior to the hearing	September 23, 2025 11 a.m. to 12 noon
Financial responsibility for underground storage tanks, ch 136 IAB 9/3/25 **Regulatory Analysis**	6200 Park Avenue, Suite 200 Des Moines, Iowa Also via videoconference call A meeting registration link will be provided prior to the hearing	September 24, 2025 9 to 10 a.m.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Organization, ch 1 IAB 9/3/25 **Regulatory Analysis**	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Phone: (US) +1 475.277.0077 PIN: 619 998 977#	September 23, 2025 9:15 a.m.
Uniform rules on agency procedure, adopt ch 2; rescind chs 3 to 6 IAB 9/3/25 **Regulatory Analysis**	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Phone: (US) +1 475.277.0077 PIN: 619 998 977#	September 23, 2025 9:30 a.m.
Comprehensive emergency plan—standards adopted by reference, 7.3(4)"d" IAB 9/3/25 **ARC 9524C**	Geode Room 7900 Hickman Road Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#	September 23, 2025 9 a.m. September 24, 2025 9 a.m.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

Iowa comprehensive plan, ch 9 IAB 8/20/25 **Regulatory Analysis**	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#	September 9, 2025 8:45 a.m.
Homeland security and emergency response teams, ch 12 IAB 8/20/25 **ARC 9486C**	Geode Room 7900 Hickman Road Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#	September 9, 2025 8:30 a.m. September 10, 2025 10 a.m.
Flood mitigation program, ch 14 IAB 8/20/25 **ARC 9485C**	Geode Room 7900 Hickman Road Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#	September 9, 2025 9 a.m. September 10, 2025 10:30 a.m.
Natural hazard mitigation program, ch 16 IAB 8/20/25 **Regulatory Analysis**	Geode Room 7900 Hickman Road Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#	September 9, 2025 9:15 a.m.
Emergency planning and reporting, adopt ch 102; rescind chs 103, 104 IAB 8/20/25 **ARC 9484C**	Geode Room 7900 Hickman Road Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#	September 9, 2025 9:30 a.m. September 10, 2025 11 a.m.

HUMAN SERVICES DEPARTMENT[441]

Refugee cash assistance—time limit for eligibility, 60.7 IAB 9/3/25 **ARC 9525C**	Microsoft Teams Meeting ID: 247 784 930 693 5 Passcode: Fv9rK6s3 Microsoft Teams Meeting ID: 232 677 074 969 4 Passcode: 5no6Sg9w	September 23, 2025 10 to 10:30 a.m. September 23, 2025 2 to 2:30 p.m.
Conditions of eligibility, ch 75; child support guidelines, amendments to chs 98, 99, 101, 102 IAB 8/20/25 **Regulatory Analyses**	Microsoft Teams Meeting ID: 267 668 396 724 6 Passcode: zz9uV3ja	September 9, 2025 10 a.m.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Sexual orientation, gender identity—psychiatric bed tracking system, physicians' services, prosthetic devices, 77.3(3), 78.1(4), 78.10(3) IAB 8/20/25 **ARC 9492C**	Microsoft Teams Meeting ID: 267 668 396 724 6 Passcode: zz9uV3ja	September 9, 2025 10 to 10:30 a.m.
	Microsoft Teams Meeting ID: 249 793 891 240 3 Passcode: td6Y9eu7	September 9, 2025 2 to 2:30 p.m.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Sign language interpreters and transliterators—license reactivation, 961.6 IAB 9/3/25 **ARC 9535C**	6200 Park Avenue Des Moines, Iowa	September 23, 2025 9 to 9:20 a.m.

INSURANCE DIVISION[191]

Regulation of securities offerings and those who engage in the securities business, ch 50 IAB 8/20/25 **Regulatory Analysis**	Suite 100 1963 Bell Avenue Des Moines, Iowa	September 11, 2025 10 a.m.

IOWA FINANCE AUTHORITY[265]

Information about virtual participation:
opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review

Private activity bond allocation, ch 8 IAB 9/3/25 **ARC 9534C**	1963 Bell Avenue Des Moines, Iowa	September 23, 2025 8:45 to 9 a.m. September 25, 2025 3:15 to 3:30 p.m.
Mortgage credit certificates, ch 10 IAB 8/20/25 **Regulatory Analysis**	1963 Bell Avenue Des Moines, Iowa	September 9, 2025 9 to 9:15 a.m.
Water pollution control works and drinking water facilities financing program, ch 26; wastewater and drinking water treatment financial assistance program, ch 28; water quality financing program, ch 46 IAB 9/3/25 **ARC 9531C**, **ARC 9532C**, **ARC 9533C**	1963 Bell Avenue Des Moines, Iowa	September 23, 2025 9 to 9:15 a.m. September 25, 2025 3 to 3:15 p.m.

LAW ENFORCEMENT ACADEMY[501]

Certification of law enforcement officers, ch 3 IAB 9/3/25 **Regulatory Analysis**	7105 NW 70th Avenue Burma Road, Building 4640 Johnston, Iowa Online at: us06web.zoom.us/launch/edl?muid=835a969a-5787-4469-9cf6-9fd2bdecf61c Meeting ID: 841 4874 6481 Passcode: Rulemaking	September 24, 2025 9 to 10 a.m.

NATURAL RESOURCE COMMISSION[571]

Uniform rules on agency procedure, adopt chs 2, 5, 6; rescind chs 3, 4 IAB 9/3/25 **Regulatory Analyses**	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa	September 24, 2025 1 to 2 p.m.
Unprotected nongame, ch 76; commercial use of captive-reared waterfowl, ch 93; game harvest reporting and landowner-tenant registration, ch 95; hunting preserves, chs 104, 112, 115; help us stop hunger program administration, ch 116 IAB 9/3/25 **Regulatory Analyses**	Suite 200 6200 Park Avenue Des Moines, Iowa	September 23, 2025 12 noon to 1 p.m.
Endangered and threatened plant and animal species, ch 77 IAB 9/3/25 **Regulatory Analysis**	Via Google Meet or Zoom A meeting registration link will be provided prior to the hearing	September 24, 2025 10 a.m.
Ginseng harvesting and sale, ch 78 IAB 9/3/25 **Regulatory Analysis**	Suite 200 6200 Park Avenue Des Moines, Iowa	September 23, 2025 1 to 2 p.m.
Fish stocking procedures and fees for private waters, rescind ch 79; fishing regulations, ch 81; commercial fishing, ch 82; scuba and skin spearing of rough fish, ch 83; promiscuous fishing, ch 84; turtles, ch 86; mussel regulations, ch 87; aquaculture, ch 89; aquatic invasive species, ch 90; restitution for pollution causing injury to wild animals, ch 113 IAB 9/3/25 **Regulatory Analyses**	Via Google Meet or Zoom A meeting registration link will be provided prior to the hearing	September 24, 2025 12 noon to 1 p.m.
Salvage of fish and game, ch 80 IAB 9/3/25 **Regulatory Analysis**	Via Google Meet A meeting registration link will be provided prior to the hearing	September 23, 2025 9 a.m.
Mobile radio transmitters, rescind ch 103 IAB 9/3/25 **Regulatory Analysis**	Via Google Meet A meeting registration link will be provided prior to the hearing	September 23, 2025 9 a.m.
Natural resources collector permits: research, education, and wildlife rehabilitation, ch 111 IAB 9/3/25 **Regulatory Analysis**	Suite 200 6200 Park Avenue Des Moines, Iowa	September 23, 2025 2 to 3 p.m.

NATURAL RESOURCES DEPARTMENT[561]

Uniform rules on agency procedure, adopt chs 2, 5, 6; rescind ch 4 IAB 9/3/25 **Regulatory Analyses**	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa	September 24, 2025 1 to 2 p.m.

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]

Agency realignment, rescind chs 1 to 4, 9, 11, 13, 16, 17 IAB 9/3/25 **Regulatory Analysis**	Via videoconference Contact: USTEO10@dnr.iowa.gov	September 24, 2025 2 to 3 p.m.

PRESERVES, STATE ADVISORY BOARD FOR[575]

Agency realignment, transfer ch 1; rescind chs 2, 3 IAB 9/3/25 **Regulatory Analysis**	Via videoconference Contact: john.pearson@dnr.iowa.gov	September 24, 2025 10 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Early hearing detection and intervention (EHDI) program, ch 3; sexual orientation and gender identity—terminology, amendments to chs 7, 37, 95, 97, 99, 142, 154; concussion or other brain injury return-to-play protocol, ch 54 IAB 8/20/25 **ARC 9489C**, **ARC 9490C**, **ARC 9491C**	Microsoft Teams Meeting ID: 267 668 396 724 6 Passcode: zz9uV3ja Microsoft Teams Meeting ID: 249 793 891 240 3 Passcode: td6Y9eu7	September 9, 2025 10 to 10:30 a.m. September 9, 2025 2 to 2:30 p.m.
Brain injury services program, ch 56; tobacco use prevention and control community partnership initiative, rescind ch 151 IAB 9/3/25 **ARC 9526C**, **ARC 9527C**	Microsoft Teams Meeting ID: 247 784 930 693 5 Passcode: Fv9rK6s3 Microsoft Teams Meeting ID: 232 677 074 969 4 Passcode: 5no6Sg9w	September 23, 2025 10 to 10:30 a.m. September 23, 2025 2 to 2:30 p.m.

PUBLIC SAFETY DEPARTMENT[661]

Law enforcement administrator's telecommunications advisory committee (LEATAC), rescind ch 15 IAB 8/20/25 **Regulatory Analysis**	Conference Room 125 Oran Pape State Office Building Des Moines, Iowa	September 9, 2025 2 to 2:30 p.m.
Reflective devices on slow-moving vehicles, ch 23 IAB 8/20/25 **Regulatory Analysis**	Conference Room 125 Oran Pape State Office Building Des Moines, Iowa	September 9, 2025 1 to 1:30 p.m.
Fire fighter training and certification, ch 251 IAB 9/3/25 **Regulatory Analysis**	Conference Room 125 Oran Pape State Office Building Des Moines, Iowa	September 23, 2025 9 to 9:30 a.m.

REVENUE DEPARTMENT[701]

Public safety officer moving expense tax credit, 800.1 to 800.56 IAB 8/20/25 **ARC 9483C**	Via videoconference call meet.google.com/utj-teer-eqw	September 9, 2025 2 to 3 p.m.

TRANSPORTATION DEPARTMENT[761]

Traffic control device manual, ch 130 IAB 8/20/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 278 155 414#	September 11, 2025 3 to 3:30 p.m.

TREASURER OF STATE[781]

Iowa educational savings plan trust, 16.11(3), 16.13(2) IAB 8/20/25 **Regulatory Analysis**	Room 113 Treasurer of State's Office State Capitol Building Des Moines, Iowa	September 9, 2025 9 to 10 a.m.

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Dial in to a hearing by phone: 1.469.998.6043
Find a local number

Mission and structure, rescind ch 50 IAB 8/20/25 **ARC 9515C**	Microsoft Teams link Meeting ID: 210 537 060 898 2 Passcode: Un7ke6rS Phone conference ID: 314 011 495#	September 9, 2025 8 to 8:30 a.m.
	Microsoft Teams link Meeting ID: 230 759 058 010 Passcode: q8YX9VE9 Phone conference ID: 900 956 120#	September 9, 2025 1 to 1:30 p.m.
Coordinating service provider, rescind ch 51 IAB 8/20/25 **ARC 9518C**	Microsoft Teams link Meeting ID: 217 248 749 908 1 Passcode: A2yp9TP7 Phone conference ID: 422 116 79#	September 9, 2025 8:30 to 9 a.m.
	Microsoft Teams link Meeting ID: 298 979 008 566 0 Passcode: kC2NF3Q8 Phone conference ID: 424 326 671#	September 9, 2025 1:30 to 2 p.m.
Regional advisory boards, rescind ch 52 IAB 8/20/25 **ARC 9516C**	Microsoft Teams link Meeting ID: 210 961 006 421 4 Passcode: 2AT7ci2R Phone conference ID: 903 962 880#	September 9, 2025 9 to 9:30 a.m.
	Microsoft Teams link Meeting ID: 279 921 851 371 5 Passcode: K78Ve3GR Phone conference ID: 299 510 337#	September 9, 2025 2 to 2:30 p.m.
Labor-management cooperation program, rescind ch 55 IAB 8/20/25 **ARC 9522C**	Microsoft Teams link Meeting ID: 289 962 729 758 2 Passcode: C89E6Vg2 Phone conference ID: 869 690 118#	September 9, 2025 10:30 to 11 a.m.
	Microsoft Teams link Meeting ID: 213 426 291 892 2 Passcode: Gh2Qg2py Phone conference ID: 468 558 492#	September 9, 2025 3:30 to 4 p.m.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

Dial in to a hearing by phone: 1.469.998.6043
Find a local number

Iowa welfare-to-work program, rescind ch 60 IAB 8/20/25 **ARC 9517C**	Microsoft Teams link Meeting ID: 254 877 982 640 Passcode: nb3Ss9ei Phone conference ID: 539 890 151#	September 9, 2025 11 to 11:30 a.m.
	Microsoft Teams link Meeting ID: 227 196 822 383 8 Passcode: 4o2fd2Tk Phone conference ID: 703 882 313#	September 9, 2025 4 to 4:30 p.m.
Apprenticeship training program, ch 65 IAB 9/3/25 **ARC 9528C**	Microsoft Teams link Meeting ID: 248 573 222 179 4 Passcode: dE32bq3Y Phone conference ID: 919 427 308#	September 23, 2025 9 a.m.
	Microsoft Teams link Meeting ID: 261 059 884 755 8 Passcode: Z8W7rk6m Phone conference ID: 305 409 801#	September 23, 2025 1:30 p.m.
Future ready Iowa registered apprenticeship development fund, ch 66 IAB 9/3/25 **ARC 9529C**	Microsoft Teams link Meeting ID: 228 026 983 421 Passcode: En28TH78 Phone conference ID: 863 395 407#	September 23, 2025 9:30 a.m.
	Microsoft Teams link Meeting ID: 229 518 901 039 6 Passcode: GJ3CL36F Phone conference ID: 497 069 297#	September 23, 2025 1:30 p.m.
Future ready Iowa expanded registered apprenticeship opportunities program, ch 67 IAB 9/3/25 **ARC 9530C**	Microsoft Teams link Meeting ID: 298 197 669 907 5 Passcode: Xd3CV3qx Phone conference ID: 987 268 454#	September 23, 2025 10 a.m.
	Microsoft Teams link Meeting ID: 277 839 227 118 2 Passcode: 8a6jn6pk Phone conference ID: 591 162 21#	September 23, 2025 2 p.m.
Voter registration, rescind ch 70 IAB 8/20/25 **ARC 9519C**	Microsoft Teams link Meeting ID: 244 348 493 885 Passcode: e36XV22u Phone conference ID: 326 151 219#	September 9, 2025 11 to 11:30 a.m.
	Microsoft Teams link Meeting ID: 211 778 895 744 5 Passcode: j5KQ2hy6 Phone conference ID: 683 617 517#	September 9, 2025 3:30 to 4 p.m.
Public records and fair information practices, rescind ch 71 IAB 8/20/25 **ARC 9521C**	Microsoft Teams link Meeting ID: 279 763 220 769 8 Passcode: EV6Az2vx Phone conference ID: 153 104 807#	September 9, 2025 9:30 to 10 a.m.
	Microsoft Teams link Meeting ID: 215 655 275 587 2	September 9, 2025 2:30 to 3 p.m.

Passcode: bY9YY7za
Phone conference ID: 144 492 875#

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

Dial in to a hearing by phone: 1.469.998.6043
Find a local number

Petitions, rescind ch 72 IAB 8/20/25 **ARC 9520C**	Microsoft Teams link Meeting ID: 213 389 964 217 7 Passcode: G4kd7sd7 Phone conference ID: 981 329 717#	September 9, 2025 10 to 10:30 a.m.
	Microsoft Teams link Meeting ID: 270 810 851 412 Passcode: si38BD3A Phone conference ID: 903 214 085#	September 9, 2025 3 to 3:30 p.m.
Forms and informational materials, rescind ch 73 IAB 8/20/25 **ARC 9523C**	Microsoft Teams link Meeting ID: 241 945 059 517 4 Passcode: KR2zM6CN Phone conference ID: 186 063 725#	September 9, 2025 11:30 a.m. to 12 noon
	Microsoft Teams link Meeting ID: 279 592 832 151 8 Passcode: m6SS9gY6 Phone conference ID: 972 857 456#	September 9, 2025 4 to 4:30 p.m.

Schedule for Rulemaking—2025

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

PLEASE NOTE:

Filing deadlines for publication cycles unaffected by holidays have been changed from Friday to Thursday. Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

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

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

****Note change of filing deadline****

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.

ADMINISTRATIVE RULES COORDINATOR [7]
ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
  Soil Conservation and Water Quality Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
OMBUDSMAN[141]
CIVIL RIGHTS, OFFICE OF[161]
INSURANCE AND FINANCIAL SERVICES DEPARTMENT[181]
  Banking Division[187]
  Credit Union Division[189]
  Insurance Division[191]
  Professional Licensing and Regulation Bureau[193]
    Accountancy Examining Board[193A]
    Architectural Examining Board[193B]
    Engineering and Land Surveying Examining Board[193C]
    Landscape Architectural Examining Board[193D]
    Real Estate Commission[193E]
    Real Estate Appraiser Examining Board[193F]
    Interior Design Examining Board[193G]
UTILITIES COMMISSION[199]
CORRECTIONS DEPARTMENT[201]
  Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
  Historical Division[223]
ECONOMIC DEVELOPMENT AUTHORITY[261]
  City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
  Educational Examiners Board[282]
  College Student Aid Commission[283]
  Higher Education Loan Authority[284]
  Public Broadcasting Division[288]
  School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
  Employment Appeal Board[486]
  Child Advocacy Board[489]
  Racing and Gaming Commission[491]
  State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]

LIVESTOCK HEALTH ADVISORY COUNCIL[521]
MANAGEMENT DEPARTMENT[541]
  Appeal Board, State[543]
  City Finance Committee[545]
  County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
  Environmental Protection Commission[567]
  Natural Resource Commission[571]
  Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
  Medicine Board[653]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
  Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
COMMUNICATIONS NETWORK, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
  Labor Services Division[875]
  Workers' Compensation Division[876]
  Workforce Development Board, State[877]

Regulatory Analysis

Notice of Intended Action to be published: 261—Chapter 114
"Seed Investor Tax Credit Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 15.106A; and 15E, subchapter IV, as enacted by 2025 Iowa Acts, Senate File 657

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 15E, subchapter IV, as enacted by 2025 Iowa Acts, Senate File 657

Public Hearing

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

September 23, 2025	1963 Bell Avenue
9:15 to 9:30 a.m.	Des Moines, Iowa

Public Comment

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

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

Purpose and Summary

The Authority proposes to adopt a new Chapter 114. The proposed chapter describes the policies and procedures applicable to the Seed Investor Tax Credit program, available pursuant to Iowa Code chapter 15E, subchapter IV, as enacted by 2025 Iowa Acts, Senate File 657. The program is designed to encourage early-stage investments in innovative Iowa businesses in key growth sectors, including advanced manufacturing, bioscience, finance and insurance, and technology.

Analysis of Impact

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

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

Qualifying businesses interested in applying for or that are certified through the program will bear the costs of the rulemaking. Investors interested in applying for or receiving tax credits will also bear the costs of the rulemaking.

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

Qualifying businesses interested in applying for or that are certified through the program will benefit from the rulemaking. Investors interested in applying for or receiving tax credits will benefit from the rulemaking.

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

- **Quantitative description of impact:**

Qualifying businesses interested in applying for certification may require staff time to complete an application. Certified businesses may similarly incur costs to comply with reporting and monitoring requirements of the program. Some businesses may choose to rely on an external service provider to complete these tasks. The amount of the costs will vary depending on the compensation of staff or service providers involved. Investors that are eligible for a tax credit must also submit information to the Authority to receive the tax credit.

- **Qualitative description of impact:**

The program is designed to encourage early-stage investments in innovative Iowa businesses.

3. **Costs to the State:**

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

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

- **Anticipated effect on State revenues:**

The rules have no anticipated impact on State revenues. Up to $10 million total in tax credits may be authorized by the Authority for this program and innovation fund investment tax credits available pursuant to Iowa Code section 15E.52.

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

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

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

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

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

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

The Authority did not consider any other methods.

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

The Authority did not consider any other methods.

Small Business Impact

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

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

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

The rulemaking impacts only small businesses seeking certification as a qualifying business or tax credits. The rules regarding compliance and reporting requirements are no more stringent than

necessary to implement the purposes of the program. The rules do not establish schedules or deadlines. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 261—Chapter 114:

CHAPTER 114
SEED INVESTOR TAX CREDIT PROGRAM

261—114.1(15E) Definitions. For purposes of this chapter, unless the context otherwise requires:

"Affiliate" means the same as defined in Iowa Code section 15E.26 as enacted by 2025 Iowa Acts, Senate File 657.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

"Controlling equity interest" means ownership of more than 50 percent of the outstanding equity interests of a corporation, partnership, limited liability company, or trust.

"Convertible debt" means debt that may be converted to equity at the option of the debt holder but has not yet been converted.

"Director" means the director of the authority.

"Eligible investor" means an investor making an investment that is eligible for a tax credit pursuant to this chapter and Iowa Code chapter 15E, subchapter IV, as enacted by 2025 Iowa Acts, Senate File 657.

"Equity" means common or preferred corporate stock or warrants to acquire such stock, membership interests in limited liability companies, or partnership interests in partnerships. Equity shall be limited to securities or interests acquired only for cash and shall not include securities or interests acquired at any time for services, contributions of property other than cash, convertible debt, or any other noncash consideration.

"Full-time equivalent employee" means a non-part-time position for the number of hours or days per week considered to be full-time work for the kind of service or work performed for an employer. Typically, a full-time equivalent position requires 2,080 hours of work in a calendar year, including all paid holidays, vacations, sick time, and other paid leave.

"Investment" means the same as defined in Iowa Code section 15E.26 as enacted by 2025 Iowa Acts, Senate File 657.

"Investor" means the same as defined in Iowa Code section 15E.26 as enacted by 2025 Iowa Acts, Senate File 657.

"Management control" means holding more than 50 percent of the voting power on any board of directors or trustees, any management committee, or any other group managing a corporation, partnership, limited liability company, or trust.

"Person" means an individual, corporation, limited liability company, business trust, estate, trust, partnership or association, or any other legal entity.

"Principal" means any current or prospective officer, director, or owner.

"Program" means the seed investor tax credit program administered pursuant to this chapter and Iowa Code chapter 15E, subchapter IV, as enacted by 2025 Iowa Acts, Senate File 657.

"Qualifying business" means the same as defined in Iowa Code section 15E.26 as enacted by 2025 Iowa Acts, Senate File 657.

"Rural area" means the same as defined in Iowa Code section 15E.26 as enacted by 2025 Iowa Acts, Senate File 657.

"Urban area" means the same as defined in Iowa Code section 15E.26 as enacted by 2025 Iowa Acts, Senate File 657.

261—114.2(15E) Certification of qualifying businesses.

114.2(1) *Eligibility for certification as a qualifying business.* A business shall meet all of the criteria in Iowa Code section 15E.28 as enacted by 2025 Iowa Acts, Senate File 657, to be eligible for certification as a qualifying business.

114.2(2) *Length of business operations.* For the purposes of determining whether a business has been in operation for five years or less as required by Iowa Code section 15E.28(2)*"b"* as enacted by 2025 Iowa Acts, Senate File 657, the authority will consider the following factors:

a. The date of incorporation or organization;

b. The date on which the business began the sale of goods or services;

c. The date on which the business first hired employees;

d. The date of execution of business contracts; and

e. Any other information that indicates the date on which the business began materially engaging in commercial activity.

114.2(3) *Application for certification.* A qualifying business shall apply to the authority for certification as a qualifying business as prescribed by the authority. The application for certification will include the following information:

a. A description of the general nature of the business's operations.

b. The location of the principal business operations, any other business locations, and the number of employees at each of the business's locations.

c. The date on which the business was formed and the date on which the business commenced operations based on the factors identified in subrule 114.2(2).

d. Verification that the business has at least one full-time equivalent employee.

e. Evidence that the business's primary operations are in a qualifying industry pursuant to Iowa Code section 15E.28(2)*"d"* as enacted by 2025 Iowa Acts, Senate File 657. Such evidence may include but is not limited to whether the business has a North American industry classification system (NAICS) number aligned with the relevant industries as determined by the authority. Businesses with other NAICS numbers will be required to document to the authority's satisfaction that the business is primarily engaged in an applicable industry identified in Iowa Code section 15E.28(2)*"d"* as enacted by 2025 Iowa Acts, Senate File 657, based on factors including but not limited to sources of revenue and customer base. For the purposes of determining whether the business is primarily engaged in the provision of services that require a professional license, "services requiring a professional license" includes but is not limited to the professions listed in Iowa Code section 496C.2.

f. Documentation of the ownership, affiliates, and principals of the business sufficient to demonstrate the business is an independent organization that is not part of, or an affiliate of, a business that is not a qualifying business and to demonstrate that the business has at least two investors for the purposes of establishing its eligibility pursuant to Iowa Code section 15E.28(2)*"h"*(2) as enacted by 2025 Iowa Acts, Senate File 657.

g. A description of the manner in which the business satisfies the business experience requirements set forth in Iowa Code section 15E.28(2)*"f"* as enacted by 2025 Iowa Acts, Senate File 657.

h. A balance sheet that reflects the qualifying business's assets, liabilities, and owner's equity as of the close of the most recent month or quarter.

i. The names, addresses, shares or equity interests issued, consideration paid for the shares or equity interests, and amounts of any tax credits of all shareholders or equity holders and the date on which the investment was made as well as documentation of any binding investment commitments made prior to application for certification. An agreement for convertible debt may be considered a binding investment commitment for the purposes of this paragraph.

j. A signed statement from an officer, director, manager, member, or general partner of the qualifying business certifying the accuracy of the information provided.

k. Any other information the authority may reasonably require to determine the business's eligibility for certification as a qualifying business and its investors' eligibility to receive tax credits.

114.2(4) *Authority review and notice of certification.*

a. Upon the authority's receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth in Iowa Code section 15E.28 as enacted by 2025 Iowa Acts, Senate File 657, the authority shall, within a reasonable period of time, determine whether a business shall be certified as a qualifying business and, if applicable, issue written notification to the qualifying business that such business has been certified with the authority for the purpose of issuing investment tax credits. The authority will indicate in its written notice the first date investments are eligible for a tax credit based on the date of application for certification and the date the authority expects the certification to expire based on the date the business began operations.

b. Prior to issuance of the written notification pursuant to paragraph 114.2(4)*"a,"* a qualifying business shall pay a nonrefundable application fee of $200 to the authority.

c. Following written notification of certification, a certified qualifying business shall enter into an agreement with the authority reflecting the terms of certification.

114.2(5) *Revocation and expiration of certification.*

a. A certified qualifying business shall provide any information the authority may reasonably request to confirm the business's continued eligibility for certification as a qualifying business and the eligibility of its investors to receive tax credits.

b. If a qualifying business fails to meet or maintain any requirement set forth in this chapter and in Iowa Code chapter 15E, subchapter IV, as enacted by 2025 Iowa Acts, Senate File 657, the authority shall revoke the business's certification as a qualifying business by issuing written notice of revocation to the business. The notice will identify the last date on which the business was eligible to be certified as a qualifying business. Investments made after the identified date will not be eligible for a tax credit.

c. If a business continues to satisfy all eligibility requirements until it has been in operation for more than five years, the business's certification will expire on the date identified as the expected date of expiration pursuant to paragraph 114.2(4)*"a."* Investments made after the identified date will not be eligible for a tax credit.

d. The authority shall rescind any tax credit certificates issued to taxpayers for investments made after the date as of which the business's certification was revoked or expired and shall notify the department of revenue that it has done so. A tax credit certificate that has been rescinded by the authority shall be null and void, and the department of revenue will not accept the tax credit certificate.

114.2(6) *Reporting.*

a. A certified qualifying business shall report new equity interests or transfers in equity among current equity holders or as any other information on the list of investors provided to the authority as part of the application for certification may change.

b. The authority may at any time request additional information and documentation from a qualifying business regarding the operations, job creation, and economic impact of such qualifying business, and the authority may use such information in preparing and publishing any reports to be provided to the governor and the general assembly to the extent such information is not confidential pursuant to Iowa Code section 15E.29 as enacted by 2025 Iowa Acts, Senate File 657.

261—114.3(15E) Investment and investor requirements.

114.3(1) Only investments made after the date a qualifying business submits an application for certification shall qualify for a tax credit.

114.3(2) A qualifying business must submit documentation of an investment to the authority, consistent with paragraph 114.4(1)*"b,"* during the first available application window following the investment for the investment to qualify for a tax credit. If the first available application window following the investment concludes prior to approval of certification of the applicable qualifying business, the investor may apply in the first available application window following approval of certification.

114.3(3) Convertible debt shall only be considered an investment in the form of cash to purchase equity as of the date of conversion. Investors that utilize convertible debt must document the date and terms of conversion to equity to be eligible for a tax credit.

114.3(4) Pursuant to the requirements and definitions in Iowa Code chapter 15E, subchapter IV, as enacted by 2025 Iowa Acts, Senate File 657, the authority will also verify the following to determine the eligibility of an investment for a tax credit:

a. The amount of the investment is at least $10,000.

b. The investment is not made by an affiliate of the qualifying business or its principals.

c. The investment is not made by an individual or entity that owns 70 percent or more of the qualifying business.

261—114.4(15E) Applying for an investment tax credit.

114.4(1) *Annual business application.* The annual application submitted by qualifying businesses will include:

a. A report from the business of any changes to the information provided in the application for certification pursuant to subrule 114.2(3).

b. The names, addresses, email addresses, phone numbers, shares or equity interests issued, and consideration paid for the shares or equity interests of all shareholders or equity holders, including but not limited to investors who may qualify for the tax credits and the date on which all investments were made.

c. Documentation of the ownership, affiliates, and principals of the qualifying business and of its investors sufficient to allow the authority to determine the following:

(1) Whether any investors are ineligible for a tax credit because the investor is an affiliate of the qualifying business or its principals.

(2) Whether any investors are ineligible for a tax credit because the individual or entity owns 70 percent or more of the qualifying business.

(3) Whether tax credits issued to an investor and the investor's spouse or dependent would exceed the maximum allowed pursuant to Iowa Code section 15E.27(2)*"b"*(1) as enacted by 2025 Iowa Acts, Senate File 657.

d. A signed statement from an officer, director, manager, member, or general partner of the qualifying business certifying the accuracy of the information provided.

e. Any other information the authority may reasonably require to determine the business's continued eligibility for certification as a qualifying business and its investors' eligibility to receive tax credits.

114.4(2) *Application window.* For fiscal years beginning on or after July 1, 2026, the annual application required pursuant to Iowa Code section 15E.28(5) as enacted by 2025 Iowa Acts, Senate File 657, shall be submitted electronically to the authority from July 1 to August 31 each year. For the fiscal year beginning July 1, 2025, the authority will accept applications as soon as practicable after [effective date of this rulemaking] for a period not to exceed 60 days. The authority may adjust the annual application period dates under extenuating circumstances and will provide notice of adjustments on the authority's website. The authority may cease accepting applications during any annual application period if the requested tax credits for the program and the requested tax credits for innovation fund investment tax credits available pursuant to Iowa Code section 15E.52 as amended by 2025 Iowa Acts, Senate File 657, exceed $12 million. Applications shall be date- and time-stamped by the authority in the order in which such applications are received.

114.4(3) *Board approval of maximum tax credits.* Following the end of each annual application period, the board will determine the total amount of tax credits available pursuant to Iowa Code section 15.119 as amended by 2025 Iowa Acts, Senate File 657. After the board's determination of the total amount of tax credits available, the authority will make its initial allocation of tax credits to eligible investors based on the order in which applications are received.

114.4(4) *Investor information and deadline.* Additional information that may be requested from investors identified by a qualifying business includes proof of investment and the investor's tax identification number. An eligible investor must provide any information requested by the authority to verify the eligibility of the investor and to allow the authority to issue a tax credit certificate. Such information shall be provided within 30 days of a request from the authority unless a request for extension is approved by the authority in writing.

114.4(5) *Tax credit approval.* Authority staff will verify the continued eligibility of qualifying businesses and the eligibility of investments prior to approval of tax credits by the director. Tax credits will be approved by the director on a first-come, first-served basis until the maximum amount of tax credits approved by the board is fully utilized. Applications that exceed the maximum amount of tax credits approved by the board will be denied.

114.4(6) *Tax credit amount.* The location of the principal business operations will be utilized to determine whether a qualifying business is located in a rural area or an urban area for the purposes of establishing the amount of a tax credit pursuant to Iowa Code section 15E.27(2)*"a"* as enacted by 2025 Iowa Acts, Senate File 657.

114.4(7) *Tax credit limitations.* Tax credits are limited by the following:

a. The total amount of tax credits available for the program, approved by the board pursuant to Iowa Code section 15.119 as amended by 2025 Iowa Acts, Senate File 657.

b. The maximums allowed per fiscal year for a natural person, corporation, or other entity pursuant to Iowa Code section 15E.27(2) as enacted by 2025 Iowa Acts, Senate File 657.

c. The maximum allowed per fiscal year for any one qualifying business pursuant to Iowa Code section 15E.27(2) as enacted by 2025 Iowa Acts, Senate File 657.

114.4(8) *Denial of applications.* Applications received by the authority that exceed the limitations described in Iowa Code sections 15.119 as amended and 15E.27 as enacted by 2025 Iowa Acts, Senate File 657, and in subrule 114.4(7) will be denied, regardless of whether the investment was otherwise eligible to receive a tax credit award. Any application that can be partially approved without exceeding the applicable maximum amounts will be approved as to the portion less than the maximum amounts and denied as to the portion greater than the maximum amounts. For example, if an application is eligible for $50,000 of tax credits, but there is only $30,000 of the business maximum amount available, the application will be approved for $30,000 and denied for $20,000.

261—114.5(15E) Tax credit certificates.

114.5(1) *Issuance by the authority.* The authority shall issue tax credit certificates to investors pursuant to Iowa Code section 15E.28 as enacted by 2025 Iowa Acts, Senate File 657, provided, however, that such tax credit certificate shall be subject to rescission pursuant to paragraph 114.2(5)*"d."*

114.5(2) *Vested right.* A taxpayer does not obtain a vested right in a tax credit until a certificate has been issued by the authority.

114.5(3) *Claiming an investment tax credit.* An investor that has been issued a tax credit certificate by the authority may claim the credit in accordance with any applicable rules adopted by the department of revenue.

These rules are intended to implement Iowa Code chapter 15E, subchapter IV, as enacted by 2025 Iowa Acts, Senate File 657.

Regulatory Analysis

Notice of Intended Action to be published: 261—Chapter 115
"Tax Credits for Investments in Qualifying Businesses"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 15.106A and 15E, subchapter V
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 15E, subchapter V

Public Hearing

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

September 23, 2025	1963 Bell Avenue
9:15 to 9:30 a.m.	Des Moines, Iowa

Public Comment

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

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

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 115. The chapter describes the policies and procedures applicable to tax credits for investments in qualifying businesses, available pursuant to Iowa Code chapter 15E, subchapter V. The tax credit was repealed by 2025 Iowa Acts, Senate File 657.

Analysis of Impact

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

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

The rescission of Chapter 115 does not impose any costs.

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

Rescinding the chapter for a tax credit that has been repealed will provide clarity about the responsibilities of the Authority.

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

- **Quantitative description of impact:**

The rescission of Chapter 115 does not impose any costs.

- **Qualitative description of impact:**

Rescinding the chapter for a tax credit that has been repealed will provide clarity about the responsibilities of the Authority.

3. **Costs to the State:**

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

There are no implementation and enforcement costs.

- **Anticipated effect on State revenues:**

The rescission of the chapter has no fiscal impact.

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

The rescission of Chapter 115 does not impose any costs. Rescinding the chapter for a tax credit that has been repealed will provide clarity about the responsibilities of the Authority.

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

The Authority has not identified any less costly methods or less intrusive methods.

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

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

The Authority did not consider any other methods.

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

The Authority did not consider any other methods.

Small Business Impact

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

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

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

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

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **261—Chapter 115**.

Regulatory Analysis

Notice of Intended Action to be published: 261—Chapter 116
"Tax Credits for Investments in Certified Innovation Funds"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 15.106A; and 15E.52 as amended by 2025 Iowa Acts, Senate File 657

State or federal law(s) implemented by the rulemaking: Iowa Code section 15E.52 as amended by 2025 Iowa Acts, Senate File 657

Public Hearing

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

September 23, 2025	1963 Bell Avenue
9:15 to 9:30 a.m.	Des Moines, Iowa

Public Comment

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

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

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 116 and adopt a new chapter in lieu thereof. The proposed chapter describes the policies and procedures applicable to tax credits for investments in certified innovation funds, available pursuant to Iowa Code section 15E.52 as amended by 2025 Iowa Acts, Senate File 657. The program stimulates venture capital investment in innovative Iowa businesses.

The proposed chapter is clearer and more concise throughout and omits language that duplicates statute. Additionally, the proposed chapter incorporates changes to the program and its available allocation of tax credits in 2025 Iowa Acts, Senate File 657.

Analysis of Impact

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

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

Innovation funds interested in applying for or that are certified through the program will bear the costs of the rulemaking. Investors interested in applying for or receiving tax credits will also bear the costs of the rulemaking.

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

Innovation funds interested in applying for or that are certified through the program will benefit from the rulemaking. Investors interested in applying for or receiving tax credits will benefit from the rulemaking.

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

- **Quantitative description of impact:**

Innovation funds interested in applying for certification may require staff time to complete an application. Certified funds may similarly incur costs to comply with reporting and monitoring requirements of the program. Some innovation funds may choose to rely on an external service provider to complete these tasks. The amount of the costs will vary, depending on the compensation of staff or service providers involved. Investors that are eligible for a tax credit must also submit an application for the tax credit.

- **Qualitative description of impact:**

The program stimulates venture capital investment in innovative Iowa businesses.

3. **Costs to the State:**

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

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

- **Anticipated effect on State revenues:**

The rules have no anticipated impact on State revenues. Up to $10 million total in tax credits may be authorized by the Authority for this program and the Seed Investor Tax Credit program created pursuant to 2025 Iowa Acts, Senate File 657.

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

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

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

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

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

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

The Authority did not consider any other methods.

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

The Authority did not consider any other methods.

Small Business Impact

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

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

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

The rulemaking impacts only small businesses seeking certification as an innovation fund or tax credits. The rules regarding compliance and reporting requirements are no more stringent than necessary to implement the purposes of the program. The rules do not establish schedules or deadlines. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 261—Chapter 116 and adopt the following **new** chapter in lieu thereof:

CHAPTER 116
TAX CREDITS FOR INVESTMENTS IN CERTIFIED INNOVATION FUNDS

261—116.1(15E) Definitions. For purposes of this chapter, unless the context otherwise requires:

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the same as defined in Iowa Code section 15.102.

"Convertible debt" means debt that may be converted to equity at the option of the debt holder but has not yet been converted.

"Equity" means common or preferred corporate stock or warrants to acquire such stock, membership interests in limited liability companies, partnership interests in partnerships, or near equity. Equity shall be limited to securities or interests acquired only for cash and shall not include securities or interests acquired at any time for services, contributions of property other than cash, or any other non-cash consideration.

"Innovation fund" means the same as defined in Iowa Code section 15E.52 as amended by 2025 Iowa Acts, Senate File 657.

"Innovative business" means the same as defined in Iowa Code section 15E.52 as amended by 2025 Iowa Acts, Senate File 657.

"Investor" means a taxpayer that makes an investment in an innovation fund.

"Program" means the tax credit program for investments in certified innovation funds available pursuant to this chapter and Iowa Code section 15E.52 as amended by 2025 Iowa Acts, Senate File 657.

261—116.2(15E) Certification of innovation funds.

116.2(1) An innovation fund shall provide to the authority information as a prerequisite to the issuance of any investment tax credits to investors in such innovation funds. The innovation fund must provide this information within 120 days from the first date on which the equity investments qualifying for the investment tax credit have been made.

116.2(2) Application forms setting forth the information required to certify the eligibility of an innovation fund may be obtained by contacting the authority.

116.2(3) The authority will not issue a tax credit certificate until the board has certified that a fund meets all of the following criteria:

a. The innovation fund has submitted a copy of the innovation fund's certificate of limited partnership, limited partnership agreement, articles of organization or operating agreement certified by the chief executive officer of the innovation fund.

b. The innovation fund has submitted a signed statement from an officer, director, manager, member or general partner of the fund stating that the criteria established in Iowa Code section 15E.52 as amended by 2025 Iowa Acts, Senate File 657, are met.

(1) For the purposes of determining whether an innovation fund will make investments in promising early-stage companies that have a principal place of business in the state, "having a principal place of business in the state" means (1) that the business has at least 50 percent of all of its employees in the state, (2) that the business pays at least 50 percent of the business's total payroll to

employees residing in the state, or (3) that the headquarters of the business (defined as the home office for a substantial amount of executive employees) is in the state.

(2) To establish that the criterion in Iowa Code section 15E.52(7)*"d"* is met, the innovation fund shall provide a detailed description of the framework the innovation fund will use to evaluate a business's growth potential and its ability to produce commercially viable products or services within a reasonable period of time. The description shall list and discuss the criteria and the attendant process that the innovation fund will use to evaluate businesses. The authority will consider requests submitted under Iowa Code section 15.118 or 22.7 to treat the evaluation framework as confidential.

(3) To establish that the criterion in Iowa Code section 15E.52(7)*"e"* is met, an innovation fund shall provide a detailed description of the methods by which each business will be evaluated. An innovation fund shall also submit a plan describing the actions it will take in order to collaborate and coordinate with other state and local entities and the ways in which the innovation fund intends to ensure consistency with the policy goals of this chapter. Such a plan shall propose to create relationships that can be substantiated in writing, which may include without limitation contracts, memoranda of understanding, letters of support, affidavits, or joint press releases from or with the entities that will be involved in the collaborative and coordinating efforts or through a list and summary description of the dates and locations for meetings held between the innovation fund and the other entities that allowed for collaboration and coordination between the innovation fund and those entities in an effort to achieve policy consistency.

(4) To establish that the criterion in Iowa Code section 15E.52(7)*"f"* is met, an innovation fund shall provide written confirmation of such relationships, which may include without limitation contracts, memoranda of understanding, letters of support, affidavits, or joint press releases from or with the regents institutions of this state or a list and summary description of the dates and locations for meetings held between the innovation fund and the regents institutions, the names of representatives of regents institutions with whom the innovation fund has met, and a brief summary of the discussions at those meetings.

(5) To establish that the criterion in Iowa Code section 15E.52(7)*"g"* as amended by 2025 Iowa Acts, Senate File 657, is met, an innovation fund shall include provisions in the fund's governing documents that provide for the continued operations of the fund only if the minimum level of investment commitment is reached.

116.2(4) Upon the authority's receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth in Iowa Code section 15E.52 as amended by 2025 Iowa Acts, Senate File 657, and herein, the authority shall, within a reasonable period of time, determine whether to certify the innovation fund. The authority shall issue written notification to the innovation fund that the fund has been certified for the purpose of issuing investment tax credits. This written notification shall contain the following statement:

> The Authority shall not be liable either for an innovation fund's failure to maintain compliance with the certification requirements nor for an investor's loss of tax credit certificates resulting from either a failure to maintain compliance or from a revocation.

116.2(5) An innovation fund certified before July 1, 2025, that wishes to take advantage of the changes in 2025 Iowa Acts, Senate File 657, must submit an amended application to the board and demonstrate that the innovation fund meets all new requirements for certification.

261—116.3(15E) Maintenance, reporting, and revocation of certification.

116.3(1) In order to maintain certification, an innovation fund must demonstrate compliance with the eligibility criteria set forth in Iowa Code section 15E.52 as amended by 2025 Iowa Acts, Senate File 657, at all times during participation in the program. A failure to comply with the eligibility criteria on an ongoing basis may result in revocation of certification. The authority will notify an innovation fund if the authority finds that the fund is not in compliance and will allow the innovation fund a period of not more than 120 days in which to address such noncompliance. If after

120 days the innovation fund remains in noncompliance, the board may revoke the fund's certification. The authority will not issue tax credit certificates to investors in an innovation fund if such equity investments are made at any point after the innovation fund has been found to be in noncompliance or if the innovation fund's certification has been revoked.

116.3(2) On or before December 31 of each year, each certified innovation fund shall collect and provide to the board, in the manner and form prescribed by the authority, the following information:

a. The amount of equity investments made in the innovation fund, both on an annual and a cumulative basis.

b. The information required in Iowa Code section 15E.52(10)*"e."*

c. In order to establish that an innovation fund has met the criterion found in Iowa Code section 15E.52(7)*"e,"* documentation and information in the manner and form required by the authority. Such documentation and information may include without limitation contracts, memoranda of understanding, letters of support, affidavits, joint press releases, or a list and summary description of the dates and locations for meetings held between the innovation fund and the other entities that allowed for collaboration and coordination between the innovation fund and those entities in an effort to achieve policy consistency.

d. In order to establish that an innovation fund has met the criterion found in Iowa Code section 15E.52(7)*"f,"* documentation and information in the manner and form required by the authority. Such documentation and information may include without limitation contracts, memoranda of understanding, letters of support, affidavits, joint press releases, or a list and summary description of the dates and locations for meetings held between the innovation fund and regents institutions, the names of representatives of regents institutions with whom the innovation fund has met, and a brief summary of the discussions at those meetings. The innovation fund shall also indicate if any business in which it has invested is commercializing research developed at one of the regents institutions.

e. Additional information and documentation, which the authority may at any time request from an innovation fund, regarding the operations, job creation and economic impact of the fund. The authority may use such information in preparing and publishing any reports to be provided to the governor and the general assembly.

116.3(3) Upon obtaining the required minimum threshold of $3 million in binding investment commitments, an innovation fund shall submit a statement containing the names, addresses, equity interests issued and consideration paid for the interests of all investors who may initially qualify for the tax credits. An innovation fund shall submit an amended statement as may be necessary from time to time to reflect new equity interests or transfers in equity among current equity holders or as any other information on the list may change. The authority will consider requests submitted under Iowa Code section 15.118 to treat investor names and amounts as confidential.

116.3(4) The board may revoke an innovation fund's certification if any of the following events occur:

a. An innovation fund fails to secure the required $3 million in initial binding investment commitments within one year of the date of certification by the board or fails at any point thereafter to secure investment from its investors of at least $3 million. If an investor in an innovation fund fails to make a capital call by the innovation fund and that failure would cause the innovation fund to fail to secure the required minimum $3 million in investment, then the authority will provide the innovation fund a period of not more than 120 days after receiving notice of the failed capital call to secure additional investment commitments sufficient to meet the required minimum investment.

b. An innovation fund fails to timely submit the report required in Iowa Code section 15E.52(9).

c. An innovation fund fails to maintain the eligibility criteria as set forth in Iowa Code section 15E.52 as amended by 2025 Iowa Acts, Senate File 657.

The board may forbear revocation under this subrule for good cause shown or for demonstration of extenuating circumstances. Such forbearance shall be at the board's discretion and for the period of time determined by the board to be in the best interest of the program and the state of Iowa.

116.3(5) If the board finds that a fund is in noncompliance or revokes an innovation fund's certification, the board will not issue tax credit certificates to investors in the innovation fund until the innovation fund manager demonstrates to the board that the innovation fund again meets the eligibility criteria set forth in Iowa Code section 15E.52 as amended by 2025 Iowa Acts, Senate File 657. If an investor makes an equity investment prior to a notice of noncompliance and a revocation of an innovation fund's certification, the board will issue the tax credit certificate as set forth in rule 261—116.6(15E). If an investor is issued a tax credit certificate prior to a revocation of certification, the investor shall have all of the rights described in Iowa Code section 15E.52(5) as amended by 2025 Iowa Acts, Senate File 657.

261—116.4(15E) Investment and investor requirements.

116.4(1) Investments made more than 120 days before an innovation fund applies for certification are not eligible for a tax credit.

116.4(2) For fiscal years beginning on or after July 1, 2026, an investor must apply for a tax credit during the first available application window following the investment for the investment to qualify for a tax credit. If the first available application window following the investment concludes prior to approval of certification of the applicable innovation fund, the investor may apply in the first available application window following approval of certification.

116.4(3) Convertible debt shall only be considered an investment in the form of cash to purchase equity as of the date of conversion. Investors that utilize convertible debt must document the date and terms of conversion to equity to be eligible for a tax credit.

261—116.5(15E) Application for the investment tax credit certificate.

116.5(1) *Investor application.* Investors may apply for an investment tax credit certificate for each equity investment made in a certified innovation fund by submitting an application to the authority for approval by the board and providing such other information and documentation as may be requested by the authority, including proof of investment.

116.5(2) *Application window.* For fiscal years beginning on or after July 1, 2026, applications shall be submitted electronically to the authority from July 1 to August 31 each year. The authority may adjust the annual application period dates under extenuating circumstances and will provide notice of adjustments on the authority's website. The authority may cease accepting applications during any annual application period if the requested tax credits for the program and the requested tax credits for the seed investor tax credit program available pursuant to Iowa Code chapter 15E, subchapter IV, as enacted by 2025 Iowa Acts, Senate File 657, exceed $12 million. Applications shall be date- and time-stamped by the authority in the order in which such applications are received.

116.5(3) *Board approval of maximum tax credits.* Following the end of each annual application period, the board will determine the total amount of tax credits to allocate pursuant to Iowa Code section 15.119 as amended by 2025 Iowa Acts, Senate File 657.

116.5(4) *Recommendation and approval of tax credits.* Authority staff will make a recommendation to the board for approval of tax credits to eligible investors following such determination by the board. The board will approve tax credit certificates on a first-come, first-served basis until the maximum aggregate amount of credits authorized for issuance has been reached for any fiscal year.

261—116.6(15E) Tax credit certificates.

116.6(1) *Preparation of the certificate.* The tax credit certificate shall be in a form approved by the authority and shall contain the taxpayer's name, address, and tax identification number; the amount of credit; the name of the innovation fund; the year in which the investment was made; and any other information that may be required by the department of revenue.

116.6(2) *Vested right.* A taxpayer does not obtain a vested right in a tax credit until a certificate has been issued by the authority.

116.6(3) *Claiming and transferring tax credits.* To claim a tax credit under this chapter, a taxpayer must attach to that taxpayer's tax return a certificate issued pursuant to this chapter when the return is filed with the department of revenue. A tax credit may be claimed in the first year that a certificate is issued. Tax credits shall be claimed in accordance with any applicable rules adopted by the department of revenue. A tax credit may be transferred in accordance with Iowa Code section 15E.52 as amended by 2025 Iowa Acts, Senate File 657, and any applicable rules adopted by the department of revenue.

261—116.7(15E) Additional information. The authority may at any time request additional information and documentation from an innovation fund regarding the operations, job creation and economic impact of the fund, and the authority may use such information in preparing and publishing any reports to be provided to the governor and the general assembly.

These rules are intended to implement Iowa Code section 15E.52 as amended by 2025 Iowa Acts, Senate File 657.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Regulatory Analysis

Notice of Intended Action to be published: 567—Chapter 2
"Public Records and Fair Information Practices"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A and 22.11
State or federal law(s) implemented by the rulemaking: Executive Order 10 (2023)

Public Hearing

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

September 24, 2025 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

Free language access: If you speak a non-English language, the Department of Natural Resources (Department) offers you language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

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

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on September 24, 2025. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.210.3408
Email: kelli.book@dnr.iowa.gov

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.210.3408 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.210.3408 al menos siete días antes del evento.

Purpose and Summary

Proposed Chapter 2 establishes the Department's policies and procedures for the maintenance of records. This chapter facilitates public access to open records and provides the procedures for identifying and protecting confidential records. The chapter implements provisions of the Fair Information Practices Act. The Environmental Protection Commission proposes to adopt 561—Chapter 2 by reference. Accordingly, the following Regulatory Analysis contains the substance for the underlying 561—Chapter 2.

Analysis of Impact

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

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

There are no costs to the general public; this chapter is mostly procedural and descriptive in nature. Those requesting a public record may incur a cost associated with fees prescribed by law and rule.

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

This rulemaking provides procedural structure of public and confidential records for the general public and regulated entities. Those parties will benefit from clear and concise rules as to how records will be maintained by the Department.

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

- **Quantitative description of impact:**

There are no costs associated with this proposed rulemaking.

- **Qualitative description of impact:**

There are no costs associated with this proposed rulemaking. This rulemaking provides the procedural structure of public and confidential records for the general public and regulated entities. Those parties will benefit from clear and concise rules as to how records will be maintained by the Department.

3. **Costs to the State:**

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

There are no costs associated with this proposed rulemaking.

- **Anticipated effect on State revenues:**

There will be no impact on State revenues associated with this proposed rulemaking.

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

Not applicable.

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

Not applicable.

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

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

None were considered.

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

The rulemaking is consistent with the provisions of Iowa Code chapter 22.

Small Business Impact

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

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

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

This rulemaking has no impact on small business. The rulemaking will benefit small businesses by providing clear and concise rules as to how records will be maintained by the Department.

Text of Proposed Rulemaking

ITEM 1. Rescind 567—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

567—2.1(17A,22) Adoption by reference. The commission adopts by reference 561—Chapter 2.

This rule is intended to implement Iowa Code section 22.11.

Regulatory Analysis

Notice of Intended Action to be published: 567—Chapter 4
"Agency Procedure for Rule Making"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.4, 17A.4A, 17A.4B, and 455A
State or federal law(s) implemented by the rulemaking: Executive Order 10 (2023)

Public Hearing

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

September 24, 2025 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

Free language access: If you speak a non-English language, the Department of Natural Resources (Department) offers you language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

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Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on September 24, 2025. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.210.3408
Email: kelli.book@dnr.iowa.gov

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.210.3408 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.210.3408 al menos siete días antes del evento.

Purpose and Summary

The existing rules provide the procedure for rulemaking; however, the rules are unnecessary and redundant to the provisions for rulemaking codified in Iowa Code sections 17A.4, 17A.4A, and 17A.4B. Because the rules simply duplicate the process provided by the Iowa Code, they can be rescinded by this proposed rulemaking consistent with Executive Order 10's mandate to remove redundancy and unnecessary provisions.

Analysis of Impact

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

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

There are no costs associated with this proposed rulemaking.

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

There are no persons impacted by this rulemaking. The procedure for rulemaking will remain in the Iowa Code.

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

- **Quantitative description of impact:**

There are no costs associated with this proposed rulemaking.

- **Qualitative description of impact:**

There are no costs associated with this proposed rulemaking.

3. **Costs to the State:**

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

There are no costs associated with this proposed rulemaking.

- **Anticipated effect on State revenues:**

There will be no impact on State revenues associated with this proposed rulemaking.

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

Not applicable.

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

Not applicable.

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

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

None were considered.

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

The rules are being rescinded because they are duplicative of the Iowa Code.

Small Business Impact

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

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

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

Not applicable.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **567—Chapter 4**.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Regulatory Analysis

Notice of Intended Action to be published: 567—Chapter 5
"Petitions for Rulemaking"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.7 and 455A
State or federal law(s) implemented by the rulemaking: Executive Order 10 (2023)

Public Hearing

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

September 24, 2025 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

Free language access: If you speak a non-English language, the Department of Natural Resources (Department) offers you language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

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

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on September 24, 2025. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.210.3408
Email: kelli.book@dnr.iowa.gov

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.210.3408 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.210.3408 al menos siete días antes del evento.

Purpose and Summary

The Iowa Administrative Procedure Act requires an agency to adopt rules describing how it will receive and review rulemaking petitions. 561—Chapter 5 governs the Department's process for receiving and reviewing rulemaking petitions. 561—Chapter 5 adopts the Uniform Rules on Agency Procedures contained in the first volume of the Iowa Administrative Code along with Department-specific provisions.

The Environmental Protection Commission proposes to adopt 561—Chapter 5 by reference. Accordingly, this Regulatory Analysis contains the substance applicable to the underlying 561—Chapter 5.

Analysis of Impact

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

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

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

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

Persons who file rulemaking petitions with the Department will benefit from this proposed rulemaking because it provides a clear and concise process for submitting a rulemaking petition.

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

- **Quantitative description of impact:**

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

- **Qualitative description of impact:**

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

3. **Costs to the State:**

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

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

- **Anticipated effect on State revenues:**

There will be no impact on State revenues associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

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

Not applicable; the proposed rulemaking is required by law.

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

Not applicable; the proposed rulemaking is procedural in nature and is required by law.

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

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

None were considered.

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

The proposed rulemaking is required by law.

Small Business Impact

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

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

- Exempt small business from any or all requirements of the rulemaking.

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

Not applicable.

Text of Proposed Rulemaking

ITEM 1. Rescind 567—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
PETITIONS FOR RULEMAKING

567—5.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 5.

This rule is intended to implement Iowa Code section 17A.7.

Regulatory Analysis

Notice of Intended Action to be published: 567—Chapter 6
"Declaratory Orders"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.9(2) and 455A
State or federal law(s) implemented by the rulemaking: Executive Order 10 (2023)

Public Hearing

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

September 24, 2025 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

Free language access: If you speak a non-English language, the Department of Natural Resources (Department) offers you language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

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

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on September 24, 2025. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.210.3408
Email: kelli.book@dnr.iowa.gov

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.210.3408 at least seven days before the event.

Asistencia linguistica gratuita: Si necesita ayuda en un idioma que no sea ingles, comuniquese con el Departamento at kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por telefono a 515.210.3408 el menos siete dias antes del evento.

Purpose and Summary

The Iowa Administrative Procedure Act requires an agency to adopt rules describing how it will receive and process declaratory orders. 561—Chapter 6 governs the Department's process for receiving and reviewing declaratory orders. The proposed chapter adopts the Uniform Rules on Agency Procedures contained in the first volume of the Iowa Administrative Code along with Department-specific provisions.

The Environmental Protection Commission proposes to adopt 561—Chapter 6 by reference. Accordingly, this Regulatory Analysis contains substance relevant to this underlying chapter.

Analysis of Impact

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

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

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

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

Persons who seek a declaratory order from the Department will benefit from this proposed rulemaking as it provides a clear and concise process for seeking a declaratory order.

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

- **Quantitative description of impact:**

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

- **Qualitative description of impact:**

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

3. **Costs to the State:**

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

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

- **Anticipated effect on State revenues:**

There will be no impact on State revenues associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

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

Not applicable; the proposed rulemaking is required by law.

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

Not applicable; the proposed rulemaking is procedural in nature and is required by law.

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

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

None were considered.

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

The proposed rulemaking is required by law.

Small Business Impact

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

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

- Exempt small business from any or all requirements of the rulemaking.

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

The proposed rulemaking has no impact on small business. The proposed rulemaking is procedural in nature and is required by law.

Text of Proposed Rulemaking

ITEM 1. Rescind 567—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
DECLARATORY ORDERS

567—6.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 6.

This rule is intended to implement Iowa Code section 17A.9.

Regulatory Analysis

Notice of Intended Action to be published: 567—Chapter 134
"Underground Storage Tank Certification Programs"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 455B.474 and 252J

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 455B, subchapter IV, part 8; Iowa Code chapter 252J; and 40 CFR Parts 280 and 281

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows. Persons who wish to attend the conference call should contact Keith Wilken via email. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to Keith Wilken prior to the hearing to facilitate an orderly hearing.

September 23, 2025	6200 Park Avenue, Suite 200
10 to 11 a.m.	Des Moines, Iowa
	Also via videoconference call

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at USTEO10@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.360.1671 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al eUSTEO10@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.360.1671 al menos siete días antes del evento.

Public Comment

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

Keith Wilken
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.681.0794
Email: USTEO10@dnr.iowa.gov

Free language access: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at USTEO10@dnr.iowa.gov.

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Purpose and Summary

Proposed Chapter 134 establishes the requirements to regulate groundwater professionals, underground storage tank (UST) compliance inspectors, and UST professionals. UST professionals include UST installers, UST removers, UST testers, cathodic protection testers, UST liners, and UST installation inspectors.

The purpose of these rules is to ensure that groundwater professionals, UST compliance inspectors, and UST professionals have sufficient knowledge, experience, and continuing education to

properly perform the necessary duties to assess and remediate releases at underground storage tank systems and to install, test, inspect, and remove equipment associated with underground storage tanks to ultimately protect the public health and safety of the citizens and natural resources of Iowa.

Iowa's underground storage tank rules have been approved by the U.S. Environmental Protection Agency (EPA) into Iowa's required State Program Approval (SPA).

Analysis of Impact

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

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

Groundwater professionals, UST compliance inspectors, and UST professionals, UST companies, and any individual or company wanting to become certified will bear the costs of the proposed rulemaking. These costs are unchanged from the existing UST Certification Program rules in existing Chapter 134.

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

Citizens of Iowa, groundwater professionals, UST compliance inspectors, UST professionals, UST companies, owners and operators of USTs, and related businesses and industries in Iowa will benefit from the proposed rulemaking.

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

- **Quantitative description of impact:**

The initial certification application and each renewal application for groundwater professionals is $200 every two years. The initial certification application and each renewal application for UST compliance inspectors is $200 every two years. The initial certification application and each renewal application for a certified company is $200 every two years. The initial certification application and each renewal application for all UST professionals is $200 every two years. There is a $50 late fee that is applied to applications submitted after the renewal deadline.

- **Qualitative description of impact:**

The qualitative impact of the proposed rulemaking is neutral since the UST Certification Programs requirements in this chapter remain largely status quo relative to their current implementation.

3. **Costs to the State:**

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

The costs to the Department are within the confines of current funding sources and are attributed to staff time in administering and enforcing the UST Certifications Programs.

- **Anticipated effect on State revenues:**

The proposed chapter will have a neutral impact on State revenues because the UST Certification Programs rules were already being implemented.

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

The comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction is neutral since the UST Certification Programs requirements in this chapter remain largely status quo relative to their current implementation. Moreover, these rules are required by State law.

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

There are no less costly or intrusive methods to accomplish the benefit. UST Certification Programs regulations are required by Iowa Code section 455B.474.

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

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

No alternative methods were determined viable.

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

UST Certification Programs regulations are required by Iowa Code section 455B.474. The proposed rulemaking provides a dedicated chapter that sets forth the certification requirements, certification renewal requirements, insurance requirements, continuing education requirements, and disciplinary actions for groundwater professionals, UST compliance inspectors, and UST professionals who work on UST and leaking UST sites in Iowa.

Small Business Impact

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

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

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

Based on the State regulations, all groundwater professionals, UST compliance inspectors, and UST professionals are regulated in a similar fashion regardless of their employment entity.

Text of Proposed Rulemaking

ITEM 1. Rescind 567—Chapter 134 and adopt the following **new** chapter in lieu thereof:

CHAPTER 134
UNDERGROUND STORAGE TANK CERTIFICATION PROGRAMS

567—134.1(455B) Scope. The purpose of this chapter is to provide rules for the certification of groundwater professionals, compliance inspectors, and other UST professionals, including certification qualification, fees and administration. All rules, standards, technical guidance, and other similar legal or technical documents referenced in this chapter shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—134.2(455B) Definitions incorporated by reference. The definitions in 567—Chapter 135, Iowa Code section 455B.471, and 40 CFR §280.12 (2015) shall apply to this chapter.

567—134.3(455B) Certification classifications for individuals and companies

134.3(1) A separate certification will be issued for:

a. UST installers;
b. UST removers;
c. UST testers;
d. UST cathodic protection testers;
e. UST liners;
f. UST installation inspectors;
g. UST compliance inspectors;

h. Groundwater professionals.

134.3(2) A company employing certified individuals for compliance inspections, installation, upgrading, removal, lining or testing of UST systems shall be certified as a company. A company may have its certification revoked if it employs uncertified individuals to do work requiring a certification.

134.3(3) Service technicians as defined in 567—Chapter 135 are exempt from certification under this chapter.

567—134.4(455B) General certification requirements.

134.4(1) *Applications and certificates.*

a. Applications for certifications shall be submitted on a form provided by the department along with all required supporting documentation. Certificates shall be issued and renewed on a two-year calendar basis. Groundwater professional certificates expire on December 31 of each odd-numbered year and all other certificates expire on December 31 of each even-numbered year. All applicants must be at least 18 years of age.

b. Applications shall contain the following information:

(1) Evidence that the applicant meets the experience, education, and other qualification prerequisites contained in this chapter for each certification.

(2) Contact information for the applicant.

(3) Other information necessary for a determination of the applicant's qualifications.

134.4(2) *Certification fees.* A $200 fee shall be submitted for each groundwater professional certification. For all other certifications, a $200 fee shall be submitted with each application for an initial company and individual certification application, including when an individual applies for multiple non-groundwater professional certifications using a single department-approved form. Fees are nonrefundable, are payable to the Department of Natural Resources, and will not be prorated.

134.4(3) *Reciprocity.* Persons who are certified as a UST installer, installation inspector, tester, liner, or remover under another state or federal regulatory program that has been approved by the department may be eligible for certification in Iowa without having to take a course of instruction or pass the examination. Applicants for reciprocity shall still pay the application fee and follow certification renewal requirements.

567—134.5(455B) Liability insurance

134.5(1) *Environmental liability insurance.* All certificate holders, except for compliance inspectors and groundwater professionals, must hold environmental liability insurance as required by Iowa Code section 455B.474(10). A company may provide insurance for all of its employees who are UST certificate holders.

134.5(2) *Employer exception.* Individuals certified by this chapter, except for groundwater professionals, employed by owners or operators of UST systems to work only on the owner's or operator's private system(s) are exempt from insurance requirements.

134.5(3) *Forms of acceptable insurance.* All parties certified by this chapter, except groundwater professionals and compliance inspectors, will provide evidence of environmental liability insurance to the department.

a. Environmental liability insurance may be provided by a private insurer authorized to do business in Iowa.

b. Evidence of environmental liability insurance may be provided using methods of self-insurance as outlined in 567—Chapter 136.

134.5(4) *Professional liability insurance requirements.* All certified compliance inspectors are required to have professional liability insurance with minimum liability limits of $1 million per occurrence and in the aggregate.

567—134.6(455B) Training courses and examinations.

134.6(1) *Requirements.*

a. Prior to the issuance of a certification as a groundwater professional, compliance inspector, installer, installation inspector, or remover, the applicant will successfully complete a department-led or department-approved training course and pass a qualification examination offered or approved by the department.

b. Examination requirements for all individual certificate holders.

(1) A passing grade of not less than 75 percent is required on the respective examinations for installers, installation inspectors, removers and compliance inspectors. A passing grade of not less than 70 percent is required on the groundwater professional examination.

(2) Applicants who have failed the examination will not perform work unless supervised by an appropriately certified individual.

(3) A fee reflecting the actual costs of developing and administering each course of instruction and examination may be charged.

(4) Nothing in this chapter shall limit the right of the department to require additional educational requirements of certification holders.

c. An applicant who receives less than a passing score on an examination may retake the test within 180 days without reapplying. The application of an applicant who fails the second examination will be denied. An applicant who fails the second examination may reapply for certification but will not retake the examination until the applicant has successfully completed a course of instruction that is administered or approved by the department and that is administered after the applicant's second test.

134.6(2) *Educational offering requirements.*

a. Courses approved by the department. The requirement for educational offerings may be met only by those courses that have been approved by the department.

b. Form of course approval. Approval of a course may take the form of:

(1) Program approval granted by the department to the sponsor or instructor of an educational offering;

(2) Individual requests for credit granted by the department to an installer or inspector for an educational offering whose sponsor or instructor did not seek program approval; or

(3) Blanket approval granted by the department to educational offerings sponsored by the department or other professional organizations whose standards have been approved by the department.

c. Procedures for course approval.

(1) Application for program approval shall be made by the sponsor or instructor to the department and include an agenda or an outline of the content of the proposed educational offering.

(2) The application shall be reviewed by the department, and notice of approval or denial of program approval shall be sent to the sponsor or instructor. Credit hours may be limited by the department based on program content.

d. Proof of participation. Any approved course must provide participants a certificate of satisfactory completion of the course or provide the department a list of participants who have satisfactorily completed the course.

134.6(3) *Exceptions to required training.*

a. An applicant may be issued a compliance inspector certification without the required training if all other requirements are satisfied and the required training is not offered within 60 days of the date of application. The applicant must attend required training when required training is next offered. If an applicant receives a certification under this temporary exception, the individual must attend required training, if offered, before renewal of the certification.

b. If an applicant receives a compliance inspector certification under the temporary training exception above, all compliance inspection activities must be conducted under the supervision of a trained Iowa-certified compliance inspector. Supervision does not require the trained Iowa-certified compliance inspector to be on site for compliance inspections conducted by an inspector who has not completed the required training. The trained Iowa-certified compliance inspector must co-sign compliance inspections conducted by the inspector who has not completed the required training.

c. Cathodic protection testers are not required to complete a course of instruction but are required to maintain AMPP certification, STI cathodic protection certification, or equivalent certification approved by the department.

134.6(4) *Exemption from examination.*

a. A professional engineer exempted from groundwater professional certification examination pursuant to Iowa Code section 455B.474(9)*"g"* must meet the continuing education requirements of 567—134.8(455B) for the exemption to apply.

b. An engineer who is conducting business as an installation inspector or remover and who has met the requirements in Iowa to be a registered professional engineer (P.E.) is exempt from the educational requirements so long as UST-related work is in the scope of the engineer's P.E. license and regular practice. Professional engineers must meet the continue education requirement of 567—134.8(455B) for this exemption to apply.

567—134.7(455B) Certification issuance. Upon receipt, review, and acceptance of an application and corresponding fee, the department will furnish the applicant with a certificate showing the name of the individual or company and the expiration date.

567—134.8(455B) Certification renewal.

134.8(1) *Renewal period.* Applications for renewal must be submitted on a form provided by the department and no later than 30 days prior to the expiration date. If a certificate holder fails to renew the certification by the expiration date, the department may grant a grace period during which the applicant may submit the application and payment of the renewal fee.

134.8(2) *Renewal requirements.*

a. The renewal application shall be accompanied by a $200 renewal fee. Company renewal applications will include proof of liability insurance as required under 567—134.5(455B). Applications received after the December 1 deadline will be accepted with an additional $50 late fee.

b. To be eligible for renewal, an individual certificate holder shall fulfill all continuing education requirements, along with any other requirements set forth in each certification classification rule in this chapter. The department will consider all past disciplinary actions against the certificate holder when evaluating renewal eligibility.

134.8(3) *Continuing education.* Individual certificate holders must complete continuing education requirements as follows:

a. Groundwater professionals must complete 12 hours of continuing education every two years in the areas relating to underground storage tank contamination assessment and corrective action activities.

b. Cathodic protection testers must complete continuing education sufficient to maintain AMPP (NACE) or STI cathodic protection certification or department-approved equivalent certification.

c. All other certificate holders must complete eight hours of department-approved continuing education every two years.

d. Proof of completion of continuing education must be submitted to the department no later than the date of each renewal application. The department may limit the number of hours granted for similar courses during a renewal period.

e. An individual's first certification period's continuing education requirements can be waived. Continuing education hours cannot be carried forward to the next renewal period.

f. Courses other than those currently approved by the department may be submitted to the department for consideration of approval.

567—134.9(455B) Groundwater professional certification requirements. In order to be certified as a groundwater professional, a person must meet one or more of the criteria described in Iowa Code section 455B.474(9). For a person to qualify under Iowa Code section 455B.474(9)*"b"*(4), at least two years of related formal education is required. Pursuant to Iowa Code section 455B.474(9)*"c,"* for

persons qualified to be certified under this rule, the failure to obtain a certificate prior to conducting applicable work will result in a $50 civil penalty.

567—134.10(455B) UST compliance inspector certification requirements.

134.10(1) *Qualifications.*

a. A person retained by an owner or operator of a UST facility for the purpose of determining compliance of a UST system for a compliance inspection required by the department under 567—135.19(455B) must hold a current UST compliance inspector certification issued by the department.

b. Inspector certification will be issued by the department to a person who:

(1) Meets the certification requirements listed under 567—134.6(455B);

(2) Satisfies one of the following:

1. Is a certified installer;

2. Is a certified installation inspector;

3. Has participated on a minimum of 50 onsite compliance inspections with a certified compliance inspector;

4. Has two years of experience working with petroleum equipment, including installations, maintenance, or testing; or

5. Has other relevant experience approved by the department; and

(3) Is not found to be in violation of this chapter and has not had a UST professional certification revoked by the department.

134.10(2) *Renewal qualifications.* To be eligible for certification renewal, a compliance inspector shall have:

a. Fulfilled the department's continuing education requirements in 567—134.8(455B); and

b. Conducted at least 12 compliance inspections in the past two years.

134.10(3) *UST compliance inspector responsibilities.*

a. Compliance inspection. The UST compliance inspector shall conduct a compliance inspection in accordance with this rule and 567—Chapter 135. The inspector shall notify the department of the date of a site inspection at least ten days prior to the inspection or another time frame approved by the department.

b. Inspection process.

(1) Upon completion of the site inspection, the inspector shall send an inspection report to the owner and operator within ten business days. At a minimum, the report shall provide the following:

1. Any violations or deficiencies related to 567—Chapter 135 or other applicable state or federal law and those specific actions necessary to correct the violations or deficiencies.

2. Applicable time frames to correct violations or deficiencies if established in 567—Chapter 135 or within 60 days of receipt of the inspection report or another reasonable time period approved by the department.

(2) A final electronic report shall be submitted to the department and a copy provided to the owner and operator as provided in 134.10(3)*"c"* within the following time frames:

1. Within ten business days of the inspection if the results of the inspection find no violations or deficiencies requiring corrective action.

2. Within ten business days of the inspector's receipt of all necessary documentation of all action required to correct violations and deficiencies.

3. In any case, no later than 90 days of the site inspection.

4. Any deficiencies identified on the day of a compliance inspection must be reported to the department as a deficiency, regardless of when it is addressed.

c. Electronic inspection reporting. The inspector shall prepare an electronic report in accordance with the following:

(1) The inspector shall enter the results of the site inspection discovered at the time of the inspection and any actions taken to correct violations and deficiencies on an Internet-based electronic

format developed by the department and in accordance with guidance. The department's software will be capable of generating an inspection report.

(2) The department will develop a generally compatible electronic platform using XML or another approved format. The department will provide the XML schema file format to describe the data needed to allow an inspector to transfer multiple site inspection results in an electronic batch process over the Internet using the department's inspection website.

(3) The inspector shall provide a print copy of the electronically generated inspection report to the owner and operator or an alternative report approved by the department.

(4) The inspection report submitted to the department electronically will include at least one overall site photo.

d. Evidence of violations or deficiencies. Any evidence of violations or deficiencies observed during the inspection must be photographed using a digital photograph. Digital photographs must be submitted as part of the electronic inspection report and maintained by the inspector for five years as part of the inspector's records.

e. Records. The inspector must provide any inspection records provided by the owner and operator to the department upon request.

f. Inspection technical requirements. An inspector of a UST system must check for compliance with the technical standards of 567—Chapter 135. The inspection of a UST system currently in operation shall include but not be limited to the following:

(1) The material currently stored in the UST.

(2) The type of tank and lines currently at the site as compared to the registered information on the department's database.

(3) Checking site records demonstrating operational compliance (567—subrule 135.4(5)).

(4) Checking release detection records (567—subrule 135.5(6)).

(5) Visually checking for releases or other violations by opening covers of dispensers, manways, and containment sumps for submersible pumps and other piping connections for:

1. Indications of a product release and leaking equipment.
2. Deteriorating product lines or excessive bends in product lines or flex connectors.
3. Proper anchoring of breakaways (dispensers only).

(6) Current operating status of cathodic protection system, if present.

(7) Presence and operational condition of spill and overfill equipment (567—paragraph 135.3(1)*"c"*).

134.10(4) *Conflict of interest.* A compliance inspector shall not conduct a compliance inspection if the compliance inspector is the owner or operator of the UST system, an employee of the owner or operator of the UST system, or a person having daily onsite responsibility for the operation and maintenance of the UST system.

567—134.11(455B) UST installer certification requirements.

134.11(1) *Qualifications.* An installer of an UST system shall apply for a certification as an installer. In addition to the certification requirements listed under 567—134.6(455B), an installer must:

a. Provide documentation of at least two years of relevant experience;

b. Provide documentation of manufacturer certification for work, including but not limited to tank systems, piping systems, leak detection and monitoring systems, and corrosion protection systems; and

c. Have completed a 40-hour OSHA Hazardous Waste Operations and Emergency Response (HAZWOPER) training.

134.11(2) *Renewal qualifications.* To be eligible for certification renewal, an installer shall:

a. Fulfill the department's continuing education requirements in 567—134.8(455B);

b. Maintain manufacturer certification; and

c. Complete an annual eight-hour HAZWOPER refresher course.

134.11(3) *Responsibilities.*

a. Certified installer. A certified installer shall be on site during the performance of all work, including subcontracted work, for which the owner/operator has contracted to have completed by the installer. The certified installer is responsible for all UST-related work at the site and must ensure that the performance of the work and the finished work conform to industry standards and codes and manufacturers' requirements.

b. Local permits and notification. The certified installer is responsible for ensuring that all local installation permits and notice requirements are satisfied.

c. Work performed. UST system installation includes all work associated with the placement of the tanks, piping, pumps, dispensers, gauging systems, monitoring systems, corrosion protection, containment sumps, spill and overfill devices, and ancillary systems that, if installed incorrectly, could cause or delay detection of a leak. Installation specifically includes excavation, equipment placement, backfilling, piping, electrical work, testing calibration, and start-up. Tank installation also includes installation of the appropriate equipment to meet National Emissions Standards for Hazardous Air Pollutants (NESHAP) requirements (40 CFR §63.6580, Subpart ZZZZ), including submerged fill and vapor balance systems (Stage 1 vapor recovery) and the testing of those systems.

d. Testing of UST equipment. Spill prevention equipment, containment sumps and UDC at new installations must be tested to ensure the equipment is liquid-tight before the UST system is placed into service. Acceptable test methods include vacuum, pressure, or liquid testing used in accordance with requirements developed by the manufacturer; a code of practice such as PEI RP1200; or methods determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

134.11(4) *Documentation of work performed.* Installing a new UST system or upgrading a UST system requires an installer to submit department forms and testing documents applicable to the installation, signed by the owner, to the department no later than 30 days after the final third-party inspection or 30 days after completion if no inspection is required. Each certified installer responsible for the new system installation or the upgrading of an existing system shall sign DNR Form 148 as required by 567—paragraph 135.3(3)*"e."* Secondary containment testing performed at installation or to meet periodic testing requirements shall be recorded on the department's Secondary Containment Testing form unless otherwise approved by the department. Test results shall be dated and signed by the certified installer who performed the test.

567—134.12(455B) UST tester certification requirements.

134.12(1) *Qualifications.* A tester of UST systems shall apply for certification as a tester. A person engaging in testing described in 567—subparagraph 134.12(3)*"a"*(2) need not be certified if that person is under the supervision of an individual certified under this chapter when conducting those tests. In addition to the certified requirements listed under 567—134.6(455B), a tester shall provide documentation of the following:

a. Current manufacturer certification(s) for equipment being used for testing; and

b. Experience as documented by at least one of the following:

(1) One year of relevant experience.

(2) Completion of a minimum of 80 on-site tests with a certified tester.

(3) Other relevant experience as approved by the department.

134.12(2) *Renewal qualifications.* To be eligible for certification renewal, a tester shall fulfill the department's continuing education requirements in 567—134.8(455B) and shall maintain manufacturer certification.

134.12(3) *Responsibilities.*

a. The certified tester is responsible for testing tanks, lines, leak detection systems, or monitoring systems as required by 567—Chapter 135 and this chapter.

(1) A precision test is required when the system is covered and is ready to be placed into service; a volumetric, nonvolumetric, or vacuum test may be used as a method for testing the system and a

hydrostatic pressure test may be used for testing the lines. Systems used for leak detection or monitoring (such as statistical inventory reconciliation, vapor or water monitoring wells, or tracer-type tests) shall not be acceptable as a precision test at the completion of the installation of a new system or the upgrading of an existing system. Automatic in-tank gauging may be acceptable if third-party U.S. EPA approval as a precision test has been received for testing tanks.

(2) A certified tester may also perform periodic testing of spill prevention equipment and overfill devices, containment sumps, and UDC as required by 567—Chapter 135. Spill prevention equipment, containment, sumps and UDC at new installations must be tested to ensure the equipment is liquid-tight before the UST system is placed into service. Acceptable methods include vacuum, pressure, or liquid testing used in accordance with requirements developed by the manufacture; a code of practice such as PEI RP1200; or methods determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

(3) An individual does not need to be certified to conduct periodic testing of spill prevention equipment, containment sumps, and UDC as required by 567—subrule 135.4(12).

b. A UST tester must have manufacturer training completed to test a specific manufacturer system or component if manufacturer certification is applicable.

EXCEPTION: Installation inspectors are not required for the testing of UST systems, lines, leak detection, and cathodic protection as required by 567—Chapter 135 after the system has been put into service.

134.12(4) *Documentation of work performed.* A copy of the test results shall be attached to DNR Form 148 when testing is done in connection with an installation. The test results shall identify the tanks and piping tested, the test method employed, and the results of the test. Periodic testing shall be recorded on the department's Secondary Containment Testing form unless otherwise approved by the department. Test results shall be dated and signed by the certified tester who performed the tests.

567—134.13(455B) UST liners certification requirements.

134.13(1) *Qualifications.* A person installing the lining for a UST system shall be certified as a liner. In addition to the certification requirements listed under 567—134.6(455B), a liner shall provide documentation of at least two years of relevant experience, provide documentation of current manufacturer certification, and have completed a 40-hour HAZWOPER training.

134.13(2) *Renewal qualifications.* To be eligible for certification renewal, a liner shall:

a. Fulfill the department's continuing education requirements in 567—134.8(455B);

b. Maintain manufacturer certification; and

c. Complete an annual eight-hour HAZWOPER refresher course.

134.13(3) *Lining system investigation and installation requirements.*

a. Inspection of internal lining. A steel underground storage tank that satisfies the corrosion protection requirement as set forth in 567—subparagraph 135.3(2)*"b"*(1) by the addition of an internal lining shall be internally inspected within ten years of the date the tank was lined and every five years thereafter. The purpose of the inspection is to determine if the lining continues to perform according to the manufacturer's specifications, state and federal rules, and national standards and codes and to determine if the tank is still structurally sound. The department accepts both manned entry and video camera periodic inspections. The lining method employed must be specifically designed for the purpose, be compatible with the product stored, and meet acceptable federal and state standards as set forth in 567—Chapter 135.

b. Integrity testing for tanks. Liners shall verify structural integrity, including thickness and strength of the underground storage tanks, whenever tanks are physically entered (manned entry) for periodic inspections. The following standards must be used for lining and periodic inspections and integrity testing:

(1) Manned entry inspection. American Petroleum Institute (API) Standard 1631: Interior Lining and Periodic Inspection of Underground Storage Tanks.

(2) Video camera inspection. API Standard 1631; "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera" developed by Ken Wilcox Associates Inc. (KWA), Methods A and C; and ASTM G-158 (approved prediction models).

(3) Repairs to lining. Standard 631 of the National Leak Prevention Association (NLPA): Entry, Cleaning, Interior Inspection, Repair and Lining of Underground Storage Tanks. Repaired lining must meet the requirements of API 1631 §8.

(4) Documentation of the inspection. API 1631—Form C: Tank Re-Inspection Affidavit. Liners shall document any defects noted in the system including but not limited to holes and perforations using API 1631—Form C: Tank Re-Inspection Affidavit and shall include photographs of all methods of repair.

c. Documentation of work performed. A liner shall submit the API 1631 report form to the department certifying that all work was performed in accordance with applicable industry standards.

567—134.14(455B) UST installation inspector certification requirements.

134.14(1) *Qualifications.* A person inspecting the installation of any UST system shall be certified as an installation inspector. In addition to the certification requirements listed under 567—134.6(455B), an installation inspector shall provide documentation of at least two years of relevant experience and documentation of current manufacturer certification.

134.14(2) *Renewal qualifications.* To be eligible for certification renewal, an installation inspector shall fulfill the department's continuing education requirements in 567—134.8(455B) and shall maintain manufacturer certification.

134.14(3) *Responsibilities.*

a. A copy of the inspection report must be submitted within 14 days after the inspection is complete. Both the inspection form and DNR Form 148 must be received by the department before the UST system can be activated.

b. The installation inspector shall be present on site, shall visually observe all inspections, and shall be able to attest to the results. A video or other recording device showing the work completed by the installer shall not be used, nor shall it be an acceptable method of providing independent inspection of the work completed.

c. Inspections are required when concrete is cut or excavation is required that could affect the integrity or operation of the UST system or when a component that routinely contains product is installed, replaced, or repaired. Inspections shall occur when the component is uncovered and replaced or repaired and during testing when required (i.e., piping replacement or repair) but before operation recommences.

(1) An inspection shall occur before the tanks or piping are installed.

(2) An inspection shall occur before the covering of tank or piping when all tanks and piping are exposed. The inspector shall witness testing of the primary and secondary piping and testing of the secondary containment, including sumps, UDC, and secondary containment leak detection equipment.

(3) A final inspection shall occur when all components are operational and the system has been covered but before actual operation.

(4) Whenever secondary containment (such as sumps or UDC) is installed, at least one inspection is required after the equipment is installed and before the system is backfilled.

d. Replacing, repairing, or installing the following does not require an inspection: drop tubes, overfill devices, spill buckets, ATG systems, dispensers, submersible turbine pumps, automatic line leak detectors, internal lining and periodic inspections or lining repair, cathodic protection systems, interstitial sensors, flex connectors, and line and tank tightness testing.

e. Prework notification requirement.

(1) A certified company/individual hired by an owner/operator to perform work shall notify the owner's/operator's certified installation inspector of choice prior to commencing work. Additionally, the owner/operator is responsible for supplying the name of the installation inspector if it is not a governmental entity to any state or local agency with rules affecting installations or upgrades.

(2) The prework notice given to the installation inspector shall include, at a minimum, the following information:

1. Description of the work planned.
2. The certified individual responsible for the work to be performed.
3. A schedule of the work to be performed.
4. A copy of the UST notification of intent to install form submitted to the department.

(3) The installation inspector shall review the work plan, and any required changes by the installation inspector must be submitted to the company/individual prior to the beginning of the described work. An inspection schedule must be agreed upon before work commences. Changes to the work schedule, including the inspection schedule, because of weather or unforeseen jobsite conditions shall be agreed upon as soon as the extenuating circumstances are recognized.

f. Preinstallation and installation checklist.

(1) The certified company/individual performing the work shall submit to both the installation inspector and the department a notification of intent to install form 30 days prior to an installation or upgrade.

(2) Installation inspectors are required to use the department's installation inspection checklist. The installation inspection checklist must be submitted within 14 days following the tank installation inspection.

134.14(4) *Conflict of interest.* In addition to the conflict-of-interest provisions outlined in 567—134.16(455B), the department may require the owner/operator to seek alternative inspection services for any reason deemed prudent to ensure quality installations.

134.14(5) *Miscellaneous requirement.* An installation inspector has the right to postpone work or to stop work on a job if standards as outlined in this chapter are not followed by the installer. Furthermore, once an installation inspector has been placed on a job, that installation inspector cannot be replaced without the department's approval. Installation inspectors must verify that any local permit and notice requirements are in place.

567—134.15(455B) UST remover certification requirements.

134.15(1) *Qualifications.* A person removing any UST system shall be certified as a remover. In addition to the certification requirements listed under 567—134.6(455B), a remover shall provide documentation of at least two years of removal or other relevant experience and complete a 40-hour OSHA HAZWOPER training.

134.15(2) *Renewal qualifications.* To be eligible for certification renewal, a remover shall:

a. Fulfill the department's continuing education requirements in 567—134.8(455B);

b. Comply with department-issued UST closure guidance in 567—Chapter 135; and

c. Complete an annual eight-hour HAZWOPER refresher course.

134.15(3) *Responsibilities and documentation of work performed.* A certified remover shall be on site during the performance of all UST closure-related work, including subcontracted work, for which the owner/operator has contracted to have completed by the remover. Removers are responsible for ensuring that all work performed complies with OSHA safety requirements. Removers shall submit to the department a notification of closure form 30 days prior to the scheduled removal or fill in place as required in 567—subrule 135.15(2). Removers shall submit to the department the closure report within 45 days of removal or fill in place as required in 567—paragraph 135.15(3)*"e."* Removers shall ensure that all local permits and notice requirements are satisfied.

567—134.16(455B) Conflict of interest.

134.16(1) A certified individual or a company will not conduct a UST installation inspection for any facility at which the certificate holder is engaged in other professional services regulated under this chapter.

134.16(2) A person working for a certified company as an installer, liner, remover, or tester shall not provide services as an installation inspector on sites where UST systems are being installed or

lined by the person's prior employer until six months after leaving the prior employer's certified company. If a certified individual is no longer employed by a certified company, the certified company shall notify the department within 30 days of that occurrence.

567—134.17(455B) Duty to report. Any individual or company certified as a compliance inspector, installer, installation inspector, tester, liner, or remover shall timely report suspected and confirmed releases within 24 hours of discovery (6 hours if a hazardous condition exists) as described in 567—135.6(455B) to the owner and operator. The certificate holder shall recommend to the owner and operator any release confirmation actions or other investigatory and response actions that in the certificate holder's judgment would be consistent with the requirements of 567—135.6(455B). The certificate holder shall report to the department within seven days of discovering a confirmed release. The certificate holder is not responsible for reporting a suspected release as described in 567—135.6(455B) directly to the department.

567—134.18(455B) Disciplinary actions—suspension, revocation and denial of certification.

134.18(1) *General.*

a. It is the policy of the department to enforce standards of professional and ethical conduct that are generally accepted within the professions that qualify a person for certification in Iowa. The department intends to investigate and enforce standards of conduct by a certificate holder that fall within the scope of the certificate holder's relationship with the department. The department may impose disciplinary actions, which may include notice of deficiency, probation, suspension, revocation, or denial of a certificate.

b. The suspension or revocation of a certificate shall prevent the certificate holder from engaging in activities for which certification is required. A certificate holder shall immediately surrender the certificate after the effective date of a suspension or revocation decision. The department may reinstate the certification if it is determined the person has satisfied the terms of the suspension order and the certification has not expired. Additional education, training, and reexamination may be required as a condition of reinstatement.

c. A notice of deficiency may be issued to any certificate holder for any reason below and is not appealable pursuant to 134.18(5).

134.18(2) *Reasons for discipline for groundwater professionals.* The department may impose probationary requirements or suspend, revoke or deny certification as a groundwater professional for any of the following reasons:

a. A material misstatement of fact in an application for certification.

b. Failure to provide the fee for certification.

c. Loss of license, certification, or registration necessary to meet the certification requirements in 567—134.9(455B).

d. Insufficient proof of qualifications required under 567—134.9(455B).

e. Failure to successfully complete the certification requirements.

f. Default on an obligation owed to or collected by the state as provided in Iowa Code section 421.17(27)*"e."*

g. Fraudulent omissions or misstatements of material fact in any reports, correspondence or communications with the department.

h. Violation of an ethical standard that the person knew or should have known and that results in or reasonably could have resulted in material consequences.

i. Failure to report the presence of contamination to the parties reasonably believed to be responsible for reporting the contamination to the department as provided in 567—Chapter 131 and 567—135.6(455B).

j. Knowingly making a materially false statement, representation or certification on any application, record, report, or document maintained or submitted to the department.

k. Gross incompetence in the performance of groundwater professional services and corrective action.

l. Material misstatement of facts or misrepresentation of information provided pursuant to Iowa Code chapter 455B, subchapter IV, part 8.

m. Repeated acts or omissions that, when taken together, indicate a lack of competency, professionalism, ethical conduct, or adherence to standards of performance generally expected by the profession. The severity of the sanction may be based on the gravity of the acts or omissions and the degree of culpability. Disciplinary sanctions under this subrule will not be applied without providing the person with at least one written notice of the deficiency and a written warning that future repetition may result in discipline. Conduct or omissions that may be a basis for discipline include but are not limited to the following:

(1) Repeated incidents of substandard field investigation will result in suspension or revocation.

(2) Repeated incidents of substandard, inaccurate or incomplete site cleanup reports and failure to follow site cleanup report instructions will result in suspension or revocation.

(3) Conduct warranting a sanction after prior suspension will result in a revocation.

134.18(3) *Reasons for discipline for compliance inspectors.*

a. Probation or suspension. The department may impose probationary requirements or suspend the certification of a certified inspector for good cause. The suspension may require the certificate holder to take remedial measures intended to correct or prevent future acts and omissions. Good cause includes but is not limited to:

(1) A violation of these rules.

(2) Negligent misrepresentation of material facts in a compliance report.

(3) Negligent failure to identify a material violation of UST operation and maintenance standards set out in 567—134.10(455B).

(4) Repeated failure to conduct compliance inspections and submit reports in accordance with the standards set out in 567—134.10(455B).

(5) Incompetence on the part of the certified inspector as evidenced by errors in the performance of duties and activities for which the certification was issued.

(6) Repeated failure to submit reports of inspection activities to the department or the owner and operator as provided in 567—134.10(455B).

b. Revocation. The department may revoke the inspector certification for one or more of the following:

(1) Willful disregard of, or willful or repeated violations of, this chapter or 567—Chapter 135.

(2) Fraudulent omissions or misstatements of material facts in a compliance inspection report or in other written or oral communications with the department.

(3) A knowing and willful failure to detect and report a material violation of UST operation and maintenance standards as part of a compliance inspection required by 567—135.19(455B).

(4) Acts or omissions warranting suspension after having certification previously suspended.

(5) The revocation of a certification as an installer or installation inspector under 567—134.11(455B) or 567—134.14(455B).

134.18(4) *Reasons for discipline for all other UST professionals.*

a. Probation or suspension. The department may impose probationary requirements or suspend the certificate of any other individual or company certified under this chapter for good cause. A suspension may require the certificate holder to take remedial measures intended to correct or prevent future acts or omissions. Good cause includes but is not limited to:

(1) A violation of these rules.

(2) Negligent misrepresentation of material facts in a report submitted to the department.

(3) Incompetence on the part of the certificate holder as evidenced by errors in the performance of duties and activities for which the certificate was issued.

(4) Repeated failure to submit reports of activities to the department or the owner/operator as provided in this chapter.

b. *Revocation.* The department may revoke the certification of a company or individual for one or more of the following:

(1) Willful disregard of, or willful or repeated violations of, this chapter or 567—Chapter 135.

(2) Omissions or misstatements of material facts in a report or in other written or oral communications with the department.

(3) A knowing and willful failure to detect and report a material violation of UST operation and maintenance standards.

(4) Acts or omissions warranting suspension after a certification was previously suspended.

134.18(5) *Disciplinary procedure for all certificate holders.*

a. Prior to issuance of a final department action imposing a disciplinary sanction of probation, suspension, revocation, or denial of certification, the department shall conduct such lawful investigation as it deems necessary to substantiate material facts sufficient to warrant a disciplinary sanction.

b. Written notice of a sanction shall be sent by certified mail to the person against whom the sanction is imposed. The notice shall provide a brief explanation of the facts relied upon and the sanction to be imposed. The notice shall inform the recipient of applicable appeal rights.

c. A person may appeal a decision imposing a probation, suspension, revocation or denial of certification within 30 days of receipt of the notice. Upon timely receipt of the notice of appeal, contested case procedures, including informal settlement, shall apply as provided in 561—Chapter 7. In accordance with 561—subrule 7.5(2), the department shall initiate pleading by the filing of a petition.

d. If a timely appeal has not been filed, the sanction is effective after 30 days from receipt of the notice. A party may request stay of the sanction, as provided in 561—subrule 7.15(7), after issuance of a proposed decision.

134.18(6) *Noncompliance with support order procedures.* Upon receipt of a certification of noncompliance with a support obligation as provided in Iowa Code section 252J.7, the department will initiate procedures to deny an application for certification or renewal or to suspend a certification in accordance with Iowa Code section 252J.8(4). The department shall issue a notice by certified mail to the person of its intent to deny or suspend professional certification based on receipt of a certification of noncompliance. The suspension or denial shall be effective 30 days after receipt of the notice unless the person provides the department with a withdrawal of the certificate of noncompliance from the child support recovery unit as provided in Iowa Code section 252J.8(4)*"c."* Pursuant to Iowa Code section 252J.8(4), the person does not have a right to a hearing before the department to contest the denial or suspension action under this subrule but may seek a hearing in district court in accordance with Iowa Code section 252J.9.

These rules are intended to implement Iowa Code section 455B.474 and chapter 252J.

Regulatory Analysis

Notice of Intended Action to be published: 567—Chapter 135
"Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 455B.474

State or federal law(s) implemented by the rulemaking: Iowa Code section 455B.474, 40 CFR Parts 280 and 281

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows. Persons who wish to attend the conference call should contact Keith Wilken via email. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to Keith Wilken prior to the hearing to facilitate an orderly hearing.

September 23, 2025	6200 Park Avenue, Suite 200
11 a.m. to 12 noon	Des Moines, Iowa
	also via videoconference call

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at USTEO10@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.360.1671 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al USTEO10@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.360.1671 al menos siete días antes del evento.

Public Comment

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

Keith Wilken
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.681.0794
Email: USTEO10@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at USTEO10@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al USTEO10@dnr.iowa.gov.

Purpose and Summary

Proposed Chapter 135 establishes the requirements to regulate underground storage tanks (USTs) used for storage of regulated substances and includes rules relating to detection, prevention, and correction of releases of regulated substances from such USTs; maintenance of financial responsibility by owners or operators of USTs; new UST performance standards; notice and reporting requirements; and designation of regulated substances.

The purpose of these rules is to protect the public health and safety and the natural resources of Iowa by timely and appropriate detection, prevention, and correction of releases of regulated substances from USTs.

Iowa's UST rules have been approved by the U.S. Environmental Protection Agency (EPA) into Iowa's required State Program Approval (SPA). The chapter is authorized by Iowa Code section 455B.474 and the Code of Federal Regulations Parts 280 and 281.

Proposed Chapter 135 has been reviewed consistent with Executive Order 10. Unnecessary and obsolete rules have been removed, and updates and clarification have been made.

Analysis of Impact

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

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

Owners and operators of regulated USTs will bear the costs of the proposed rulemaking. These costs are unchanged from the costs of implementing the existing UST rules in Chapter 135.

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

Citizens of Iowa, owners and operators of regulated USTs, and related businesses and industries in Iowa will benefit from the proposed rulemaking.

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

- **Quantitative description of impact:**

The cost of regulation varies depending on factors such as facility and tank size, as detailed below, making the quantitative impact difficult to estimate. Regardless, the impact will be neutral relative to the costs of implementing the existing UST rules in Chapter 135.

- **Qualitative description of impact:**

Regulated USTs must comply with the applicable requirements outlined in this chapter. This is achieved through the installation of equipment that is adequately protected from corrosion, the installation of secondary containment, the installation of spill and overfill prevention equipment, the installation of equipment that is compatible with the product stored, and the installation and operation of release detection equipment. It also includes registration and notification requirements, recordkeeping requirements, and training requirements. The costs of complying with these requirements vary by the size of the facility and the type of equipment installed at the facility.

Regulated USTs with a documented release of a regulated substance must comply with the applicable requirements outlined in this chapter. This is achieved through release reporting, investigation, and confirmation and through the completion of site checks and risk-based corrective action (RBCA) assessments and corrective actions as determined necessary. The costs of complying with these requirements vary by the size of the release, the environment in which the release occurred, and the threat or potential threat to human health and the environment. Regulated UST facilities are also required to maintain financial responsibility that assists in the cost of assessment and corrective actions following a confirmed release of a regulated substance.

Regardless, the impact will be neutral relative to the costs of implementing the existing UST rules in Chapter 135.

3. **Costs to the State:**

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

The costs to the Department are within the confines of current funding sources and are attributed to staff time in administering and enforcing the technical standards and corrective action requirements for owners and operators of USTs.

- **Anticipated effect on State revenues:**

The proposed chapter will have a neutral impact on State revenues because the UST rules are already being implemented.

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

The comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction is neutral since the UST rules are already being implemented.

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

There are no less costly or intrusive methods to accomplish the benefit. UST regulations are required by Section 9004 of the federal Solid Waste Disposal Act as amended under Subtitle I of the Resource Conservation and Recovery Act of 1976; implementing federal regulations; and Iowa Code section 455B.474.

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

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

No alternative methods were determined to be viable.

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

UST regulations are required by Section 9004 of the Solid Waste Disposal Act as amended under Subtitle I of the Resource Conservation and Recovery Act of 1976; implementing federal regulations; and Iowa Code section 455B.474. The proposed rulemaking provides a dedicated chapter that sets forth the technical standards and corrective action requirements for owners and operators of USTs in Iowa.

Small Business Impact

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

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

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

Based on both the federal and State regulations, all underground and leaking underground storage tank facilities must be regulated in a similar fashion regardless of the ownership entity.

Text of Proposed Rulemaking

ITEM 1. Rescind 567—Chapter 135 and adopt the following **new** chapter in lieu thereof:

CHAPTER 135
TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS

567—135.1(455B) Authority, purpose and applicability.

135.1(1) *Authority.* Iowa Code chapter 455B, subchapter IV, part 8, authorizes the department to regulate underground tanks used for storage of regulated substances, and to adopt rules relating to detection, prevention and correction of releases of regulated substances from such tanks, maintenance

of financial responsibility by owners or operators of such tanks, new tank performance standards, notice and reporting requirements, and designation of regulated substances.

135.1(2) *Purpose.* The purpose of these rules is to protect the public health and safety and the natural resources of Iowa by timely and appropriate detection, prevention and correction of releases of regulated substances from underground storage tanks (UST).

135.1(3) *Applicability.*

a. In conjunction with the requirements of Iowa Code chapter 455B, subchapter IV, part 8, the requirements of this chapter apply to all owners and operators of a UST system as defined in 567—135.2(455B) except as otherwise provided in 135.1(3)*"b"* and *"c."*

(1) Previously deferred UST systems. Airport hydrant fuel distribution systems, UST systems with field-constructed tanks, and UST systems that store fuel solely for use by emergency power generators must meet the requirements of these rules as follows:

1. Airport hydrant fuel distribution systems and UST systems with field-constructed tanks must meet the requirements in 567—135.20(455B).

2. UST systems that store fuel solely for use by emergency power generators installed on or before November 28, 2007, must meet the requirements in 567—135.5(455B) by October 13, 2021.

3. UST systems that store fuel solely for use by emergency power generators installed after November 28, 2007, must meet all applicable requirements of this chapter at installation.

(2) Any UST system listed in 135.1(3)*"c"* must meet the requirements of 135.1(4).

b. Exclusions. The following UST systems are excluded from the requirements of this chapter:

(1) Any UST system holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances.

(2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the federal Clean Water Act.

(3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

(4) Any UST system whose capacity is 110 gallons or less.

(5) Any UST system that contains a de minimis concentration of regulated substances.

(6) Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

c. Partial exclusions. Rules 567—135.3(455B), 567—135.4(455B), 567—135.5(455B), 567—135.6(455B), 567—135.15(455B) and 567—135.20(455B) do not apply to any of the following types of UST systems:

(1) Wastewater treatment tank systems;

(2) Any UST systems containing radioactive material that are regulated under the federal Atomic Energy Act of 1954 (42 U.S.C. 2011 and following);

(3) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50 Appendix A;

(4) Aboveground storage tanks associated with:

1. Airport hydrant fuel distribution systems regulated under 567—135.20(455B); and

2. UST systems with field-constructed tanks regulated under 567—135.20(455B).

d. Nonpetroleum underground storage tank systems. Rules 567—135.8(455B) through 567—135.12(455B) do not apply to any nonpetroleum underground storage tank system, except as otherwise provided for by the department.

135.1(4) *Installation requirements for partially excluded UST systems.*

a. Owners and operators must install a UST system listed in 135.1(3)*"c"*(1) through *"c"*(3) storing regulated substances (whether of single- or double-wall construction) that meets the following requirements:

(1) Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

(2) Is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a noncorrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and

(3) Is constructed or lined with material that is compatible with the stored substance.

b. Notwithstanding 135.1(4)*"a,"* a UST system without corrosion protection may be installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this paragraph for the remaining life of the tank.

NOTE: The codes of practice referenced in 40 CFR 280.11(b) may be used as guidance for complying with this subrule.

135.1(5) All rules, standards, technical guidance, and other similar legal or technical documents that are referenced in this chapter shall be the version of those documents in effect on August 1, 2025, unless otherwise noted in these rules, and except for references to the Iowa Code and Iowa Administrative Code, which shall always be the most recent version unless otherwise noted in these rules.

567—135.2(455B) Definitions.

"Aboveground release" means any release to the surface of the land or to surface water. This includes but is not limited to releases from the aboveground portion of a UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from a UST system.

"Active remediation" means corrective action undertaken to reduce contaminant concentrations by other than passive remediation or monitoring.

"Airport hydrant fuel distribution system" or *"airport hydrant system"* means a UST system that fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants (fill stands). The airport hydrant system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.

"Ancillary equipment" means any devices including but not limited to such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from a UST.

"Appurtenances" means devices such as piping, fittings, flanges, valves, dispensers and pumps used to distribute, meter, or control the flow of regulated substances to or from an underground storage tank.

"Asbestos-cement pipe" (AC refers to asbestos-cement) means a pipe or conduit constructed of asbestos fiber and Portland cement, which can be used to transport water.

"ASTM" means the American Society of Testing and Materials.

"Backflow preventer" means a check valve used to ensure water flows in one direction and designed to prevent contamination from an end user, such as a home, from getting into the general water supply. An approved backflow preventer shall be a reduced-pressure backflow preventer or an antisiphon device that complies with the standards of the American Water Works Association and has been approved by the Foundation for Cross-Connection Control and Hydraulic Research.

"Bedrock" means the rock, usually solid, underlying soil or any other unconsolidated surficial cover.

"Below-ground release" means any release to the subsurface of the land and to groundwater. This includes but is not limited to releases from the below-ground portions of an underground storage tank system and below-ground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

"Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

"Best available technology" means those practices that most appropriately remove, treat, or isolate contaminants from groundwater, soil or associated environment, as determined through

professional judgment considering actual equipment or techniques currently in use, published technical articles, site hydrogeology and research results, engineering and groundwater professional reference materials, consultation with experts in the field, capital and operating costs, and guidelines or rules of other regulatory agencies.

"Best management practices" means maintenance procedures, schedule of activities, prohibition of practices, and other management practices, or a combination thereof, that, after problem assessment, is determined to be the most effective means of monitoring and preventing additional contamination of the groundwater and soil.

"Biodiesel" means a renewable fuel comprised of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats that is blended with petroleum-based diesel fuel that meets the standards provided in Iowa Code section 214A.2.

"Carcinogenic risk" means the incremental risk of a person developing cancer over a lifetime as a result of exposure to a chemical, expressed as a probability such as one in a million (10^{-6}). For carcinogenic chemicals of concern, probability is derived from application of certain designated exposure assumptions and a slope factor.

"Cast iron pipe" means a pipe or conduit used as a pressure pipe for transmission of water, gas, or sewage or as a water drainage pipe. It comprises predominantly a gray cast iron tube historically used uncoated, with newer types having various coatings and linings to reduce corrosion and improve hydraulics.

"Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended on October 17, 1986.

"Certified company" means a person or company that employs a person who meets all of the qualifications to install, upgrade, repair, test or line underground storage tank systems.

"Certified individual" means an individual who has received a certification to perform any of the activities regulated under this chapter.

"Change-in-service" means changing the use of a tank system from a regulated to a nonregulated use.

"Chemicals of concern" means the compounds derived from petroleum-regulated substances that are subject to evaluation for purposes of applying risk-based corrective action decision making. These compounds are benzene, ethylbenzene, toluene, and xylenes (BTEX) and naphthalene, benzo(a)pyrene, benz(a)anthracene, and chrysene. (NOTE: Concentration values for these last four constituents are determined by a conversion method from total extractable hydrocarbons, see 135.8(3).)

"Child support recovery unit" means the child support recovery unit created by Iowa Code section 252B.2.

"Class A operator" means the individual who has primary responsibility to operate and maintain the UST system in accordance with applicable requirements. The Class A operator typically manages resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements under this chapter.

"Class B operator" means the individual who has day-to-day responsibility for implementing applicable regulatory requirements established by the department. The Class B operator typically implements in-field aspects of operation, maintenance, and associated recordkeeping for the UST systems.

"Class C operator" means the individual responsible for initially addressing emergencies presented by a spill or release from a UST system. The Class C operator typically controls or monitors the dispensing or sale of regulated substances.

"Code of Federal Regulation" or *"CFR"* means the federal administrative rules adopted by the United States as amended through August 1, 2025.

"Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.

"Conduit" means underground structures that act as pathways and receptors for chemicals of concern, including but not limited to gravity drain lines and sanitary or storm sewers.

"Connected piping" means all underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

"Consumptive use" with respect to heating oil means consumed on the premises.

"Containment sump" means a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from piping, dispensers, pumps and related components in the containment area. Containment sumps may be single-walled or secondarily contained and located at the top of the tank (tank top or submersible turbine sump pump), underneath the dispenser (under-dispenser containment sump), or at other points in the piping run (transition or intermediate sump).

"Corrective action" means an action taken to reduce, minimize, eliminate, clean up, control or monitor a release to protect the public health and safety or the environment. Corrective action includes but is not limited to excavation of an underground storage tank for the purpose of repairing a leak or removal of a tank, removal of contaminated soil, disposal or processing of contaminated soil, cleansing of groundwaters or surface waters, natural biodegradation, institutional controls, technological controls and site management practices. Corrective action does not include replacement of an underground storage tank. Corrective action specifically excludes third-party liability.

"Corrective action meeting process" means a series of meetings organized by department staff with owners or operators and other interested parties such as certified groundwater professionals, funding source representatives, and affected property owners. The purpose of the meeting process is to develop and agree on a corrective action plan and the terms for implementation of the plan.

"Corrective action plan" means a plan that specifies the corrective action to be undertaken by the owner or operator in order to comply with requirements in this chapter and that is incorporated into a memorandum of agreement or other written agreement between the department and the owner or operator. The plan may include but is not limited to provisions for additional site assessment, site monitoring, Tier 2 revisions, Tier 3 assessment, excavation, and other soil and groundwater remedial action.

"Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Deductible" means the portion of a claim paid by insureds on the policy.

"Department" means Iowa department of natural resources.

"Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST systems (e.g., tank from piping).

"Dispenser" means equipment located above ground that dispenses regulated substances from the UST system.

"Dispenser system" means the dispenser and the equipment necessary to connect the dispenser to the underground storage tank system.

"Drinking water well" means any groundwater well used as a source for drinking water by humans and groundwater wells used primarily for the final production of food or medicine for human consumption.

"Ductile iron pipe" means a pipe or conduit commonly used for potable water distribution and for the pumping of sewage. The predominant wall material is ductile iron, a spheroidized graphite cast iron, and commonly has an internal cement mortar lining to inhibit corrosion from the carried water and various types of external coatings to inhibit corrosion from the environment.

"Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

"Enclosed space" means space that can act as a receptor or pathway capable of creating a risk of explosion or inhalation hazard to humans and includes "explosive receptors" and "confined spaces." Explosive receptors means those receptors designated in these rules that are evaluated for explosive risk. Confined spaces means those receptors designated in these rules for evaluation of vapor inhalation risks.

"Ethanol" means ethyl alcohol that is to be blended with gasoline if it meets the standards provided in Iowa Code section 214A.2.

"Excavation zone" means the volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

"Existing tank system" means a tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before January 14, 1987. Installation is considered to have commenced if:

1. The owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system; and
2. Either:

- A continuous on-site physical construction or installation program has begun; or
- The owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction at the site or installation of the tank system to be completed within a reasonable time.

"Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

"Field-constructed tank" means a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field or a steel or fiberglass tank primarily fabricated in the field is considered field-constructed.

"Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

"Free product" refers to a regulated substance that is present as a light nonaqueous phase liquid (e.g., liquid not dissolved in water).

"Gasket" means any type of pipe seals made of a variety of rubbers including but not necessarily limited to styrene-butadiene rubber (SBR), nitrile-butadiene rubber (NBR or nitrile), ethylene propylene diene monomer (EPDM), neoprene (CR), and fluoroelastomer rubber (FKM), which are used to seal pipe connections.

"Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Groundwater ingestion pathway" means a pathway through groundwater by which chemicals of concern may result in exposure to a human receptor as specified in rules applicable to Tier 1, Tier 2 and Tier 3.

"Groundwater plume" means the extent of groundwater impacted by the release of chemicals of concern.

"Groundwater professional" is a person who provides subsurface soil contamination and groundwater consulting services, or who contracts to perform or who supervises remediation or corrective action services at leaking underground storage tank sites. Refer to Iowa Code section 455B.474.

"Groundwater to water line pathway" means a pathway through groundwater that leads to a water line.

"Groundwater vapor to enclosed space pathway" means a pathway through groundwater by which vapors from chemicals of concern may lead to a receptor creating an inhalation or explosive risk hazard.

"Hazardous substance UST system" means an underground storage tank system that contains a hazardous substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under subtitle C) or any mixture of such substances and petroleum and that is not a petroleum UST system.

"Hazard quotient" means the ratio of the level of exposure of a chemical of concern over a specified time period to a reference dose for that chemical of concern derived for a similar exposure period. Unless otherwise specified, the hazard quotient designated in these rules is one.

"Heating oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

"Highly permeable soils" means for the purpose of UST closures: fractured bedrock, any soils with a hydraulic conductivity rate greater than 0.3 meters per day, or any soil material classified by the Unified Soil Classification System as published by the United States Department of the Interior or ASTM designation as (1) GW - well graded gravel, gravel-sand mixtures, little or no fines, (2) GP - poorly graded gravel, gravel-sand mixtures, little or no fines, (3) SW - well graded sands, gravelly sands, little or no fines, or (4) SP - poorly graded sands, gravelly sands, little or no fines.

"Hydraulic conductivity" means the rate of water movement through the soil measured in meters per day (m/d) as determined by the following methods. For a saturated soil, the Bouwer-Rice method or its equivalent shall be used. For unsaturated soil, use a Guelph permeameter or an equivalent in situ constant-head permeameter in a boring finished above the water table. If an in situ method cannot be used for unsaturated soil because of depth, or if the soil is homogeneous and lacks flow-conducting channels, fractures, cavities, etc., laboratory measurement of hydraulic conductivity is acceptable.

If laboratory methods are used, collect undisturbed soil samples using a thin-walled tube sampler in accordance with American Society of Testing and Materials (ASTM) Standard D1587. Samples shall be clearly marked, preserved and transported to the laboratory. The laboratory shall measure hydraulic conductivity using a constant-head permeameter in accordance with ASTM Standard D2434 or a falling-head permeameter in accordance with accepted methodology.

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

"Install" or *"installation"* means the physical construction of a UST system including but not limited to activities such as excavating, backfilling, testing, placement of the tank, underground piping, release detection devices, corrosion protection systems, spill and overfill devices and any associated administrative activities such as notifications, recordkeeping and record submissions.

"Installation inspector" means a certified individual who is engaged in the inspection and approval of the installation of new or upgraded underground storage tank systems.

"Installer" means a certified individual or certified company engaged in the installation of a new underground storage tank system or the upgrading of underground storage tank systems.

"Institutional controls" means the restriction on use or access (for example, fences, deed restrictions, restrictive zoning) to a site or facility to eliminate or minimize potential exposure to a chemical(s) of concern. Institutional controls include any of the following:

1. A law of the United States or the state;
2. A regulation issued pursuant to federal or state laws;
3. An ordinance or regulation of a political subdivision in which real estate subject to the institutional control is located;
4. A restriction on the use of or activities occurring at real estate that are embodied in a covenant running with the land that:

- Contains a legal description of the real estate in a manner that satisfies Iowa Code section 558.1 et seq.;
- Is properly executed in a manner that satisfies Iowa Code section 558.1 et seq.;
- Is recorded in the appropriate office of the county in which the real estate is located;
- Adequately and accurately describes the institutional control; and
- Is in the form of a covenant as set out in Appendix C or in such a manner reasonably acceptable to the department.

5. Any other institutional control the owner or operator can reasonably demonstrate to the department that will reduce the risk from a release throughout the period necessary to ensure that no applicable target risk is likely to be exceeded.

"In the aggregate" means for all claims or suits in a single year seeking damages.

"Light, nonaqueous-phase liquid" or *"LNAPL"* refers to an organic compound that is immiscible with, and lighter than water (e.g., crude oil, gasoline, diesel fuel, heating oil).

"Liner" means a certified company or an individual who provides services to install underground storage tank lining and to repair underground storage tanks.

"Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

"Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing product.

"MCLs" means the drinking water primary maximum contaminant levels set out in 567—41.3(455B).

"Memorandum of agreement" means a written agreement between the department and the owner or operator that specifies the corrective action that will be undertaken by the owner or operator in order to comply with requirements in this chapter and the terms for implementation of the plan. The plan may include but is not limited to provisions for additional site assessment, site monitoring, Tier 2 revisions, Tier 3 assessment, excavation, and other soil and groundwater remedial action.

"Modification" means to change a UST system currently in use by the installation of new UST system components. "Modification" includes but is not limited to the addition of corrosion protection to a previously lined tank, installation of new underground piping or replacement of existing underground piping, changing the primary release detection method, or adding secondary containment. "Modification" does not include those activities defined in this rule as "repair" or "replacement."

"Motor fuel" means a complex blend of hydrocarbons typically used in the operation of a motor engine, such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any blend containing one or more of these substances (for example, motor gasoline blended with alcohol).

"New tank system" means a tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after January 14, 1987. (See also "Existing Tank System.")

"Noncarcinogenic risk" means the potential for adverse systemic or toxic effects caused by exposure to noncarcinogenic chemicals of concern, expressed as the hazard quotient.

"Noncommercial purposes" with respect to motor fuel means not for resale.

"Non-drinking water well" means any groundwater well (except an extraction well used as part of a remediation system) not defined as a drinking water well including a groundwater well that is not properly plugged in accordance with department rules in 567—Chapters 39 and 49.

"Nonresidential area" means land that is not currently used as a residential area and that is zoned for nonresidential uses.

"Obligor" means a natural person as defined in Iowa Code section 252B.1 who has been ordered by a court or administrative agency to pay support.

"On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

"Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under 567—135.15(455B).

"OSHA" means the Occupational Safety and Health Administration.

"Overexcavation" refers to the excavation of subsurface materials outside the excavation zone for the purpose of removing contaminated substances.

"Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

"Pathway" means a transport mechanism by which chemicals of concern may reach a receptor(s) or the location(s) of a potential receptor.

"Permanent closure" means removing all regulated substances from the tank system, assessing the site for contamination, and permanently removing tank and piping from the ground or filling the tank in place with a solid inert material and plugging all piping. Permanent closure also includes partial closure of a tank system such as removal or replacement of tanks or piping only.

"Person who conveys or deposits a regulated substance" means a person who sells or supplies the owner or operator with the regulated substance and the person who transports or actually deposits the regulated substance in the underground tank.

"Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

"Pipe" or *"piping"* means a hollow cylinder or tubular conduit that is constructed of nonearthen materials and that routinely contains and conveys regulated substances.

"Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

"Point of compliance" means the location(s) at the source(s) of contamination or at the location(s) between the source(s) and the point(s) of exposure where concentrations of chemicals of concern must meet applicable risk-based screening levels at Tier 1 or other target level(s) at Tier 2 or Tier 3.

"Point of exposure" means the location(s) at which an actual or potential receptor may be exposed to chemicals of concern via a pathway.

"Polybutylene pipe" (PB refers to polybutylene) means a water supply pipe comprised of a form of plastic resin that was used extensively from 1978 until 1995. The piping systems were used for underground water mains and as interior water distribution piping. Polybutylene mains are usually blue in color, but may be gray, black, or white. The pipe is usually ½ inch or 1 inch in diameter, and it may be found entering a residence through the basement wall or floor, concrete slab or through the crawlspace; frequently it enters the residence near the water heater.

"Polyethylene pipe" (PE refers to polyethylene) means a water supply pipe comprised of thermoplastic material produced from the polymerization of ethylene. PE pipe is manufactured by extrusion in sizes ranging from ½ inch to 63 inches. PE pipe is available in rolled coils of various lengths or in straight lengths of up to 40 feet. PE pipe is available in many forms and colors, including single-extrusion colored or black pipe, black pipe with co-extruded color striping, and black or natural pipe with a co-extruded colored layer. PE pipe has been demonstrated to be very permeable to petroleum while still retaining its flexible structure.

"Polyvinyl chloride pipe" (PVC refers to polyvinyl chloride) means a pipe made from a plastic and vinyl combination material. The pipes are durable, hard to damage, and long-lasting. A PVC pipe is very resistant and does not rust, nor is it likely to rot or wear over time. PVC piping is most commonly used in water systems, underground wiring, and sewer lines.

"Portland cement" means hydraulic cement (cement that not only hardens by reacting with water but also forms a water-resistant product) and is produced by pulverizing clinkers consisting essentially of hydraulic calcium silicates, usually containing one or more forms of calcium sulfate as an inter ground addition.

"Potential receptor" means a receptor not in existence at the time a Tier 1, Tier 2 or Tier 3 site assessment is prepared but that could reasonably be expected to exist within 20 years of the preparation of the Tier 1, Tier 2 or Tier 3 site assessment or as otherwise specified in these rules.

"Precision test" means a tank and line tightness test that meets the requirements in 567—135.4(455B).

"Preferential pathway" means conditions that act as a pathway permitting contamination to migrate through soils and to groundwater at a faster rate than would be expected through naturally occurring undisturbed soils or unfractured bedrock including but not limited to wells, cisterns, tile lines, drainage systems, utility lines and envelopes, and conduits.

"Protected groundwater source" means a saturated bed, formation, or group of formations that has a hydraulic conductivity of at least 0.44 meters per day (m/d) and a total dissolved solids of less than 2,500 milligrams per liter (mg/l) or a bedrock aquifer with total dissolved solids of less than 2,500 milligrams per liter (mg/l) if bedrock is encountered before groundwater.

"Public water supply well" means a well connected to a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

"Receptor" means enclosed spaces, conduits, protected groundwater sources, drinking and non-drinking water wells, surface water bodies, and public water systems that when impacted by chemicals of concern may result in exposure to humans and aquatic life, explosive conditions or other adverse effects on health, safety and the environment as specified in these rules.

"Reference dose" means a designated toxicity value established in these rules for evaluating potential noncarcinogenic effects in humans resulting from exposure to a chemical(s) of concern. Reference doses are designated in Appendix A.

"Regulated substance" means an element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health or welfare or the environment. "Regulated substance" includes:

1. Substances designated in Table 302.4 of 40 CFR Part 302 (September 13, 1988),
2. Substances that exhibit the characteristics identified in 40 CFR 261.20 through 261.24 (May 10, 1984) and that are not excluded from regulation as a hazardous waste under 40 CFR 261.4(b) (May 10, 1984),
3. Any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (but not including any substance regulated as a hazardous waste under subtitle C), and
4. Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). The term "regulated substance" includes but is not limited to petroleum and petroleum-based substances

comprised of a complex blend of hydrocarbons such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

"Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

"Removal" means the process of removing and disposing of an underground storage tank system no longer in service or the process of abandoning an underground storage tank system in place in accordance with 567—135.15(455B).

"Remover" means a certified individual who is engaged in permanent closure activities by removal or filling in place of underground storage tank systems in accordance with 567—135.15(455B).

"Repair" means to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment or other UST system component that has caused a release of product from the UST system or has failed to function properly.

"Replace" or *"replacement"* means the installation of a new underground tank system or component, including dispensers, in substantially the same location as an existing tank system or component, and to include but not be limited to the change in any part of a UST system above grade by exchanging one unit for a like or similar unit.

"Replaced" means:

1. For a tank: to remove a tank and install another tank.
2. For piping: to remove 50 percent or more of piping and install other piping, excluding connectors, connected to a single tank. For tanks with multiple piping runs, this definition applies independently to each piping run.

"Residential area" means land used as a permanent residence or domicile, such as a house, apartment, nursing home, school, child care facility or prison, land zoned for such uses, or land where no zoning is in place.

"Residential tank" is a tank located on property used primarily for dwelling purposes.

"Risk-based screening level" or *"RBSL"* means the risk-based concentration level for chemicals of concern developed for a Tier 1 analysis to be met at the point(s) of compliance and incorporated in the Tier 1 Look-up Table in Appendix A.

"Secondary containment" or *"secondarily contained"* means a release prevention and release detection system for a tank or piping. This system has an inner and outer barrier with an interstitial space monitored for leaks. This term includes containment sumps when used for interstitial monitoring of piping.

"Secondary containment tank" or *"secondary containment piping"* means a tank or piping that is designed with an inner primary shell and a liquid-tight outer secondary shell or jacket that extends around the entire inner shell, and that is designed to contain any leak through the primary shell from any part of the tank or piping that routinely contains product, and that also allows for monitoring of the interstitial space between the shells and the detection of any leak.

"Self-insured retention" means the portion of a claim paid by insureds who self-insure a portion of their risk as part of a policy. Expenses included as a part of the self-insured retention are the cost of claims settlements or suits, the cost of adjusting, legal fees, court costs and any other investigative cost associated with the claim.

"Septic tank" is a watertight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

"Service line" means a pipe connected to a business or residence from a water main, typically of a size not exceeding 6 inches in diameter, and including its gaskets and other appurtenances. For purposes of this chapter, service lines refer to pipes specifically used for drinking water transmission.

"Service technician" means a noncertified individual who works for a certified individual or a certified company or who is certified by a manufacturer to conduct modification or replacement activities at UST facilities.

"Site assessment investigation" means an investigation conducted by a certified groundwater professional to determine relevant site historical data, the types, amounts, and sources of petroleum contaminants present, hydrogeological characteristics of the site, full vertical and horizontal extent of the contamination in soils and groundwater, direction and rate of flow of the contamination, ranges of concentration of the contaminants by analysis of soils and groundwater, the vertical and horizontal extent of the contamination exceeding department standards, and the actual or potential threat to public health and safety and the environment.

"Site cleanup report" means the report required to be submitted by these rules and in accordance with department guidance that may include the results of Tier 2 or Tier 3 assessment and analysis.

"Site-specific target level" or *"SSTL"* means the risk-based target level(s) for chemicals of concern developed as the result of a Tier 2 or Tier 3 assessment that must be achieved at applicable point(s) of compliance at the source to meet the target level(s) at the point(s) of exposure.

"Soil leaching to groundwater pathway" means a pathway through soil by which chemicals of concern may leach to groundwater and through a groundwater transport pathway impact an actual or potential receptor.

"Soil plume" means the vertical and horizontal extent of soil impacted by the release of chemicals of concern.

"Soil to water line pathway" means a pathway that leads from soil to a water line.

"Soil vapor to enclosed space pathway" means a pathway through soil by which vapors from chemicals of concern may lead to a receptor creating an inhalation or explosive risk hazard.

"Storm water or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

"Surface impoundment" is a natural topographic depression, constructed excavation, or diked area formed primarily of earthen materials (although it may be lined with manufactured materials) that is not an injection well.

"Surface water body" means general use segments as provided in 567—paragraph 61.3(1)*"a"* and designated use segments of water bodies as provided in 567—paragraph 61.3(1)*"b"* and 567—subrule 61.3(5).

"Surface water criteria" means, for chemicals of concern, the Criteria for Chemical Constituents in Table 1 of 567—61.3(455B), except that "1,000 µg/L" will be substituted for the chronic levels for toluene for Class B designated use segments.

"Surface water pathway" means a pathway that leads to a surface water body.

"Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

"Target level" means the allowable concentrations of chemicals of concern established to achieve an applicable target risk that must be met at the point(s) of compliance as specified in these rules.

"Target risk" refers to an applicable carcinogenic and noncarcinogenic risk factor designated in these rules and used in determining target levels (for carcinogenic risk assessment, target risk is a separate factor, different from exposure factors, both of which are used in determining target levels).

"Technological controls" means a physical action that does not involve source removal or reduction, but severs or reduces exposure to a receptor, such as caps, containment, carbon filters, point of use water treatment, etc.

"Temporary closure" means a regulated tank or UST system that has been out of operation for three months or more.

"Tester" means a certified company or individual who tests tanks, lines, leak detection systems, or monitoring systems as required by 567—Chapter 135. For the purposes of this definition, an owner, operator or an employee of an owner or operator performing leak detection or cathodic protection monitoring, as required by 567—Chapter 135, is not a tester.

"Testing" means the process of utilizing a system to test underground storage tank systems or any part thereof for tightness, leak detection, cathodic protection or monitoring.

"Tier 1 level" means the groundwater and soil levels in the Tier 1 Look-up Table set out in 567—135.9(455B) and Appendix A.

"Tier 1 site assessment" means the evaluation of limited site-specific data compared to the Tier 1 levels established in these rules for the purpose of determining which pathways do not require assessment and evaluation at Tier 2 and which sites warrant a no further action required classification without further assessment and evaluation.

"Tier 2 site assessment" means the process of assessing risk to actual and potential receptors by using site-specific contaminant concentrations and designated Tier 2 exposure and fate and transport models to determine the applicable target level(s).

"Tier 3 site assessment" means a site-specific risk assessment utilizing more sophisticated data or analytic techniques than a Tier 2 site assessment.

"Training program" means any program that provides information to and evaluates the knowledge of a Class A, Class B, or Class C operator through testing, practical demonstration, or another approach acceptable to the department regarding requirements for UST systems that meet the requirements of 135.4(6) through 135.4(12).

"Under-dispenser containment " or *"UDC"* means containment underneath a dispenser system designed to prevent leaks from the dispenser and piping within or above the UDC from reaching soil or groundwater.

"Underground area" means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

"Underground release" means any below-ground release.

"Underground storage tank compliance inspector" or *"UST compliance inspector"* means a person who inspects a regulated underground storage tank (UST) to satisfy the requirements of 567—135.19(455B) for compliance with UST technical standards in 567—Chapter 135.

"Underground storage tank professional" or *"UST professional"* means an individual certified by the department under 567—Chapter 134, excluding groundwater professionals and compliance inspectors. The certification program includes underground storage tank system installation, installation inspection, UST system testing, tank lining, cathodic protection installation/inspection, and UST removal. The certification issued will list the type of work the individual is certified to perform.

"Underground utility vault" means any constructed space accessible for inspection and maintenance associated with subsurface utilities.

"Unit" means the child support recovery unit created in Iowa Code section 252B.2.

"Unreasonable risk to public health and safety or the environment" means the Tier 1 levels for a Tier 1 site assessment, the applicable target level for a Tier 2 site assessment, and the applicable target level for a Tier 3 site assessment.

"Upgrade" means the addition or retrofit of some systems such as cathodic protection, lining, or spill and overfill controls to improve the ability of an underground storage tank system to prevent the release of product.

"U.S. EPA" means the United States Environmental Protection Agency.

"UST system" or *"tank system"* means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Utility envelope" means the backfill and trench used for any subsurface utility line, drainage system and tile line.

"Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

"Water line" means a hollow cylinder or tubular conduit that routinely contains and conveys potable water and is constructed of nonearthen materials, including but not limited to asbestos-cement, copper, high-density polyethylene (HDPE), polybutylene, polyethylene, and wood. Such piping includes any elbows, couplings, unions, valves, or other in-line fixtures, as well as the gaskets, that contain and convey potable water.

"Water main pipe" means a main line to the water distribution system with feeder lines or service lines connected to it and that typically is 6 inches or greater in diameter, and includes its gaskets and other appurtenances.

567—135.3(455B) UST systems—design, construction, installation and notification.

135.3(1) *Performance standards for new UST systems.* In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new UST systems must meet the following requirements. The UST system must be secondarily contained in accordance with 135.3(9).

a. Tanks. Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

(1) The tank is constructed of fiberglass-reinforced plastic; or

NOTE: The codes of practice referenced in 40 CFR 280.20(a)(1) may be used to comply with 135.3(1)*"a"*(1).

(2) The tank is constructed of steel and cathodically protected in the following manner:

1. The tank is coated with a suitable dielectric material;
2. Field-installed cathodic protection systems are designed by a corrosion expert;
3. Impressed current systems are designed to allow determination of current operating status as required in 135.4(2)*"c."* This shall be accomplished by providing the rectifier with ampere and voltage meters that can be read by the owner and operator for comparison to the design standard set by the corrosion expert or a device that can warn the owner and operator when changes in ampere and voltage occur outside the design standard set by the corrosion expert;
4. Cathodic protection systems are operated and maintained in accordance with 135.4(2) or according to guidelines established by the department; and
5. Impressed current systems must be designed not to cause stray current that can damage other underground structures (metal electrical conduits, water lines, gas lines, etc.); or

NOTE: The codes of practice referenced in 40 CFR 280.2(iv) may be used to comply with 135.3(1)*"a"*(2).

(3) The tank is constructed of steel and clad or jacketed with a noncorrodible material; or

NOTE: The industry codes referenced in 40 CFR 280.20(3) may be used to comply with 135.3(1)*"a"*(3).

(4) The tank is constructed of metal without additional corrosion protection measures provided that:

1. The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and
2. Owners and operators maintain records that demonstrate compliance with the requirements of 135.3(1)*"a"*(4)"1" for the remaining life of the tank; or

(5) The tank construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than 135.3(1)*"a"*(1) through *"a"*(4).

b. Piping. The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a

code of practice developed by a nationally recognized association or independent testing laboratory as specified in this rule. This includes piping for remote tank fill locations.

All piping must have secondary containment, installed according to manufacturer's specifications, and be compatible with the product stored and the environment to which it will be exposed. Piping must maintain its original specifications and structural integrity. Piping whose structural integrity has degraded must be replaced. All piping installations must meet National Fire Prevention Association Standard 30 and Standard 30A or the International Fire Code as adopted by the Iowa state fire marshal in 661—Chapter 221, "Flammable and Combustible Liquids."

(1) The piping is constructed of a noncorrodible material; or

NOTE: The codes of practice referenced in 40 CFR 280.20(b)(1) may be used to comply with 135.3(1)*"b"*(1).

(2) The piping is constructed of steel and cathodically protected in the following manner:

1. The piping is coated with a suitable dielectric material;
2. Field-installed cathodic protection systems are designed by a corrosion expert;
3. Impressed current systems are designed to allow determination of current operating status as required in 135.4(2)*"c"*; and
4. Cathodic protection systems are operated and maintained in accordance with 135.4(2) or guidelines established by the department; or

NOTE: The codes of practice referenced in 40 CFR 280.20(b)(2) may be used to comply with 135.3(1)*"b"*(2).

(3) The piping is constructed of metal without additional corrosion protection measures provided that:

1. The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and
2. Owners and operators maintain records that demonstrate compliance with the requirements of 135.3(1)*"b"*(3)"1" for the remaining life of the piping; or

(4) The piping construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in 135.3(1)*"b"*(1) through *"b"*(3).

c. Spill and overfill prevention equipment.

(1) Except as provided in 135.3(1)*"b"*(2), to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment:

1. Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); and
2. Overfill prevention equipment that will:

- Automatically shut off flow into the tank when the tank is no more than 95 percent full; or
- Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank (not allowed for suction product delivery systems, for tanks with stage 1 vapor recovery or when product delivery is by pumping) or triggering a high-level alarm; or
- Restrict flow 30 minutes prior to overfilling, alert the transfer operator with a high-level alarm one minute before overfilling, or automatically shut off the flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.

(2) Owners and operators are not required to use the spill and overfill prevention equipment specified in 135.3(1)*"b"*(1) if:

1. Alternative equipment is used that is determined by the department to be no less protective of human health and the environment than the equipment specified in 135.3(1)*"b"*(1)"1" or "2"; or
2. The UST system is filled by transfers of no more than 25 gallons at one time.

(3) Flow restrictors used in vent lines may not be used to comply with 135.3(1)*"c"*(1)"2" when overfill prevention is installed or replaced.

(4) Spill and overfill prevention equipment must be periodically tested or inspected in accordance with 135.4(12).

(5) Spill prevention equipment must be kept free of any liquid and debris. Any liquid or debris must be removed prior to product delivery.

d. Installation. The UST system must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions. The UST system installation shall be conducted by an installer certified by the department under 567—Chapter 134 and in accordance with 567—subrules 134.11(3) and 134.11(4).

NOTE: Tank and piping system installation practices and procedures described in the codes referenced in 40 CFR 280.20(d) may be used to comply with the requirements of 135.3(1)*"d."*

e. Certification of installation. All owners and operators must ensure that the following methods of certification, testing, and inspection are used to demonstrate compliance with 135.3(1)*"d"* by providing a certification of compliance on the UST registration form in accordance with 135.3(3).

(1) The installer is certified by the department as provided in 567—Chapter 134; and

(2) The installation has been inspected by a certified installation inspector as required by 567—Chapter 134.

f. Dispenser systems. Each UST system must be equipped with under-dispenser containment (UDC) for any new or replaced dispenser system.

(1) A dispenser system is considered new when both the dispenser and the equipment needed to connect the dispenser to the underground storage tank system are installed at a location where there previously was no dispenser (new UST system or new dispenser location at an existing UST system). The equipment necessary to connect the dispenser to the underground storage tank system includes check valves, shear valves, unburied risers or flexible connectors, or other transitional components that are underneath the dispenser and connect the dispenser to the underground piping.

(2) UDC shall be installed whenever an existing dispenser system is removed and replaced with another dispenser and the equipment used to connect the dispenser to the underground storage tank system is replaced. This equipment includes flexible connectors or risers or other transitional components that are beneath the dispenser and connect the dispenser to the piping. UDC is not required when only the emergency shutoff or shear valves or check valves are replaced.

(3) UDC must be liquid-tight on its sides, bottom, and at any penetrations. UDC must allow for visual inspection and access to the components in the containment system or be periodically monitored for leaks from the dispenser system.

135.3(2) *Upgrading of existing UST systems.* Owners and operators must permanently close any UST system that does not meet the new UST system performance standards or has not been upgraded in accordance with 135.3(2)*"b"* through *"d."* This subrule does not apply to previously deferred UST systems. Upgrading is no longer allowed for UST systems not upgraded by December 22, 1998.

a. Alternatives allowed. Not later than December 22, 1998, all existing UST systems had to comply with one of the following requirements:

(1) New UST system performance standards under 135.3(1);

(2) The upgrading requirements in 135.3(2)*"b"* through *"d"*; or

(3) Closure requirements under 567—135.15(455B), including applicable requirements for corrective action under 567—135.7(455B) through 567—135.12(455B).

b. Tank upgrading requirements. Steel tanks had to be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:

(1) Interior lining. Tanks upgraded by internal lining must meet the following:

1. The lining was installed in accordance with the requirements of 135.4(4), and

2. Within ten years after lining, and every five years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.

3. If the internal lining is no longer performing in accordance with original design specifications and cannot be repaired in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, the lined tank must be permanently closed in accordance with 567—135.15(455B).

(2) Cathodic protection. Tanks upgraded by cathodic protection meet the requirements of 135.3(1)*"a"*(2)"2," "3," and "4" and the integrity of the tank was ensured using one of the following methods:

1. The tank was internally inspected and assessed to ensure that the tank was structurally sound and free of corrosion holes prior to installing the cathodic protection system; or

2. The tank had been installed for less than ten years and is monitored monthly for releases in accordance with 135.5(4)*"d"* through *"i"*; or

3. The tank had been installed for less than ten years and was assessed for corrosion holes by conducting two tightness tests that meet the requirements of 135.5(4)*"c."* The first tightness test must have been conducted prior to installing the cathodic protection system. The second tightness test must have been conducted between three and six months following the first operation of the cathodic protection system; or

4. The tank was assessed for corrosion holes by a method that is determined by the department to prevent releases in a manner that is no less protective of human health and the environment than 135.3(2)*"b"*(2)"1" through "3."

(3) Internal lining combined with cathodic protection. Tanks upgraded by both internal lining and cathodic protection must have met the following:

1. The lining was installed in accordance with the requirements of 135.4(4); and

2. The cathodic protection system was installed within six months of lining installation and meets the requirements of 135.3(1)*"a"*(2)"2," "3," and "4."

NOTE regarding 135.3(2)*"b"*: The codes referenced in 40 CFR 280.21 are options for complying with 135.3(2)*"b."*

NOTE regarding 135.3(2)*"b"*(1)"2": The codes referenced in 40 CFR 280.21(b)(1)(ii) may be used to comply with the periodic lining inspection requirement of this subrule.

c. Piping upgrading requirements. Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements of 135.3(1)*"b"*(2)"2," "3," and "4."

NOTE: The codes of practice listed in 40 CFR 280.21(c) may be used to comply with this requirement.

d. Spill and overfill prevention equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with UST system spill and overfill prevention equipment requirements specified in 135.3(1)*"c."*

135.3(3) *Registration and notification requirements.*

a. Except as provided in 135.3(3)*"b,"* the owner of an underground storage tank existing on or before July 1, 1985, shall complete and submit to the department a copy of the registration form provided by the department.

b. The owner of an underground storage tank system taken out of operation between January 1, 1974, and July 1, 1985, shall complete and submit to the department a copy of the registration form provided by the department unless the owner knows the tank has been removed from the ground. For purposes of this subrule, "owner" means the person who owned the tank immediately before the discontinuation of the tank's use.

c. An owner or operator who brings into use an underground storage tank system after July 1, 1985, shall complete and submit to the department a copy of the registration form provided by the department within 30 days of the final installation inspection required in 567—subparagraph 134.14(3)*"c"*(3) by a certified installation inspector. The owner or operator shall not allow the deposit of any regulated substance into the tank without prior approval of the department or until the

permanent registration tag and annual tank tag have been attached to the tank fill pipe and the tank system is covered by an approved financial responsibility mechanism in accordance with 567—Chapter 136.

d. All owners and operators of new UST systems must provide UST system details and a site diagram and certify in the registration form compliance with the following requirements:

(1) Installation of tanks and piping under 135.3(1)*"e"*;

(2) Cathodic protection of steel tanks and piping under 135.3(1)*"a"* and *"b"*;

(3) Financial responsibility under 567—Chapter 136;

(4) Release detection methods under 135.5(2) and 135.5(3);

(5) Class A and B operator certification under 135.4(6);

(6) NESHAP Stage 1 vapor recovery.

e. All owners and operators of new UST systems must ensure that the certified installer certifies in the registration form that the methods used to install the tanks and piping comply with the requirements in 135.3(1)*"d."*

f. Exemption from reporting requirement. Paragraphs 135.3(1)*"a"* through *"c"* do not apply to an underground storage tank for which notice was given pursuant to Section 103, Subsection c, of the Comprehensive Environmental Response, Compensation, and Liabilities Act of 1980. (42 U.S.C. Subsection 9603(c)).

g. Notification requirement for installing a tank. A person installing an underground storage tank and the owner or operator of the underground storage tank must notify the department of their intent to install the tank 30 days prior to installation. Notification shall be on a form provided by the department.

h. Notice requirement for acquiring a UST system. A person, company or lending institution that assumes ownership or operation of a regulated underground storage tank must submit notification to the department on a form provided by the department within 30 days of acquisition and prior to tank operation. The owner must include copies of training certificates for the Class A and Class B operators (135.4(6)) and proof of financial responsibility required in 567—Chapter 136. The new owner is responsible for any current tank management fees that have not been previously paid.

i. It is unlawful for a person to deposit or accept a regulated substance into an underground storage tank if the person has received notice from the department that the underground storage tank is subject to a delivery prohibition or if there is a "red tag" attached to the UST fill pipe or fill pipe cap as provided in 135.3(7).

(1) The department may provide written authorization to receive a regulated substance when conditions warrant.

(2) The department may provide known depositors of regulated substances lists of underground storage tank sites that have been issued tank tags, those that have not been issued tank tags, and those subject to a delivery prohibition pursuant to 135.3(7). These lists do not remove the requirement for depositors to verify that current tank tags are affixed to the fill pipe prior to delivering product.

(3) A person shall not accept or deposit a regulated substance in an underground storage tank after receiving written or oral notice from the department that the tank is not covered by an approved form of financial responsibility in accordance with 567—Chapter 136.

135.3(4) *Farm and residential tanks.*

a. The owner or operator of a farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes is subject to the requirements of this subrule.

b. Farm and residential tanks, installed before July 1, 1987, are required to be registered with the department.

c. Farm and residential tanks installed on or after July 1, 1987, must be in compliance with all the underground storage tank regulations.

135.3(5) *Registration tags and annual management fee.*

a. Tanks of 1,100 gallons or less capacity that have registered with the department will be issued a permanent registration tag.

b. The owner or operator of tanks over 1,100-gallon capacity must submit a tank management fee form and fee payment of $65 per tank by January 15 of each year.

(1) An additional $250 per tank late fee must be paid if the tank management fee is not paid by March 1.

(2) The owner or operator must submit proof that the tanks are covered by an approved form of financial responsibility in accordance with 567—Chapter 136.

(3) Upon proper payment of the fee and acceptable proof of financial responsibility, and a determination there are no outstanding compliance violations, a one-year renewal tag will be issued for the period from April 1 to March 31.

(4) If there are outstanding compliance violations, the annual tank tags may be withheld until the violations are corrected.

(5) The department shall refund a tank management fee if the tank is permanently closed prior to April 1 for that year.

c. The owner or operator shall affix the tag to the fill pipe of the underground storage tank where it will be readily visible.

d. A person who conveys or deposits a regulated substance shall inspect the underground storage tank to determine the existence or absence of a permanent registration tag, a current annual renewal tag, or a delivery prohibition "red tag" as provided in 135.3(7). If a current annual renewal tag, or a silver permanent tag for regulated tanks less than 1,100 gallons is not affixed to the fill pipe or fill pipe cap or if a delivery prohibition "red tag" is displayed, the person shall not deposit the substance in the tank.

135.3(6) *Previously unregistered petroleum underground storage tanks.* A petroleum underground storage tank required to be registered under 135.3(3) and 135.3(4) that has not been registered shall be registered under the following conditions:

a. The tank registration fee under Iowa Code section 455B.473(4) and 455B.473(5) shall accompany the registration.

b. The storage tank management fee and any late fees under Iowa Code section 455B.473(8)*"b"* shall be paid for past years in which the tank should have been registered.

c. The department may waive the late fee(s).

135.3(7) *Delivery prohibition process.*

a. Identifying sites subject to delivery response prohibition action.

(1) Annual renewal tag and tank management fee process. Owners and operators shall certify to the following on a form prepared by the department when applying for annual tank tags pursuant to 135.3(5):

1. Installation and performance of an approved UST and piping release detection method as provided in 567—135.5(455B), including an annual line tightness test and a line leak detector test if applicable.

2. Installation of an approved overfill and spill protection system as provided in 135.3(1)*"c."*

3. Installation of an approved corrosion protection system as provided in 135.3(1)*"a"* and *"b."*

4. If the UST system has been out of operation for more than three months, that the UST system has been temporarily closed in accordance with 567—135.15(455B) and a certification of temporary closure has been submitted to the department.

5. If the UST system has been removed or filled in place within the last 12 months, the date of removal or filling in place and whether a closure report has been submitted as provided in 567—135.15(455B).

(2) Sites with provisional status. If the UST system has been classified as operating under provisional status as provided in 135.3(7)*"c,"* owners and operators when applying for annual tank tags pursuant to 135.3(5) must certify on a form prepared by the department that the owners and operators are in compliance with an approved provisional status remedial plan as provided in 135.3(7)*"c."*

(3) Compliance inspections. The department may initiate a delivery prohibition response action based on: (1) a finding resulting from a third-party compliance inspection conducted pursuant to 567—135.19(455B); (2) a department investigation and inspection conducted pursuant to Iowa Code section 455B.475; or (3) review of a UST system check or other documentation submitted in response to a suspected release under 567—135.6(455B) or in response to a confirmed release under 567—135.7(455B).

b. Delivery prohibition eligibility criteria. A delivery prohibition response action may be initiated upon a finding that the UST system is out of compliance with department rules and meets the eligibility criteria as specified below. Reinstatement criteria define the standards and process for owners and operators to document that they have taken corrective action sufficient to authorize resumption of fuel to the USTs. Prior to initiation of the delivery prohibition, owners and operators are afforded a minimum level of procedural due process such as prior notice and the opportunity to present facts to dispute the finding. Where notice and the opportunity to take corrective action prior to initiation of a delivery prohibition response action are required, notice by the department or by a certified compliance inspector as provided in 567—135.19(455B) shall be sufficient.

If the department finds that any one of the following criteria has been satisfied, the department may initiate a delivery prohibition response action following the notice procedures outlined in 135.3(7)*"e."* After initiation of the delivery prohibition response action, the department will offer the owner or operator an opportunity to establish reinstatement criteria by written documentation and, if requested, an in-person meeting.

(1) An approved release detection method for USTs or UST piping is not installed, such as automatic tank gauging, groundwater monitoring wells and line leak detectors, and there is no record that an approved method such as inventory control, statistical inventory reconciliation, or interstitial space monitoring has been employed during the previous three months. If the owner or operator claims to have documentation that an approved release detection method has been conducted, the owner or operator will be given two business days to produce the documentation.

REINSTATEMENT CRITERIA: The owner or operator must submit results of a passing UST system precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(4)*"c"* and 135.5(5)*"b."* The owner or operator must also document installation and operation of an approved release detection system. This may include proof that a contract has been signed with a qualified statistical inventory reconciliation provider or that a qualified inventory control method has been implemented and training has been provided to onsite supervisory personnel.

(2) No documentation of a required annual line tightness test or line leak detector test has been provided, and the owner or operator has failed to conduct the required testing within 14 days of written notice by the department or a certified compliance inspector as provided in 567—135.19(455B).

REINSTATEMENT CRITERIA: The owner or operator must provide documentation of a passing line precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(5)*"b"* and a line leak detector test as provided in 135.5(5)*"a."*

(3) Overfill and spill protection is not installed.

REINSTATEMENT CRITERION: The owner or operator must provide documentation that overfill and spill protection equipment has been installed.

(4) A corrosion protection system is not installed or there is no record that an impressed current corrosion protection system has been in operation for the prior six months.

REINSTATEMENT CRITERIA: A manned entry tank integrity inspection must be completed prior to installation of a corrosion protection system, and the owner or operator must submit results of a passing UST system precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(4)*"c"* and 135.5(5)*"b."* A corrosion protection analysis must be completed and approved by the department.

(5) The owner or operator has failed to provide proof of financial responsibility in accordance with 567—Chapter 136.

REINSTATEMENT CRITERION: The owner or operator must submit acceptable proof of financial responsibility in accordance with 567—Chapter 136.

(6) A qualified UST system release detection method is installed and is being used but the documentation or the absence of documentation is sufficient to question the reliability of the release detection over the past 12-month period. The owner or operator shall be notified of the deficiencies, shall be given at least two business days to produce documentation of compliance and, if necessary, shall be required to conduct a leak detection system analysis and a system tightness test within 14 days. If the owner or operator fails to produce documentation of compliance or to conduct the system analysis and the UST system precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(4) *"c"* and 135.5(5)*"b,"* the department may initiate a delivery prohibition response action. Notice by the department or a compliance inspector as provided in 567—135.19(455B) shall be sufficient to initiate a delivery prohibition response action.

REINSTATEMENT CRITERIA: The owner or operator must submit documentation that the leak detection method analysis sufficiently documents compliance and explains the reasons for the accuracy and reliability concerns. If necessary, the owner or operator must submit passing results of a UST system precision tightness test at the 0.1 gallon-per-hour leak rate in 135.5(4)*"c"* and 135.5(5) *"b."*

(7) The owner or operator has failed to document completion of a three-year corrosion protection test or to repair defective corrosion protection equipment within 30 days after notice of the violation by the department or a certified compliance inspector as provided in 567—135.19(455B).

REINSTATEMENT CRITERION: The owner or operator must submit documentation of a three-year corrosion protection test as provided in 567—135.3(455B).

(8) The owner or operator has failed to complete a compliance inspection required by 567—135.19(455B) within 60 days after written notice of the violation by the department.

REINSTATEMENT CRITERION: The owner or operator must submit a compliance inspection report as provided in 567—135.19(455B).

(9) The owner or operator has failed to take necessary abatement action in response to a confirmed release as provided in 135.7(2) and 135.7(3).

REINSTATEMENT CRITERION: The owner or operator must document compliance with the abatement provisions in 135.7(2) and 135.7(3).

(10) The owner or operator has failed to undertake and document release investigation and confirmation steps within seven days in response to a suspected release as provided in 135.6(3)*"a."*

REINSTATEMENT CRITERION: The owner or operator must document release confirmation and system check as provided in 135.6(3)*"a."*

(11) The owner or operator has failed to provide documentation of Class A or B operator training.

REINSTATEMENT CRITERION: The owner or operator must submit a copy of the certificates of training for Class A and B operators.

(12) The owner or operator has failed to install required secondary containment.

REINSTATEMENT CRITERION: The owner or operator must document secondary containment has been installed as provided in 135.3(9).

(13) The owner or operator has failed to pay the annual tank management fee.

REINSTATEMENT CRITERION: The owner or operator must pay the current and any previous unpaid tank management fees in addition to any late fees as provided in 135.3(5)*"b."*

(14) When tanks are no longer in use or in temporary closure.

REINSTATEMENT CRITERION: The owner or operator must provide a completed Return to Service form along with required documents.

c. Provisional status. The department may classify a UST system as operating under a provisional status when the department documents a pattern of UST operation and maintenance violations under 567—135.3(455B) through 567—135.5(455B) and suspected release and confirmed release response actions under 567—135.6(455B) and 567—135.7(455B). The department shall provide the owner or operator with a notice specifying the basis for the proposed classification and a

proposed remedial action plan. The objective of the remedial action plan is to provide the owner and operator an opportunity to undertake certain remedial actions sufficient to establish a reasonable likelihood that future regulatory compliance will be achieved.

The remedial action plan may include but is not limited to provisions for owner/operator training, development of a facility-specific compliance manual, more frequent third-party compliance inspections than otherwise required under 567—135.19(455B), monthly reporting, and retention of a third-party compliance manager/consultant. If the owner or operator and the department cannot reach agreement on a remedial action plan, the department may initiate enforcement action by issuance of an administrative order pursuant to 567—Chapter 10. This provision does not grant the owner or operator an entitlement to this procedure, and the department reserves all discretion to undertake an enforcement action and assess penalties as provided in Iowa Code sections 455B.476 and 455B.477.

d. Administrative orders. The department may impose a delivery prohibition as a remedy for violations of the operation and maintenance provisions in 567—135.3(455B) through 567—135.5(455B) and the suspected and confirmed release response actions in 567—135.6(455B) and 567—135.7(455B). This remedy may be in addition to the assessment of penalties as provided in Iowa Code section 455B.476 and other appropriate injunctive relief necessary to correct violations.

e. Due process prior to initiation of a delivery prohibition response action.

(1) Prior to imposing a delivery prohibition response action under 135.3(7)*"b"* above, the department will provide notice to the owner or operator or, if notice to the owner or operator cannot be confirmed, to a person in charge at the UST facility of the basis for the finding and the intent to initiate a delivery prohibition response action. Notice may be by verbal contact, by facsimile, by electronic mail, or by regular or certified mail to the UST facility address or the owner's or operator's last-known address. The owner and operator will be given a minimum of one business day to provide documentation that the finding is inaccurate or that reinstatement criteria in 135.3(7)*"b"*(1) through *"b"*(5) have been satisfied. Additional days and the opportunity for a telephone or in-person conference may be provided the owner and operator to contest the factual basis for a finding under 135.3(7)*"b"*(6) through *"b"*(14). Additional procedural due process may be afforded the owner and operator on a case-by-case basis sufficient to satisfy Constitutional due process standards.

If insufficient information is submitted to change the finding, the department will notify the owner or operator and a person in charge at the UST facility of the final decision to impose the delivery prohibition response action.

(2) Provisional status. Upon a finding that an owner or operator under provisional status has failed to comply with the terms of a remedial action plan as provided above, the department may initiate a delivery prohibition response action by giving actual notice to the owner or operator of the basis for the finding of noncompliance and the department's intent to initiate a delivery prohibition response action. The delivery prohibition response action shall not be imposed without providing the owner or operator the opportunity for an evidentiary hearing consistent with the provisions for suspension and revocation of certifications under 567—Chapter 7.

f. Delivery prohibition procedure. Upon oral or written notice that the delivery prohibition response action has been imposed, the owner or operator and any person in charge of the UST facility shall be notified that they are not authorized to receive any further delivery of regulated substances until conditions for reinstatement of eligibility are satisfied. Owners and operators are required to provide the department with names and contact information for all persons who convey or deposit regulated substances to the USTs. The department will attempt to notify known persons who convey or deposit regulated substances to the USTs that they are not authorized to deliver to the USTs until further notice by the department as provided in Iowa Code section 455B.473(8)*"a"* and in 135.3(5).

The department shall visit the site and affix a "red tag" to the fill pipes or fill pipe caps of all affected USTs. It is unlawful for any person to deposit or accept a regulated substance into a UST that has a "red tag" affixed to the fill pipe or fill pipe cap. The department may allow the owner and operator to dispense and sell the remainder of existing fuel unless the department determines there is an immediate risk of a release or other risk to human health, safety or the environment. The

department shall confirm in writing the basis for the delivery prohibition response action, contacts made prior to the action, and steps the owner or operator must take to reinstate fuel delivery.

135.3(8) *Secondary containment requirements for UST system installations.* All new and replacement underground storage tank systems and appurtenances used for the storage and dispensing of petroleum products shall have secondary containment in accordance with this subrule. The secondary containment provision includes the installation of containment sumps.

a. Tanks and piping installed or replaced after November 28, 2007, must have secondary containment that is designed, installed, and maintained according to the performance standards in 135.3(1) and 135.5(3)*"b."*

(1) The secondary containment may be manufactured as an integral part of the primary containment or constructed as a separate containment system.

(2) At a minimum, the secondary containment must:

1. Contain regulated substances leaked from the UST system until detected and removed.

2. Prevent the release of regulated substances into the environment at any time during the operational life of the underground storage tank system.

3. Be checked for evidence of a release from the tank at least every 30 days as provided in 135.5(2)*"a."*

b. Testing and inspection. Containment sumps shall be liquid-tight and must be inspected and tested in accordance with the following:

(1) Inspections for secondary containment sumps (spill catchment basins, turbine sumps, transition or intermediate sumps, and under-dispenser containment).

1. Inspections for secondary containment sumps shall consist of visual inspection by an Iowa-certified installer or Iowa-certified compliance inspector every two years.

2. Containment sumps must be intact (no cracks or perforations) and liquid-tight, including sides and bottom.

3. Containment sumps must be maintained and kept free of debris, liquid, and ice at all times.

4. Regulated substances leaked or spilled into any containment sumps shall be immediately removed.

(2) Secondary containment sumps used for interstitial monitoring of piping shall be tested upon installation and periodically in accordance with 135.4(12).

567—135.4(455B) General operating requirements.

135.4(1) *Spill and overfill control.*

a. Owners and operators must ensure that releases due to spilling or overfilling do not occur. The owner and operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.

NOTE: The transfer procedures referenced in 40 CFR 280.30 may be used to comply with 135.4(1) *"a."*

b. The owner and operator must report, investigate, and clean up any spills and overfills in accordance with 135.6(4).

135.4(2) *Operation and maintenance of corrosion protection.* All owners and operators of metal UST systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented until the UST system is permanently closed or undergoes a change in service in accordance with 135.15(2):

a. All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

b. All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(1) Frequency. All cathodic protection systems must be tested within six months of installation and at least every three years thereafter or according to another reasonable time frame established by the department; and

(2) Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this subrule must be in accordance with a code of practice developed by a nationally recognized association.

NOTE: The codes of practice in 40 CFR 280.31(b)(2) may be used to comply with 135.4(2)*"b"*(2).

c. UST systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is running properly.

d. For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with 135.4(5)) to demonstrate compliance with the performance standards in this subrule. These records must provide the following:

(1) The results of the last three inspections required in 135.4(2)*"c"*; and

(2) The results of testing from the last two inspections required in 135.4(2)*"b."*

e. When an impressed current cathodic protection system is failing cathodic protection for the time periods given below, owners and operators must take the following actions:

(1) For impressed current cathodic protection systems that have been inoperative for 0 to 90 days after failing a corrosion protection test or after discovering the system is not operating, all of the following must be completed:

1. Power must be restored to an inoperative corrosion protection system. A damaged or failed corrosion protection system must be repaired by a cathodic protection tester. A corrosion expert must approve any modifications to the system that are outside of the original design.
2. The corrosion protection system must be retested within six months of repair.
3. A copy of the test and any repairs must be kept as part of the cathodic protection records.
4. A copy of the new design standards must be kept as part of the cathodic protection records.

(2) For impressed current corrosion protection systems that have been inoperative for 90 to 365 days or repaired 90 to 365 days after failing a corrosion protection test, all of the following must be completed:

1. Notify the department.
2. Power must be restored to an inoperative corrosion protection system.
3. The corrosion protection system must be repaired, tested and returned to service under the supervision of a corrosion expert.
4. A precision tightness test must be conducted on the entire UST system.
5. The corrosion protection system must be retested within six months of the repair or power being restored.
6. A copy of the test and any repairs must be kept as part of the cathodic protection records.
7. A copy of the new design standards must be kept as part of the cathodic protection records.
8. If determined the tank is not suitable for corrosion protection, the tank must be permanently closed in accordance with 135.15(2).

(3) If the impressed current corrosion protection system has been inoperative for more than 365 days or was not repaired for more than 365 days after failing a corrosion protection test, all of the following must be completed:

1. Notify the department.
2. Immediately empty and stop using the tank system.
3. An internal inspection of the steel tank must be conducted according to a national standard (e.g., API 1631). If the UST fails the internal inspection, the UST owner must permanently close the tank in accordance with 135.15(2).
4. All metal piping and buried metal components (e.g., flex connectors, couplings) that routinely contain product must be inspected by a UST professional or cathodic protection tester. If the metallic components have no visible corrosion and have passed a line tightness test (unless the piping is exempt from leak detection, e.g., Safe or European Suction), then the cathodic protection system may

be repaired or replaced under the supervision of a corrosion expert. Metallic components that show visible corrosion must be replaced.

5. A precision test must be conducted on the entire UST system following repair or replacement of the cathodic protection system.

6. The corrosion protection system must be retested within six months of repair.

7. A copy of the tests and any repairs must be kept as part of the cathodic protection records.

8. A copy of the new design standards must be kept as part of the cathodic protection records.

(4) If the impressed current cathodic protection system has been inoperable for more than 365 days and cannot or will not be brought back into immediate use, the tank system must be permanently closed in accordance with 135.15(2).

135.4(3) *Compatibility.* Owners and operators must use a UST system made of or lined with materials that are compatible with the substance stored in the UST system.

a. Owners and operators must notify the department at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol, greater than 20 percent biodiesel, or any other regulated substance identified by the department.

b. Owners and operators must have a UST installer certified under 567—Chapter 134 submit the department's checklist for equipment compatibility for the UST system to the department at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol or greater than 20 percent biodiesel, or any other regulated substance identified by the department.

c. A retail dealer, as defined in Iowa Code section 214A.1, must show compliance with the requirements of Iowa Code sections 455G.32 and 455G.33, if applicable, by submitting and maintaining the applicable reporting and recordkeeping documentation listed in 135.4(5)*"a"*(10), *"a"*(11), *"b"*(12), and *"b"*(13).

NOTE: Owners and operators storing alcohol blends may use the code in 40 CFR 280.32(b)(2) to comply with the requirements of 135.4(3).

135.4(4) *Repairs and replacement.* Owners and operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements:

a. Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

NOTE: The codes and standards referenced in 40 CFR 280.33(a) may be used to comply with 135.4(4)*"a."*

b. Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

c. Piping and fitting

(1) Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Noncorrodible pipes and fittings may be repaired in accordance with the manufacturer's specifications.

(2) If 50 percent or more of any piping run is removed, the entire piping run must be removed and replaced with secondarily contained piping and interstitial monitoring.

(3) All piping replacements requiring secondary containment shall be constructed with transition or intermediate containment sumps.

d. Repairs to secondary containment areas of tanks and piping used for interstitial monitoring and to containment sumps used for interstitial monitoring of piping must have the secondary containment tested for tightness according to the manufacturer's instructions, a code of practice developed by a nationally recognized association or independent testing laboratory, or according to requirements established by the department within 30 days following the date of completion of the repair. All other repairs to tanks and piping must be tightness tested in accordance with 135.5(4)*"c"* and 135.5(5)*"b"* within 30 days following the date of the completion of the repair except as provided in 135.4(4)*"d"*(1) through *"d"*(3):

(1) The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory; or

(2) The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in 135.5(4)*"d"* through *"i"*; or

(3) Another test method is used that is determined by the department to be no less protective of human health and the environment than those listed above.

NOTE regarding 135.4(4)*"d"*: The codes of practice referenced in 40 CFR 280.33(d)(3) may be used to comply with 135.4(4)*"d."*

e. Within six months following the repair of any cathodically protected UST system, the cathodic protection system must be tested in accordance with 135.4(2)*"b"* and *"c"* to ensure that it is operating properly.

f. Within 30 days following any repair to spill or overfill prevention equipment, the repaired spill or overfill prevention equipment must be tested or inspected, as appropriate, in accordance with 135.4(1) to ensure it is operating properly.

g. Installation of any new or replacement turbine pumps involving the direct connection to the tank shall have secondary containment.

h. UST system owners and operators must maintain records of each repair until the UST system is permanently closed or undergoes a change-in-service pursuant to 135.15(2).

135.4(5) *Reporting and recordkeeping.* Owners and operators of UST systems must cooperate fully with inspections, monitoring and testing conducted by the department, as well as requests for document submission, testing, and monitoring by the owner or operator pursuant to Section 9005 of Subtitle I of the Solid Waste Disposal Act as amended.

a. Reporting. Owners and operators must submit the following information to the department:

(1) Notification for all UST systems (135.3(3)), which includes certification of installation for new UST systems (135.3(1)*"e"*);

(2) Notification of equipment replacement or addition of new equipment;

(3) Reports of all releases including suspected releases (135.6(1)), spills and overfills (135.6(4)), and confirmed releases (135.7(2));

(4) Corrective actions planned or taken including initial abatement measures (135.7(3)), initial site characterization (567—135.9(455B)), free product removal (135.7(4)), investigation of soil and groundwater cleanup and corrective action plan (567—135.8(455B) through 567—135.12(455B));

(5) A notification before permanent closure or change-in-service (135.15(2));

(6) Notification of any change in ownership;

(7) Notification of any change in Class A or Class B operators;

(8) Notification of any loss of financial responsibility (i.e., insurance);

(9) Notification prior to UST systems switching to certain regulated substances;

(10) Documentation establishing compatibility and capability as required in Iowa Code section 455G.32, if applicable;

(11) Documentation establishing compatibility and capability as required in Iowa Code section 455G.33, if applicable.

b. Recordkeeping. Owners and operators must maintain the following information:

(1) A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (135.3(1)*"a"*(4); 135.3(1)*"b"*(3)).

(2) Documentation of operation of corrosion protection equipment (135.4(2));

(3) Documentation of UST system repairs (135.4(4)*"h"*);

(4) Documentation of compliance with release detection requirements (135.5(6));

(5) Results of the site investigation conducted at permanent closure (135.15(3));

(6) Cathodic protection system testing results (135.4(2));

(7) Class A, B and C operator training certificates (135.4(6));

(8) Secondary containment test results (135.3(9));

(9) Documentation of periodic walkthrough inspections (135.4(13));

(10) Documentation of compatibility for UST systems (135.4(3));

(11) Documentation of compliance for spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping (135.4(12));

(12) Documentation establishing compatibility and capability as required in Iowa Code section 455G.32, if applicable;

(13) Documentation establishing compatibility and capability as required in Iowa Code section 455G.33, if applicable.

c. Availability and maintenance of records. Owners and operators must keep the records required either:

(1) At the UST site and immediately available for inspection by the department; or

(2) At a readily available alternative site and be provided for inspection to the department within two business days of department request.

(3) In the case of permanent closure records required under 135.15(5), owners and operators are also provided with the additional alternative of mailing closure records to the department if they cannot be kept at the site or an alternative site as indicated above.

135.4(6) *Training required for UST operators.*

a. An owner or operator shall designate Class A, Class B, and Class C operators for each underground storage tank system or facility that has underground storage tanks regulated by the department, except for unstaffed facilities, which may designate only Class A and Class B operators.

b. A facility may not operate unless operators have been designated and trained as required in this rule or unless otherwise agreed upon by the department based on a finding of good cause for failure to meet this requirement and a plan for designation and training at the earliest practicable date.

c. Trained operators must be readily available to respond to suspected or confirmed releases, equipment shut-offs or failures, and other unusual operating conditions.

d. A Class A or Class B operator should be immediately available for telephone consultation with the Class C operator when a facility is in operation. Class A or Class B operators should be able to be on site at the storage tank facility within four hours.

e. For staffed facilities, a Class C operator must be on site whenever the UST facility is in operation.

f. For unstaffed facilities, a Class B operator must be geographically located such that the person can be on site within two hours of being contacted by the public, the owner or operator of the facility, or the department. Emergency contact information and emergency procedures must be prominently displayed at the site. An unstaffed facility shall have an emergency shutoff device as provided in 135.5(1) and a sign posted in a conspicuous place that includes the name and telephone number of the facility owner, an emergency response telephone number to contact the Class B operator, and information on local emergency responders.

g. Designated operators must successfully complete required training under 135.4(9).

h. A person may be designated for more than one class of operator.

i. When a facility is found to be out of compliance, the department may require that the designated UST system Class A, B, or C operator be retrained under a plan approved by the department. The retraining must occur within 30 days from departmental notice for Class A and Class B operators and within 15 days for Class C operators.

135.4(7) *UST operator responsibilities.*

a. Class A operator.

(1) Class A operators have the primary responsibility to operate, maintain, and have knowledge of the regulatory requirements for the underground storage tank system and facility. The Class A operator’s responsibilities include managing resources and personnel to achieve and maintain compliance with regulatory requirements under this chapter in the following ways:

1. Class A operators assist the owner by ensuring that underground storage tank systems are properly installed and expeditiously repaired and inspected; financial responsibility is maintained; and records of system installation, modification, inspection and repair are retained and made available to

the department and certified compliance inspectors. The Class A operator shall properly respond to and report emergencies caused by releases or spills from UST systems, ensure that the annual tank management fees are paid, and ensure that Class B and Class C operators are properly trained.

2. Class A operators shall be familiar with training requirements for each class of operator and may provide required training for Class C operators.

3. Class A operators shall provide site drawings that indicate equipment locations for Class B and Class C operators.

(2) Department-certified installers, installation inspectors, and department-certified compliance inspectors may perform Class A operator duties when employed or contracted by the tank owner to perform these functions so long as they are properly trained and designated as Class A operators pursuant to 135.4(9) through 135.4(11). Class A operators who are also certified compliance inspectors under 567—Chapter 134 may perform in-house facility inspections of the UST system, but shall not perform department-mandated compliance inspections pursuant to 567—135.19(455B). Compliance inspections of a UST facility required by 567—135.19(455B) must be completed by a third-party compliance inspector certified under 567—Chapter 134.

(3) When there is a change in ownership or operator status, the new owner or operator is responsible for designating a Class A operator prior to bringing the UST system into operation. The Class A operator is responsible for ensuring that all necessary documentation for change of ownership is completed and submitted to the department and that all compliance requirements of this chapter are satisfied prior to bringing the UST system into operation. The compliance requirements may be provided to the owner or operator using the department's checklist.

If the UST system was temporarily closed, the designated Class A operator must ensure the department's checklist for returning a UST into service is followed, all compliance requirements of this chapter have been met, and the necessary documentation is submitted to the department.

(4) When there is a change in UST ownership, property ownership or operator status, the designated Class A operator for the current owner and operator is responsible for notifying the department when the change is final and, if possible, prior to the new owner or operator taking possession of the site.

b. Class B operator.

(1) A Class B operator is knowledgeable of the applicable underground storage tank regulatory requirements and standards and implements them in the field or at the tank facility. A Class B operator oversees and implements the day-to-day aspects of operation, maintenance, and recordkeeping for the underground storage tanks at facilities within four hours of travel time from the Class B operator's principal place of business. A Class B operator's responsibilities include but are not limited to:

1. Performing mandated system tests at required intervals and making sure spill prevention, overfill control equipment, and corrosion protection equipment are properly functioning.

2. Assisting the owner by ensuring that release detection equipment is operational, release detection monitoring and tests are performed at the proper intervals, and release detection records are retained and made available to the department and compliance inspectors.

3. Making sure recordkeeping and reporting requirements are met and that relevant equipment manufacturers' or third-party performance standards are available and followed.

4. Properly responding to, investigating, and reporting emergencies caused by releases or spills from USTs.

5. Performing UST release detection in accordance with 567—135.5(455B).

6. Monitoring the status of UST release detection.

7. Meeting spill prevention, overfill prevention, and corrosion protection requirements.

8. Reporting suspected and confirmed releases and taking release prevention and response actions according to the requirements of 567—135.6(455B).

9. Training and documenting Class C operators to make sure at least one Class C operator is on site during operating hours. Class B operators shall be familiar with Class C operator responsibilities and may provide training for Class C operators.

(2) Department-certified installers, installation inspectors, and department-certified compliance inspectors may perform Class B operator duties when employed or contracted by the tank owner to perform these functions so long as they are properly trained and designated as Class B operators under 135.4(9) through 135.4(11). Class B operators who are also certified compliance inspectors under 567—Chapter 134 may perform in-house facility inspections of the UST system, but cannot perform department-mandated compliance inspections pursuant to 567—135.19(455B). Compliance inspections of a UST facility pursuant to 567—135.19(455B) must be completed by a third-party compliance inspector certified under 567—Chapter 134.

(3) The owner or operator of a site undergoing a change in ownership shall designate a Class B operator prior to bringing the UST system into operation. The Class B operator must conduct an inspection using the department's inspection checklist and submit the completed checklist along with the change of ownership form prior to operation. If a UST system was temporarily closed, the Class B operator shall ensure that the department's checklist for returning a UST to service is followed and that the necessary documentation is submitted to the department prior to operation of the UST system.

c. Class C operator. A Class C operator is an on-site employee who typically controls or monitors the dispensing or sale of regulated substances and is the first to respond to events indicating emergency conditions. A Class C operator must be present at the facility at all times during normal operating hours. A Class C operator monitors product transfer operations to ensure that spills and overfills do not occur. The Class C operator must know how to properly respond to spills, overfills and alarms when they do occur. In the event of a spill, overfill or alarm, a Class C operator shall notify the Class A and Class B operators, as well as the department and appropriate local emergency authorities as required by rule.

(1) Written basic operating instructions, emergency contact names and telephone numbers, and basic procedures specific to the facility shall be provided to all Class C operators and readily available on site.

(2) There may be more than one Class C operator at a storage tank facility, but not all employees of a facility need be Class C operators.

135.4(8) *UST operator training course requirements.* Individuals must attend a department-approved training course covering material designated for each operator class. Individuals must attend every session of the training, take the examination, and attend examination review.

a. Class A operators. To be certified as a Class A operator, the applicant must successfully complete a department-approved training course that covers underground storage tank system requirements as outlined in 567—Chapters 134 through 136. The course must also provide a general overview of the department's UST program, purpose, groundwater protection goals, public safety and administrative requirements. The training must include but is not limited to the following:

(1) Components and materials of underground storage tank systems.

(2) A general discussion of the content of PEI/RP900-08, Recommended Practices for the Inspection and Maintenance of UST Systems, and PEI/RP500, Recommended Practices for Inspection and Maintenance of Motor Fuel Dispensing Equipment.

(3) Spill and overfill prevention, to include the American Petroleum Institute (API) Publication RP1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," and National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code."

(4) Ensuring product delivery to the correct tank by using color-symbol codes in the API Standard RP1637, "Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Service Stations and Distribution Terminals."

(5) Proper fuel ordering and delivery, including procedures in API RP1007, "Loading and Unloading of MC/DOT 406 Cargo Tank Motor Vehicles."

(6) Release detection methods and related reporting requirements.

(7) Corrosion protection and inspection requirements, including the requirement to have a department-certified cathodic protection tester.

(8) Discussion of the benefits of monthly or frequent inspections and content and use of inspection checklists. Training materials for operators shall include the department's "Iowa UST Operator Inspection Checklist" or a checklist template similar to the department's document.

(9) Requirement and content of third-party compliance inspections.

(10) How to properly respond to an emergency, including hazardous conditions.

(11) Product and equipment compatibility, including the department's ethanol compatibility guidance and certification.

(12) Financial responsibility, including detailed explanation of liability, notice and claim procedures, and the six-month window to check for and report a release prior to insurance termination to maintain coverage for corrective action.

(13) Notification of installation and storage tank registration requirements.

(14) Requirement to use department-certified companies and individuals for UST installation, testing, lining, and removal.

(15) Temporary and permanent closure procedures and requirements.

(16) NESHAP vapor recovery requirements.

(17) Conditions under which the department may stop fuel delivery and take enforcement action.

(18) Ensuring that annual tank management fees are paid.

(19) Ensuring that suspected and confirmed releases are investigated and reported according to 135.6(1).

b. Class B operators. To be certified as a Class B operator, the individual must successfully complete a department-approved training course that provides in-depth understanding of UST system regulations applicable to this class. Training must also provide a general overview of the department's UST program, purpose, groundwater protection goals, public safety and administrative requirements. Training shall cover the operation and maintenance requirements set forth in this chapter, including but not limited to the following:

(1) A general discussion of the content of PEI/RP900-08, Recommended Practices for the Inspection and Maintenance of UST Systems, and PEI/RP500, Recommended Practices for Inspection and Maintenance of Motor Fuel Dispensing Equipment.

(2) Components and materials of underground storage tank systems.

(3) Spill and overfill prevention.

(4) Ensuring product delivery to the correct tank by using color-symbol codes in the API Standard RP1637.

(5) Proper fuel ordering and delivery, including procedures from API RP1007.

(6) Methods of release detection and related reporting requirements.

(7) Corrosion protection and related testing.

(8) Requirements of 30-day and annual walkthrough inspections. Training materials for operators shall include the department's "Iowa UST Operator Inspection Checklist" or a checklist template similar to the department's document.

(9) Requirement and content of third-party compliance inspections.

(10) Emergency response, reporting and investigating releases.

(11) Product and equipment compatibility, including the department's ethanol compatibility guidance and certification.

(12) Financial responsibility, including detailed explanation of liability, notice and claim procedures, and the six-month window to check for and report a release prior to insurance termination to maintain coverage for corrective action.

(13) Notification of installation and storage tank registration requirements.

(14) Requirement to use department-certified companies and individuals for UST installation, testing, lining, and removal.

(15) Reporting and recordkeeping requirements.

(16) Overview of Class C operator training requirements.

(17) NESHAP vapor recovery requirements.

(18) Conditions under which the department may stop fuel delivery and take enforcement action.

(19) Requirements for facilities that operate unstaffed at any time.

c. Class C operators. To be certified as a Class C operator, an individual must complete a department-approved training course. A Class A or Class B operator who has completed a department-approved training course may provide the Class C training. Class C operator training must include at a minimum:

(1) A general overview of the department's UST program and purpose;

(2) Groundwater protection goals;

(3) Public safety;

(4) UST system overview;

(5) Administrative requirements; and

(6) Action to be taken in response to an emergency condition due to a spill or release from a UST system.

Training must include written procedures for the Class C operator, including notification instructions necessary in the event of emergency conditions. The written instructions and procedures must be readily available on site. A Class A or Class B operator may provide additional on-site Class C training specific to the operator's UST system.

135.4(9) *Examination and review requirement.* Class A and Class B operators must complete the department-approved training course and take an examination to verify their understanding and knowledge. The examination may include both written and practical (hands-on) testing activities. The trainer must follow up the examination with a review of missed test questions with the class or individual to ensure understanding of problem areas. Upon successful completion of the training course, the applicant will receive a certificate verifying the applicant's status as a Class A, Class B, or Class C operator.

a. Reciprocity. The department may waive the training course for operators upon a showing of successful completion of a training course and examination approved by another state or regulatory agency that the department determines are substantially equivalent to the UST requirements contained in this chapter.

b. Transferability to another UST site. Class A and Class B operators may transfer to other UST facilities in Iowa provided the operator is properly designated by the facility owner as a Class A or Class B operator according to 567—subrule 135.4(11). Class A and Class B operators transferring from other states shall seek prior approval of training qualifications, unless the department has preapproved the out-of-state program as substantially equivalent to the requirements of this chapter.

135.4(10) *Timing of UST operator training.*

a. An owner shall ensure that Class A, Class B, and Class C operators are trained by approved training providers before an operator assumes duties of that class of operator.

b. When a Class A or Class B operator is replaced, a new operator must be trained prior to assuming duties for that class of operator. A copy of the certificate of training must be submitted to the department within 30 days of assuming duties.

c. Class C operators must be trained before assuming the duties of a Class C operator. Written basic operating instructions, emergency contact names and telephone numbers, and basic procedures specific to the facility shall be provided to all Class C operators and readily available on site. A Class C operator may be briefed on these procedures concurrent with annual safety training required under Occupational Safety and Health Administration regulations, 29 CFR, Part 1910.

135.4(11) *Documentation of operator training.*

a. The owner of an underground storage tank facility shall maintain a list of designated operators. The list shall be made available to the department in accordance with 135.4(5). The list shall represent the current Class A, Class B and Class C operators for the UST facility and must include:

(1) The name of each operator and the operator's class(es); contact information for Class A and Class B operators; the date each operator successfully completed initial training and refresher training, if any; the name of the company providing the training; and the name of the trainer.

(2) For all classes of operators, the site(s) for which an operator is responsible if more than one site.

b. A copy of the certificates of training for Class A and Class B operators shall be on file and readily available for inspection in accordance with 135.4(5). Records verifying completion of training or retraining of Class A, Class B, and Class C operators must identify name of trainee, date trained, operator training class completed, and list the name of the trainer or examiner and the training company name, address, and telephone number. Owners and operators must maintain these records for as long as Class A, Class B, and Class C operators are designated.

c. A copy of the certificates of training for Class B and Class C operators shall be available at each facility for which the operator is responsible.

d. Class A and Class B operator contact information, including names and telephone numbers and any emergency information, shall be conspicuously posted at unstaffed facilities near the dispensers and the station building.

135.4(12) *Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment.*

a. Owners and operators of UST systems with spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping must meet these requirements to ensure the equipment is operating properly and will prevent releases to the environment:

(1) Spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device) and containment sumps used for interstitial monitoring of piping must prevent releases to the environment by meeting one of the following:

1. The equipment is double walled and the integrity of both walls is periodically monitored at a frequency of not less than the frequency of the walkthrough inspections described in 135.4(13). If owners and operators discontinue periodic monitoring of this equipment, they must begin meeting 135.4(12)*"a"*(1)"2" and conduct a test within 30 days of discontinuing periodic monitoring of this equipment; or

2. The spill prevention equipment and containment sumps used for interstitial monitoring of piping are tested at least once every three years to ensure the equipment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:

- Requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements); or
- A code of practice developed by a nationally recognized association or independent testing laboratory; or
- Requirements determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

(2) Overfill prevention equipment must be inspected at least once every three years. At a minimum, the inspection must ensure that overfill prevention equipment is set to activate at the correct level specified in 135.3(1)*"c"* and will activate when regulated substance reaches that level. Inspections must be conducted in accordance with one of the following criteria:

1. Requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements); or

2. A code of practice developed by a nationally recognized association or independent testing laboratory; or

3. Requirements determined by the department to be no less protective of human health and the environment than the requirements listed in this subrule.

b. Owners and operators must begin meeting these requirements as follows:

(1) For UST systems in use on or before June 23, 2021, the initial spill prevention equipment test and overfill prevention equipment inspection must be conducted not later than October 13, 2021.

(2) For UST systems brought into use after June 23, 2021, these requirements apply at installation.

c. Owners and operators must maintain records as follows for spill prevention equipment and overfill prevention equipment:

(1) All records of testing or inspection must be maintained for three years; and

(2) For spill prevention equipment and containment sumps used for interstitial monitoring of piping not tested every three years, documentation showing that the prevention equipment is double-walled and the integrity of both walls is periodically monitored must be maintained for as long as the equipment is periodically monitored.

NOTE: The code of practice referenced in 40 CFR 280.35(a)(2) may be used to comply with this section.

135.4(13) *Periodic operation and maintenance walkthrough inspections.* Conduct inspections to properly operate and maintain UST systems.

a. Conduct a walkthrough inspection every 30 days that, at a minimum, checks the following equipment as specified below (Exception: spill prevention equipment at UST systems receiving deliveries at intervals greater than every 30 days may be checked prior to each delivery):

(1) Spill prevention equipment: visually check for damage; remove liquid or debris; check for and remove obstructions in the fill pipe; check the fill cap to make sure it attaches securely on the fill pipe and gasket is in good condition; and, for double-walled spill prevention equipment with interstitial monitoring, check for a leak in the interstitial area, and

(2) Release detection equipment: check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present, and ensure records of release detection testing are reviewed and current.

b. Conduct a walkthrough inspection annually, at a minimum, checking the following equipment as specified below:

(1) Containment sumps: visually check for damage, leaks to the containment area, or releases to the environment; remove liquid (in contained sumps) or debris; and, for double-walled sumps with interstitial monitoring, check for a leak in the interstitial area, and

(2) Handheld release detection equipment: check devices such as tank gauge sticks or groundwater bailers for operability and serviceability;

c. Conduct operation and maintenance walkthrough inspections according to a standard code of practice developed by a nationally recognized association or independent testing laboratory that checks equipment comparable to 135.4(13)*"a"* and *"b"*; or

NOTE regarding 135.4(13)*"c"*: The code of practice referenced in 40 CFR 280.36(a)(2) may be used to comply with 135.4(13)*"c."*

d. Conduct operation and maintenance walkthrough inspections developed by the department that checks equipment comparable to 135.4(13)*"a"* and *"b."*

e. Owners and operators must maintain records (in accordance with 135.4(5)) of operation and maintenance walkthrough inspections for 12 consecutive months. Records must include a list of each area checked, whether each area checked was acceptable or needed action taken, a description of actions taken to correct an issue, and delivery records if spill prevention equipment is checked less frequently than every 30 days due to infrequent deliveries.

567—135.5(455B) Release detection.

135.5(1) *General requirements for all UST systems.*

a. Owners and operators of UST systems must provide a method, or combination of methods, of release detection that:

(1) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product;

(2) Is installed and calibrated in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and

(3) Beginning October 13, 2021, is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following:

1. Manufacturer's instructions;

2. A code of practice developed by a nationally recognized association or independent testing laboratory; or

3. Requirements determined by the department to be no less protective of human health and the environment than the two options listed above.

(4) A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria:

1. Automatic tank gauge and other controllers: test alarm, verify system configuration, test battery backup;

2. Probes and sensors: inspect for residual buildup, ensure floats move freely, ensure shaft is not damaged, ensure cables are free of kinks and breaks, test alarm operability or running condition and communication with controller;

3. Automatic line leak detector: test operation to meet criteria in 135.5(5)*"a"* by simulating a leak;

4. Vacuum pumps and pressure gauges: ensure proper communication with sensors and controller; and

5. Handheld electronic sampling equipment associated with groundwater and vapor monitoring: ensure proper operation.

The code of practice referenced in 40 CFR 280.40(a)(3) may be used to comply with 135.5(1) *"a"*(3) and *"a"*(4).

(5) Meets the performance requirements in 135.5(4) or 135.5(5), with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods conducted in accordance with 135.5(4)*"b," "c,"* and *"d"* and 135.5(5)*"a"* and *"b"* must be capable of detecting the leak rate or quantity specified for that method with a probability of detection of 0.95 and a probability of false alarm of 0.05.

b. When an owner and operator continually show the inability to conduct leak detection with the method being used, the department may require the owner and operator to find an alternative leak detection method.

c. Any UST system that cannot apply a method of release detection that complies with the requirements of this rule must complete the closure procedures in 567—135.15(455B). For previously deferred UST systems described in 567—135.1(455B) and 567—135.20(455B), this requirement applies after the effective dates described in 135.1(3) and 567—135.20(455B).

d. Any UST facility that uses pressurized piping and dispenses product in the absence of a Class A, B, or C operator shall comply with the following requirements:

(1) Employ automatic line leak detectors that do one or more of the following:

1. Shut down the submersible pump when a leak is detected.

2. Restrict the flow of product when a leak is detected.

3. Trigger an audible or visual alarm when a leak is detected.

(2) At facilities implementing 135.5(1)*"d"*(1)"2" or "3," the facility's operator shall be notified or shall conduct a visit through one of the following methods:

1. Notification of the Class B operator by immediate electronic communication.

2. Signage directing the customer to contact the Class B operator or a designated contact person. The sign must be immediately visible to the customer and state that slow flow or an audible or visual alarm is an indication of a possible release. The sign must provide a 24-hour telephone number of the Class B operator or designee and direct the customer to stop dispensing product.

3. Daily visit to the site by a Class A, B, or C operator or designee. Visits shall include observation of every automatic line leak detector for shutdown, alarm, or restricted flow conditions. Methods of observing for restricted flow conditions may include dispensing product into a proper container or personal vehicle, observing a customer dispense product into a vehicle, or another method

approved by the department. Owners and operators shall maintain an onsite log of site visits to demonstrate compliance with this provision. The log shall include the name of the observer and method used to observe the status of the automatic line leak detectors.

(3) All UST facilities subject to 135.5(1)*"d"* must comply with its provisions by July 1, 2014.

135.5(2) *Requirements for petroleum UST systems.* Owners and operators of petroleum UST systems must provide release detection for tanks and piping as follows:

a. Tanks. Tanks must be monitored at least every 30 days for releases using one of the methods listed in 135.5(4)*"d"* through *"i"* except that:

(1) Tanks installed after November 28, 2007, must use interstitial monitoring of the secondary containment as the primary leak detection method in accordance with 135.5(4)*"g."*

(2) Tanks installed on or before November 28, 2007, with capacity of 550 gallons or less and tanks with a capacity of 551 to 1,000 gallons that meet the tank diameter criteria in 135.5(4)*"b"* may use manual tank gauging (conducted in accordance with 135.5(4)*"b"*).

b. Piping. Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one of the following requirements:

(1) Pressurized piping. Underground piping that conveys regulated substances under pressure must:

1. Be equipped with an automatic line leak detector conducted in accordance with 135.5(5)*"a"*; and

2. Have an annual line tightness test conducted in accordance with 135.5(5)*"b"* or have monthly monitoring conducted in accordance with 135.5(5)*"c."* Piping installed after November 28, 2007, must use interstitial monitoring of the piping secondary containment in accordance with 135.5(5)*"d."*

(2) Suction piping. Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every three years and in accordance with 135.5(5) *"b,"* or use a monthly monitoring method conducted in accordance with 135.5(5)*"c."* Remote fill is considered suction piping. No release detection is required for suction piping that is designed and constructed to meet the following standards:

1. The below-grade piping operates at less than atmospheric pressure;

2. The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

3. Only one check valve is included in each suction line;

4. The check valve is located directly below and as close as practical to the suction pump; and

5. A method is provided that allows compliance with "2" through "4" to be readily determined.

(3) Piping installed or replaced must meet one of the following:

1. Pressurized piping must be monitored for releases at least every 30 days in accordance with 135.5(5)*"d"* and be equipped with an automatic line leak detector.

2. Suction piping must be monitored for releases at least every 30 days. No release detection is required for suction piping that meets 135.5(5)*"b"*(2)"1" through "5."

135.5(3) *Requirements for hazardous substance UST systems.* Owners and operators of hazardous substance UST systems must have containment that meets the following requirements and monitor these systems pursuant to 135.5(4)*"g"* at least every 30 days:

a. Secondary containment systems must be designed, constructed and installed to:

(1) Contain regulated substances leaked from the primary containment until they are detected and removed;

(2) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

(3) Be checked for evidence of a release at least every 30 days.

b. Double-walled tanks must be designed, constructed, and installed to:

(1) Contain a leak from any portion of the inner tank within the outer wall; and

(2) Detect the failure of the inner wall.

c. External liners (including vaults) must be designed, constructed, and installed to:

(1) Contain 100 percent of the capacity of the largest tank within its boundary;

(2) Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances; and

(3) Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).

d. Underground piping must be equipped with secondary containment that satisfies the requirements of this subrule (e.g., trench liners, jacketing of double-walled pipe). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in accordance with 135.5(5)*"a"*;

e. For hazardous substance UST systems installed on or before November 28, 2007, other methods of release detection may be used if owners and operators:

(1) Demonstrate to the department that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in 135.5(4)*"b"* through *"i"* can detect a release;

(2) Provide information to the department on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the UST site; and

(3) Obtain approval from the department to use the alternate release detection method before the installation and operation of the new UST system.

135.5(4) *Methods of release detection for tanks.* Each method of release detection for tanks used to meet the requirements of 135.5(2) must be conducted in accordance with the following:

a. Inventory control. Product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least 1.0 percent of flow-through plus 130 gallons on a monthly basis in the following manner:

(1) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded each operating day;

(2) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 of an inch;

(3) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;

(4) Deliveries are made through a drop tube that extends to within 1 foot of the tank bottom;

(5) Product dispensing is metered and recorded within the local standards for meter calibration or an accuracy of 6 cubic inches for every 5 gallons of product withdrawn; and

(6) The measurement of any water level in the bottom of the tank is made to the nearest 1/8 of an inch at least once a month.

NOTE: Practices described in 40 CFR 280.43(a)(6) may be used, where applicable, as guidance in meeting the requirements of 135.5(4)*"a"*(1) through *"a"*(6).

b. Manual tank gauging. Manual tank gauging must meet the following requirements:

(1) Tank liquid level measurements are taken at the beginning and end of the test period during which no liquid is added to or removed from the tank;

(2) Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;

(3) The equipment is capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 of an inch;

(4) A release is suspected and subject to the requirements of 567—135.6(455B) if the variation between the beginning and ending measurements exceeds the weekly or monthly standards in the following table. Immediately contact the department if these standards are exceeded.

Nominal Tank Capacity	Minimum Duration of Test	Weekly Standard (one test)	Monthly Standard (four-test average)
550 gallons or less	36 hours	10 gallons	5 gallons
551-1,000 gallons (when tank diameter is 64 inches)	44 hours	9 gallons	4 gallons
551-1,000 gallons (when tank diameter is 48 inches)	58 hours	12 gallons	6 gallons
551-1,000 gallons (also requires annual tank tightness testing)	36 hours	13 gallons	7 gallons
1,001-2,000 gallons (also requires annual tank tightness test)	36 hours	26 gallons	13 gallons

(5) Only those tanks of 550 gallons or less nominal capacity or tanks of 551 to 1,000 gallons nominal capacity with diameters of 64 inches or 48 inches may use this as the sole method of release detection. Other tanks of 551 to 2,000 gallons may use this method in place of inventory control in 135.5(4)*"a."* Tanks of greater than 2,000 gallons nominal capacity may not use this method to meet the requirements of this rule.

c. Tank tightness testing. Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon-per-hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

The tank tightness test procedure must be certified by a third party and meet US EPA testing procedures. The testing procedures are found in *Standard Test Procedures for Evaluating Leak Detection Methods*: *Volumetric Tank Tightness Testing Methods* (EPA /530/UST-90/004) March 1990 or as revised by EPA or *Non-Volumetric Tank Tightness Testing Methods* (EPA /530/UST-90/005) March 1990 or as revised by EPA.

d. Automatic tank gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

(1) The automatic product level monitor test can detect a 0.2 gallon-per-hour leak rate from any portion of the tank that routinely contains product;

(2) The automatic tank gauging equipment must meet the inventory control (or other test of equivalent performance) requirements of 135.5(4)*"a"*;

(3) The leak test must be performed according to manufacturer specifications;

(4) The automatic tank gauging equipment must be certified by a third party and meet US EPA testing procedures in *Standard Test Procedures for Evaluating Leak Detection Methods: Automatic Tank Gauging Systems* (ATGS) (EPA /530/UST-90/006) March 1990 or as revised by US EPA; and

(5) The test must be performed with the system operating in one of the following modes:

1. In-tank static testing conducted at least once every 30 days; or

2. Continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every 30 days.

e. Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

(1) The materials used as backfill are sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

(2) The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

(3) The measurement of vapors by the monitoring device is not rendered inoperative by the groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than 30 days;

(4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;

(5) The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system;

(6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in 135.5(4)*"e"*(1) through *"e"*(4) and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product;

(7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering; and

(8) The vapor product detector must be certified by a third party and meet US EPA testing procedures in *Standard Test Procedures for Evaluating Leak Detection Methods: Vapor-Phase Out-of-Tank Product Detectors* (EPA/530/UST-90/008) March 1990 or as revised by US EPA.

f. Groundwater monitoring. Testing or monitoring for liquids on the groundwater must meet the following requirements:

(1) The regulated substance stored is immiscible in water and has a specific gravity of less than 1;

(2) Groundwater is never more than 20 feet from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);

(3) The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;

(4) Monitoring wells shall be sealed from the ground surface to the top of the filter pack;

(5) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;

(6) The continuous monitoring devices or manual methods used can detect the presence of at least 1/8 of an inch of free product on top of the groundwater in the monitoring wells;

(7) Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in 135.5(4)*"f"*(1) through *"f"*(5) and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and

(8) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

g. Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

(1) For secondary containment systems, the sampling or testing method must be able to detect a leak through the inner wall in any portion of the tank that routinely contains product:

1. Continuously, by means of an automatic leak sensing device that signals to the operator the presence of any regulated substance in the interstitial space; or

2. Monthly, by means of a procedure capable of detecting the presence of any regulated substance in the interstitial space.

3. The interstitial space shall be maintained and kept free of liquid, debris or anything that could interfere with leak detection capabilities.

(2) For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a leak between the UST system and the secondary barrier:

1. The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (at least 10^{-6} cm/sec for the regulated substance stored) to direct a leak to the monitoring point and permit its detection;

2. The barrier is compatible with the regulated substance stored so that a leak from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;

3. For cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;

4. The groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;

5. The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under such conditions; and

6. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

(3) For tanks with an internally fitted liner, an automated device can detect a leak between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.

h. Statistical inventory reconciliation. Release detection methods based on the application of statistical principles to inventory data that test for the loss of product must meet the following requirements:

(1) Use a leak threshold that does not exceed one-half the minimum detectible leak rate;

(2) The statistical test must be able to detect at least a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; and

(3) The report by the SIR company must be a quantitative result with a calculated leak rate and include the leak threshold (leak rate at which a leak is declared), the calculated leak rate (leak rate calculated from the inventory records) and minimum detectable leak rate (minimum leak rate that can be determined from the inventory records).

1. A "pass" means that the calculated leak rate for the data set is less than the leak threshold and the minimum detectable leak rate is less than or equal to the certified performance standard;

2. A "fail" means the calculated leak rate for the data set is equal to or greater than the leak threshold;

3. An "inconclusive" means the minimum detectable leak rate exceeds the certified performance standard and the calculated leak rate is less than the leak threshold. If for any other reason the test result is not a "pass" or "fail," the result is "inconclusive";

(4) Owners and operators must notify the department in accordance with 567—135.6(455B) when a monthly SIR report of "fail" occurs or two consecutive inconclusive results occur.

(5) Owners and operators must assure the SIR analytical results are complete and available to the department upon request.

(6) The statistical inventory reconciliation method must be certified by a third party and meet US EPA testing procedures in *Standard Test Procedures for Evaluating Release Detection Methods: Statistical Inventory Reconciliation* (EPA 510-B-19-004) May 2019 or as revised by EPA.

i. Other methods. Any other type of release detection method, or combination of methods, can be used if:

(1) It can detect a 0.2 gallon-per-hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05; or

(2) The department may approve another method if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in 135.5(5)*"c"* through *"h."* In comparing methods, the department shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the

owner and operator must comply with any conditions imposed by the department on its use to ensure the protection of human health and the environment.

135.5(5) *Methods of release detection for piping.* Each method of release detection for piping used to meet the requirements of 135.5(2) must be conducted in accordance with the following:

a. Automatic line leak detectors. Methods that alert the operator to the presence of a leak in pressurized piping by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within one hour. An annual test of the operation of the leak detector must be conducted in accordance with 135.5(1)*"a."*

b. Line tightness testing. A periodic test of piping may be conducted only if it can detect a 0.1 gallon-per-hour leak rate at one and one-half times the operating pressure. The line leak detection method must be certified by a third party and meet US EPA testing procedures in *Standard Test Procedures for Evaluating Release Detection Methods: Pipeline Release Detection* (EPA 510-B-19-005) May 2019 or as revised by EPA.

c. Applicable tank methods. Except as described in 135.5(2)*"a,"* any of the methods in 135.5(4)*"e"* through *"i"* may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

d. Interstitial monitoring of secondary containment. Interstitial monitoring may be used for any piping with secondary containment designed for and capable of interstitial monitoring.

(1) Leak detection shall be conducted:

1. Continuously, by means of an automatic leak sensing device that signals to the operator the presence of any regulated substance in the interstitial space or containment sump; or

2. Monthly, by means of a procedure capable of detecting the presence of any regulated substance in the interstitial space or containment sump, such as visual inspection.

(2) The interstitial space or sump shall be maintained and kept free of water, debris or anything that could interfere with leak detection capabilities.

(3) At least every two years, any sump shall be visually inspected for integrity of sides and floor and tightness of piping penetration seals. Any automatic sensing device shall be tested for proper function.

135.5(6) *Release detection recordkeeping.* All UST system owners and operators must maintain records in accordance with 135.4(5) demonstrating compliance with all applicable requirements of this rule. These records must include the following:

a. All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be maintained for five years, or for another reasonable period of time determined by the department, from the date of installation. Records of site assessments required for vapor monitoring under 135.5(4)*"e"*(6) and groundwater monitoring under 135.5(4)*"f"*(7) must be maintained for as long as the methods are used. Records of site assessments must be signed by a professional engineer or professional geologist, or equivalent certified professional with experience in environmental engineering, hydrogeology, or other relevant technical discipline acceptable to the department;

b. The results of any sampling, testing, or monitoring must be maintained for at least one year, or for another reasonable period of time determined by the department, except as follows:

(1) The results of tank tightness testing conducted in accordance with 135.5(4)*"c"* must be retained until the next test is conducted; and

(2) The results of annual operation tests conducted in accordance with 135.5(1)*"a"*(3) and *"a"*(4), must be maintained for three years. At a minimum, the results must list each component tested, indicate whether each component tested meets criteria in 135.5(1)*"a"*(3) and *"a"*(4), or needs to have action taken, and describe any action taken to correct an issue; and

(3) The results of tank tightness testing, line tightness testing, and vapor monitoring using a tracer compound placed in the tank system conducted in accordance with 567—135.20(455B) must be retained until the next test is conducted; and

c. Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site must be maintained for at least one year after the servicing work is completed, or for another reasonable time period determined by the department. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for five years from the date of installation.

567—135.6(455B) Release reporting, investigation, and confirmation.

135.6(1) *Reporting of suspected releases.* Owners and operators of UST systems must report to the department within 24 hours, or within 6 hours in accordance with 567—Chapter 131 if a hazardous condition exists as defined in 567—131.1(455B), or another reasonable time period specified by the department, and follow the procedures in 135.8(1) for any of the following conditions:

a. The discovery by owners and operators or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water);

b. Unusual operating conditions observed by owners and operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system, an unexplained presence of water in the tank, or liquid in the interstitial space of secondarily contained systems) unless:

(1) The system equipment or component is found not to be releasing regulated substances to the environment;

(2) Any defective system equipment or component is immediately repaired or replaced; and

(3) For secondarily contained systems, except as provided for in 135.5(4)*"g"*(2)"4," any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed.

c. Monitoring results, including investigation of an alarm, from a release detection method required under 135.5(2) and 135.5(3) that indicate a release may have occurred unless:

(1) The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or

(2) The leak is contained in the secondary containment and:

1. Except as provided for in 135.5(4)*"g"*(2)"4," any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine filled) is immediately removed; and

2. Any defective system equipment or component is immediately repaired or replaced;

(3) In the case of inventory control, a second month of data does not confirm the initial result or the investigation determines no release has occurred; or

(4) The alarm was investigated and determined to be a non-release event (for example, from a power surge or caused by filling the tank during release detection testing).

135.6(2) *Investigation due to off-site impacts.* When required by the department, owners and operators of UST systems must follow the procedures in 135.6(3) to determine if the UST system is the source of off-site impacts. These impacts include the discovery of regulated substances (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface and drinking waters) that has been observed by the department or brought to its attention by another party.

135.6(3) *Release investigation and confirmation steps.* Owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under 135.6(1) within seven days, or another reasonable time period specified by the department, using either the following steps or another procedure approved by the department:

a. System test. Owners and operators must conduct tests (according to the requirements for tightness testing in 135.5(4)*"c"* and 135.5(5)*"b"*) or, as appropriate, secondary containment testing described in 135.4(4).

(1) The test must determine whether:

1. A leak exists in that portion of the tank that routinely contains product, or the attached delivery piping; or

2. A breach of either wall of the secondary containment has occurred.

(2) If the system test confirms a leak into the interstice or a release, owners and operators must repair, replace, upgrade, or close the UST system. In addition, owners and operators must begin corrective action in accordance with 567—135.9(455B) if the test results for the system, tank, or delivery piping indicate a release exists.

(3) Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate a release exists and if environmental contamination is not the basis for suspecting a release.

(4) Owners and operators must conduct a site check as described in 135.6(3)*"b"* if the test results for the system, tank, and delivery piping do not indicate a release exists but environmental contamination is the basis for suspecting a release.

b. Site check. A certified groundwater professional must conduct a site check in accordance with the tank closure in place procedures as provided in 135.15(3) or they may conduct a Tier 1 assessment in accordance with 135.9(3). Under either procedure, the certified groundwater professional must follow the policies and procedures applicable to sites where bedrock is encountered before groundwater as provided in 135.8(5) to avoid creating a preferential pathway for soil or groundwater contamination to reach a bedrock aquifer. The certified groundwater professional must measure for the presence of a release where contamination is most likely to be present at the UST site. The certified groundwater professional must follow the policies and procedures applicable to sites where bedrock is encountered before groundwater as provided in 135.8(5) to avoid creating a preferential pathway for soil or groundwater contamination to reach a bedrock aquifer. In selecting sample types, sample locations, and measurement methods, the certified groundwater professional must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of groundwater, and other factors appropriate for identifying the presence and source of the release.

(1) If the test results of the site check indicate action levels in 567—135.14(455B) have been exceeded, owners and operators must begin corrective action in accordance with 567—135.7(455B) through 567—135.12(455B).

(2) If the test results for the excavation zone or the UST site do not indicate a release has occurred, further investigation is not required.

135.6(4) *Reporting and cleanup of spills and overfills.*

a. Reportable releases. Owners and operators of UST systems must contain and immediately clean up a spill, overfill or any aboveground release, and report to the department within 24 hours, or within 6 hours in accordance with 567—Chapter 131 if a hazardous condition exists as defined in 567—131.1(455B) and begin corrective action in accordance with 567—135.7(455B) through 567—135.12(455B) in the cases identified in 40 CFR 280.53(a)(1) and (2).

b. Nonreportable releases. Owners and operators of UST systems must contain and immediately clean up a spill, overfill or any aboveground release of petroleum that is less than 25 gallons and a spill, overfill or any aboveground release of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours, owners and operators must immediately notify the department.

NOTE: Any spill or overfill that results in a hazardous condition as defined in 567—131.1(455B) must be reported within 6 hours. This includes the transporter of the product. A release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center under Sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and to appropriate state and local authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986.

567—135.7(455B) Release response and corrective action for UST systems containing petroleum or hazardous substances.

135.7(1) *General.* Owners and operators of petroleum or hazardous substance UST systems must, in response to a confirmed release from the UST system, comply with the requirements of this rule except for USTs excluded under 135.1(3)*"b"* and UST systems subject to RCRA Subtitle C corrective action requirements under Section 3004(u) of the Resource Conservation and Recovery Act, as amended.

135.7(2) *Initial response.* Upon confirmation of a release in accordance with 135.6(3) or after a release from the UST system is identified in any other manner, owners and operators must perform the following initial response actions within 24 hours of a release or within another reasonable period of time specified by the department:

a. Report the release to the department (e.g., by telephone or electronic mail);

b. Take immediate action to prevent any further release of the regulated substance into the environment; and

c. Identify and mitigate fire, explosion, and vapor hazards.

135.7(3) *Initial abatement measures.*

a. Unless directed to do otherwise by the department, owners and operators must perform the following abatement measures:

(1) Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment;

(2) Visually inspect any aboveground releases or exposed below-ground releases and prevent further migration of the released substance into surrounding soils and groundwater;

(3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);

(4) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator must comply with applicable state and local requirements;

(5) Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with 135.7(4).

b. Within 20 days after release confirmation, or within another reasonable period of time determined by the department, owners and operators must submit a report to the department summarizing the initial abatement steps taken under 135.7(3)*"a"* and any resulting information or data.

135.7(4) *Free product assessment and removal.* The free product assessment and removal requirements in this chapter are primarily concerned with a regulated substance that is present as a light nonaqueous phase liquid (LNAPL) in a monitoring well, boring, excavation, or other location at a thickness of more than 0.01 ft. At sites where investigations under 135.7(3)*"a"*(5) indicate 0.01 ft. or more of free product, owners and operators must immediately initiate a free product recovery assessment and submit a report in accordance with 135.7(4)*"d"* and initiate interim free product removal while continuing, as necessary, any actions initiated under 135.7(2) and 135.7(3), or preparing for actions required under 567—135.8(455B) through 567—135.12(455B). Owners and operators must immediately begin interim free product removal by bailing or by installation and maintenance of passive skimming equipment until an alternative removal method is required by or approved by the department. A certified groundwater professional must initially determine the frequency of bailing and proper installation and maintenance of the skimming equipment based on a determination of the recharge rate of the free product. The department may approve implementation of this interim removal process by persons not certified as groundwater professionals. For approval a certified groundwater professional must submit (1) sufficient documentation establishing that the bailing or skimming system has been adequately designed and tested, and (2) a written plan for regular

maintenance, reporting and supervision by a certified groundwater professional. Interim free product recovery reports must be submitted to the department on a monthly basis and on forms provided by the department. In meeting the requirements of this subrule, owners and operators must:

a. Conduct free product removal at a frequency determined by the recharge rate of the product and in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery by-products in compliance with applicable local, state and federal regulations. Unless approved by the department, free product assessment and recovery activities must be conducted by a certified groundwater professional. Owners and operators must report the results of free product removal activities on forms designated by the department;

b. Use abatement of free product migration as a minimum objective for the design of the free product removal system. Free product recovery systems must be designed to remove free product to the maximum extent practicable;

c. Handle any flammable products in a safe and competent manner to prevent fires or explosions; and

d. Free product recovery assessment and report. Unless directed to do otherwise by the department, prepare and submit to the department, within 45 days after confirming a release, a free product recovery assessment report and a proposal for subsequent free product removal activities. The free product recovery assessment report and removal proposal must contain at least the following information:

(1) The name of the person(s) responsible for implementing the free product removal measures;

(2) The estimated quantity, type and thickness of free product observed or measured in monitoring wells, boreholes, and excavations, the recharge rate in all affected monitoring wells and a detailed description of the procedures used to determine the recharge rate;

(3) A detailed justification for the free product removal technology proposed for the site. Base the justification narrative on professional judgment considering the characteristics of the free product plume (i.e., estimated volume, type of product, thickness, extent), an assessment of cost effectiveness based on recovery costs compared to alternative methods, site hydrology and geology, when the release event occurred, testing conducted to verify design assumptions and the potential for petroleum vapors or explosive conditions to occur in enclosed spaces. Proposals for removal systems other than hand bailing or passive skimming systems must be completed and submitted on a format consistent with the department's corrective action design report.

(4) A schematic and narrative description of the free product recovery system used;

(5) Whether any discharge will take place on site or off site during the recovery operation and where this discharge will be located;

(6) A schematic and narrative description of the treatment system, and the effluent quality expected from any discharge;

(7) The steps that have been or are being taken to obtain necessary permits for any discharge;

(8) The disposition of the recovered free product;

(9) Free product plume definition and map. The extent of free product must be assessed. If monitoring wells are used to define the free product plume, the number and location of wells and separation distance between the wells used to define the plume must be based on the receptors present and the site hydrology and geology. A minimum of five monitoring wells are required to construct the plume map. The boundary of the plume may be determined by half the distance between wells with free product and wells with no free product. If the groundwater professional can adequately define the plume using other technology as approved by the department, fewer than five wells may be used to define the boundary of the plume;

(10) The estimated volume of free product present, how the volume was calculated, recoverable volume and estimated recovery time; and

(11) Identification of all water lines, regardless of construction material, within the area of free product. A water line shall be considered within the area of free product if it is located within the

boundary of the free product plume as defined by wells unless it can be demonstrated that no LNAPL exists within 10 feet (horizontally or vertically) of the water line and the LNAPL is not migrating nor is likely to migrate. Water lines within the area of free product must be relocated unless there is no other option and the department has approved an alternate plan of construction. See 135.12(3)*"c."*

e. The department will review the free product assessment report; and, if approved, the owner or operator must implement the installation of the approved recovery system within 60 days or other time period approved by the department.

f. Termination of free product recovery activities. Owners and operators may propose to the department to terminate free product recovery activities when significant amounts of hydrocarbons are not being recovered. The department will consider proposals to terminate free product recovery when the amount of product collected from a monitoring well is equal to or less than 0.1 gallon each month for a year unless another plan is approved by the department. When free product activities have been terminated, owners and operators must inspect the monitoring wells monthly for at least a year unless another schedule is approved by the department. The department must be notified and may require that free product recovery activities be reinitiated if during the monthly well inspections it is determined the product thickness in a monitoring well exceeds 0.02 ft. The monthly well inspection records must be kept available for review by the department.

g. Unless directed to do otherwise by the department, prepare and submit to the department within 180 days after confirming a release, a Tier 2 site cleanup report.

567—135.8(455B) Risk-based corrective action.

135.8(1) *General.* The objective of risk-based corrective action is to effectively evaluate the risks posed by contamination to human health, safety and the environment using a progressively more site-specific, three-tiered approach to site assessment and data analysis. Based on the tiered assessment, a corrective action response is determined sufficient to remove or minimize risks to acceptable levels. Corrective action response includes a broad range of options including reduction of contaminant concentrations through active or passive methods, monitoring of contamination, use of technological controls or institutional controls.

a. Tier 1. The purpose of a Tier 1 assessment is to identify whether a site poses an unreasonable risk to public health and safety or the environment based on limited site data. The objective is to determine maximum concentrations of chemicals of concern at the source of a release(s) in soil and groundwater. The Tier 1 assessment assumes worst-case scenarios in which actual or potential receptors could be exposed to these chemicals at maximum concentrations through certain soil and groundwater pathways. The point of exposure is assumed to be the source showing maximum concentrations. Risk-based screening levels (Tier 1 levels) contained in the Tier 1 Look-Up Table have been derived from models that use conservative assumptions to predict exposure to actual and potential receptors. (These models and default assumptions are contained in Appendix A.) If Tier 1 levels are not exceeded for a pathway, that pathway may not require further assessment. If the maximum concentrations exceed a Tier 1 level, the options are to conduct a more extensive Tier 2 assessment, apply an institutional control, or in limited circumstances excavate contaminated soil to below Tier 1 levels. If all pathways clear the Tier 1 levels, it is possible for the site to obtain a no action required classification.

b. Tier 2. The purpose of a Tier 2 assessment is to use site-specific data to assess the risk from chemicals of concern to existing receptors and potential receptors using fate and transport models in accordance with 567—135.10(455B). See 135.10(2)*"a."*

c. Tier 3. Where site conditions may not be adequately addressed by Tier 2 procedures, a Tier 3 assessment may provide more accurate risk assessment. The purpose of Tier 3 is to identify reasonable exposure levels of chemicals of concern and to assess the risk of exposure to existing and potential receptors based on additional site assessment information, probabilistic evaluations, or sophisticated chemical fate and transport models in accordance with 567—135.11(455B).

d. Notification. Whenever the department requires a tiered site assessment and a public water supply well is within 2,500 feet of a leaking underground storage tank site, the department will notify the public water supply operator.

e. Pathway reevaluation. Prior to issuance of a no further action certificate in accordance with 135.12(10) and Iowa Code section 455B.474(1)*"h"*(3), if it is determined that the conditions for an individual pathway that has been classified as "no action required" no longer exist, or the site presents an unreasonable risk to a public water supply well and the model used to obtain the pathway clearance underpredicts the actual contaminant plume, the individual pathway shall be further assessed consistent with the risk-based corrective action provisions in 567—135.8(455B) through 567—135.12(455B).

135.8(2) *Certified groundwater professional.* All assessment, corrective action, data analysis and report development required under 567—135.6(455B) through 567—135.12(455B) must be conducted by or under the supervision of a certified groundwater professional in accordance with these rules and department guidance as specified.

135.8(3) *Chemicals of concern.* Soil and groundwater samples from releases of petroleum regulated substances must always be analyzed for the presence of benzene, ethylbenzene, toluene, and xylenes. In addition, if the release is suspected to include any petroleum regulated substance other than gasoline or gasoline blends, or if the source of the release is unknown, the samples must be tested for the presence of Total Extractable Hydrocarbons (TEH). Appendices A and B and department Tier 2 guidance define a method for converting TEH values to a default concentration for naphthalene, benzo(a)pyrene, benz(a)anthracene and chrysene and conversion back to a representative TEH value. These default values must be used in order to apply Tier 2 modeling to these constituents in the absence of accurate laboratory analysis.

135.8(4) *Boring depth for sampling.* When drilling for the placement of groundwater monitoring wells, if groundwater is encountered, drilling must continue to the maximum of 10 feet below the first encountered groundwater or to the bottom of soil contamination as estimated by field screening. If groundwater is not encountered, drilling must continue to the deeper of 10 feet below the soil contamination as estimated by field screening or 75 feet from the ground surface.

135.8(5) *Bedrock aquifer assessment.* Prior to conducting any groundwater drilling, a groundwater professional must determine if there is a potential to encounter bedrock before groundwater. These potential areas include (1) areas where karst features or outcrops exist in the vicinity and (2) areas with bedrock less than 50 feet from the surface as illustrated in Tier 1 and Tier 2 guidance. The purpose of this determination is to prevent drilling through contaminated subsurface areas thereby creating a preferential pathway to a bedrock aquifer. If the first encountered groundwater is above bedrock but near the bedrock surface or fluctuates above and below bedrock, the groundwater professional should evaluate the subsurface geology and aquifer characteristics to determine the potential for creating a preferential pathway. If it is determined that the aquifer acts like a nongranular aquifer as provided in 135.10(3)*"a"* or bedrock is encountered before groundwater, the groundwater professional must conduct a Tier 2 assessment for all pathways under 567—135.10(455B), including the specified bedrock procedures under 135.10(3).

If the first encountered groundwater is above bedrock with sufficient separation and aquifer characteristics to establish that it acts as a granular aquifer, site assessment may proceed under the site check procedure in 567—135.6(455B), the Tier 1 procedure in 567—135.9(455B) or the Tier 2 procedure in 567—135.10(455B) as would be customary regardless of the bedrock designation. However, even under this condition, drilling through bedrock should be avoided in contaminated areas.

567—135.9(455B) Tier 1 site assessment policy and procedure.

135.9(1) *General.* The main objective of a Tier 1 site assessment is to reasonably determine the highest concentrations of chemicals of concern that would be associated with any suspected or confirmed release and an accurate identification of applicable receptors. The potential source of a

release, nature of the substance released, site stratigraphy, depth to groundwater, and other appropriate factors must be considered when selecting the sample types, sample locations, and measurements methods. The placement and depth of borings and the construction of monitoring wells must be sufficient to determine the sources of all releases, the vertical extent of contamination, an accurate description of site stratigraphy, and a reliable determination of groundwater flow direction.

a. Pathway assessment. The pathways to be evaluated at Tier 1 are the groundwater ingestion pathway, soil leaching to groundwater pathway, groundwater vapor to enclosed space pathway, soil vapor to enclosed space pathway, soil to water line pathway, groundwater to water line pathway and the surface water pathway. Assessment requires a determination of whether a pathway is complete, an evaluation of actual and potential receptors, and a determination of whether conditions are satisfied for obtaining no further action clearance for individual pathways or for obtaining a complete site classification of "no action required." A pathway is considered complete if a chemical of concern has a route that could be followed to reach an actual or potential receptor.

b. Pathway clearance. If contaminant concentrations for an individual pathway do not exceed the applicable Tier 1 levels or if a pathway is incomplete, no further action is required to evaluate the pathway unless otherwise specified in these rules. If the contaminant concentrations for a pathway exceed the applicable Tier 1 level(s) in the "Iowa Tier 1 Look-up Table," the response is to conduct further assessment under Tier 2 or Tier 3 unless an effective institutional control is approved. In limited circumstances excavation of contaminated soils may be used as an option to obtain pathway clearance. If further site assessment indicates site data exceeds an applicable Tier 1 level(s) for a previously cleared pathway or the conditions justifying a determination of pathway incompleteness change, that pathway must be reevaluated as part of a Tier 2 or Tier 3 assessment.

c. Chemical group clearance. If concentrations for all chemicals of concern within a designated group of chemicals are below the Tier 1 levels, no further action is required as to the group of chemicals unless otherwise specified in these rules. Group one consists of benzene, ethylbenzene, toluene, and xylenes (BTEX). Group two consists of naphthalene, benzo(a)pyrene, benz(a)anthracene and chrysene; TEH default values are incorporated into the Iowa Tier 1 Look-Up Table and Appendix A for group two chemicals.

d. Site classification. A site can be classified as no action required only after all pathways have met the conditions for pathway clearance as provided in this rule.

e. Groundwater sampling procedure. Groundwater sampling and field screening must be conducted in accordance with department Tier 1 guidance. A minimum of three properly constructed groundwater monitoring wells must be installed, subject to the limitations on maximum drilling depths, for the purpose of identifying maximum concentrations of groundwater contamination, suspected sources of releases, and groundwater flow direction.

(1) Field screening must be used to locate suspected releases and to determine locations with the greatest concentrations of contamination. Field screening is required as per department guidance at each former and current tank basin, each former and current pump island, along the piping, and at any other areas of actual or suspected releases. In placing monitoring wells, the following must be considered: field screening data, available current and historical information regarding the releases, tank and piping layout, site conditions, and drilling data available from sites in the vicinity. At least one well must be placed at each suspected source of release that shall include at a minimum: the pump island with the greatest field screening level, each current and former underground storage tank basin, and if field screening shows greater levels than at the pump islands or tank basins, at other suspected sources of releases. As a general rule, wells should be installed outside of the tank basin through native soils but as close to the tank basin as feasible. A well must be installed in a presumed downgradient direction and within 30 feet of the sample with the greatest field screening level. Three of the wells must be placed in a triangular arrangement to determine groundwater flow direction.

(2) Where the circumstances that prompt a Tier 1 assessment identify a discrete source and cause of a release, and the groundwater professional is able to rule out other suspected sources or

contributing sources such as pump islands, piping runs and tank basins, the application of field screening and groundwater well placement may be limited to the known source.

f. Soil sampling procedure. The objective of soil sampling is to identify the maximum concentrations of soil contamination in the vadose and saturated zones and to identify sources of releases. The same principles stated above apply to soil sampling. Soil samples must be taken from borings with the greatest field screening levels even if the boring will not be converted to a monitoring well. At a minimum, soil and groundwater samples must be collected for analysis from all borings that are converted to monitoring wells.

Iowa Tier 1 Look-Up Table

Media	Exposure Pathway	Receptor	Group 1				Group 2: TEH	
			Benzene	Toluene	Ethylbenzene	Xylenes	Diesel*	Waste Oil
Groundwater (µg/L)	Groundwater Ingestion	Actual	5	1,000	700	10,000	1,200	400
		Potential	290	7,300	3,700	73,000	75,000	40,000
	Groundwater Vapor to Enclosed Space	All	1,540	20,190	46,000	NA	2,200,000	NA
	Groundwater to Water Line	PVC or Gasketed Mains	7,500	6,250	40,000	48,000	75,000	40,000
		PVC or Gasketed Service Lines	3,750	3,120	20,000	24,000	75,000	40,000
		PE/PB/AC Mains or Service Lines	200	3,120	3,400	19,000	75,000	40,000
	Surface Water	All	290	1,000	3,700	73,000	75,000	40,000
Soil (mg/kg)	Soil Leaching to Groundwater	All	0.54	42	15	NA	3,800	NA
	Soil Vapor to Enclosed Space	All	1.16	48	79	NA	47,500	NA
	Soil to Water Line	All	2.0	3.2	45	52	10,500	NA

NA: Not applicable. There are no limits for the chemical for the pathway, because for groundwater pathways the concentration for the designated risk would be greater than the solubility of the pure chemical in water, and for soil pathways the concentration for the designated risk would be greater than the soil concentration if pure chemical were present in the soil.

TEH: Total Extractable Hydrocarbons. The TEH value is based on risks from naphthalene, benzo(a)pyrene, benz(a)anthracene, and chrysene. Refer to Appendix B for further details.

Diesel*: Standards in the Diesel column apply to all low volatile petroleum hydrocarbons except waste oil.

135.9(2) *Conditions requiring Tier 1 site assessment.* Unless owners and operators choose to conduct a Tier 2 assessment, the presence of bedrock requires a Tier 2 assessment as provided in 135.8(5), or these rules otherwise require preparation of a Tier 2 site assessment, a Tier 1 site assessment must be completed in response to release confirmation as provided in 567—135.6(455B), or tank closure investigation under 567—135.15(455B), or other reliable laboratory analysis that confirms the presence of contamination above the action levels in 567—135.14(455B).

135.9(3) *Tier 1 assessment report.* Unless directed to do otherwise by the department or the owners or operators choose to prepare a Tier 2 site cleanup report, owners and operators must assemble information about the site and the nature of the release in accordance with the department Tier 1 guidance, including information gained while confirming the release under 567—135.6(455B), tank closure under 567—135.15(455B) or completing the initial abatement measures in 135.7(1) and 135.7(2). This information must include but is not necessarily limited to the following:

a. Data on the nature and estimated quantity of release.

b. Results of any release investigation and confirmation actions required by 135.6(3).

c. Results of the free product investigations required under 135.7(3)*"a"*(5), to be used by owners and operators to determine whether free product must be recovered under 135.7(4).

d. Chronology of property ownership and underground storage tank ownership, identification of the person(s) having control of, or having responsibility for the daily operation of the underground storage tanks and the operational history of the underground storage tank system. The operational history shall include but is not limited to a description of or suspected known subsurface or aboveground releases, past remediation or other corrective action, type of petroleum product stored, recent tank and piping tightness test results, any underground storage tank system repairs, upgrades or replacements and the underground storage tank and piping leak detection method being utilized. The

operational history shall confirm that current release detection methods and recordkeeping comply with the requirements of 567—135.5(455B), that all release detection records have been reviewed and report any evidence that a release detection standard has been exceeded as provided in 135.5(4) and 135.5(5).

e. Appropriate diagrams of the site and the underground storage tank system and surrounding land use, identifying site boundaries and existing structures and uses such as residential properties, schools, hospitals, child care facilities and a general description of relevant land use restrictions and known future land use.

f. Current proof of financial responsibility as required by 567—Chapter 136 and the status of coverage for corrective action under any applicable financial assurance mechanism or other financial assistance program.

g. A receptor survey including but not limited to the following: existing buildings, enclosed spaces (basements, crawl spaces, utility vaults, etc.), conduits (gravity drain lines, sanitary and storm sewer mains and service lines), water lines and other utilities within 500 feet of the source. For conduits and enclosed spaces, there must be a description of construction material, conduit backfill material, slope of conduit and trenches (include flow direction of sewers), burial depth of utilities or subsurface enclosed spaces, and the relationship to groundwater elevations.

h. An explosive vapor survey of enclosed spaces where there may be the potential for buildup of explosive vapors. The groundwater professional must provide a specific justification for not conducting an explosive vapor survey.

i. A survey of all surface water bodies within 200 feet of the source.

j. A survey of all active, abandoned and plugged groundwater wells within 1,000 feet of the source with a description of construction and present or future use.

k. Accurate and legible site maps showing the location of all groundwater monitoring wells, soil borings, field screening locations and screening values, and monitoring well and soil boring construction logs.

l. A tabulation of all laboratory analytical results for chemicals of concern and copies of the laboratory analytical reports.

m. Results of hydraulic conductivity testing and description of the procedures utilized.

n. A Tier 1 site assessment in accordance with the department's Tier 1 guidance. The Tier 1 report shall be submitted on forms and in a format prescribed by this guidance.

135.9(4) *Groundwater ingestion pathway assessment.* The groundwater ingestion pathway addresses the potential for human ingestion of petroleum-regulated substances from existing groundwater wells or potential drinking water wells.

a. Pathway completeness. This pathway is considered complete if: (1) there is a drinking or non-drinking water well within 1,000 feet of the source(s) exhibiting the maximum concentrations of the chemicals of concern; or (2) the first encountered groundwater is a protected groundwater source.

b. Receptor evaluation. A drinking or non-drinking water well within 1,000 feet of the source(s) is an actual receptor. The Tier 1 levels for actual receptors apply to drinking water wells and the Tier 1 levels for potential receptors apply to non-drinking water wells. Potential receptor points of exposure exist if the first encountered groundwater is a protected groundwater source but no actual receptors presently exist within 1,000 feet of the source.

c. Pathway clearance. If the pathway is incomplete, no further action is required for this pathway. If the Tier 1 level for actual or potential receptors is not exceeded, no further action is required for this pathway. Groundwater wells that are actual or potential receptors may be plugged in accordance with 567—Chapters 39 and 49 and may result in no further action clearance if the groundwater is not a protected groundwater source and the pathway is thereby incomplete.

d. Corrective action response. If maximum concentrations exceed the applicable Tier 1 levels for either actual or potential receptors, a Tier 2 assessment must be conducted unless effective institutional controls are implemented as provided below. Technological controls are not acceptable at

Tier 1 for this pathway. Abandonment and plugging of drinking and non-drinking water wells in accordance with 567—Chapters 39 and 49 is an acceptable corrective action response.

e. Use of institutional controls. To apply an effective institutional control, if drinking or non-drinking water wells are present within 1,000 feet of the source, and the applicable Tier 1 level is exceeded, the well(s) for which there is an exceedance must be properly plugged. If the groundwater is a protected groundwater source and the maximum concentrations do not exceed the Tier 1 level for potential receptors but do exceed the Tier 1 level for actual receptors, the owner or operator must provide notification of site conditions on a department form to the department water supply section, or if a county has delegated authority, then the designated county authority responsible for issuing private water supply construction permits or regulating non-public water well construction as provided in 567—Chapters 38 and 49.

If the groundwater is a protected source and the maximum concentrations exceed the Tier 1 level for potential receptors, the owner or operator must (1) implement an institutional control prohibiting the use of the groundwater for installation of drinking and non-drinking water wells within 1,000 feet of the source; and (2) provide notification as provided above. If an effective institutional control is not feasible, a Tier 2 assessment must be performed for this pathway in accordance with 567—135.10(455B).

135.9(5) *Soil leaching to groundwater pathway assessment.* This pathway addresses the potential for soil contamination to leach to groundwater creating a risk of human exposure through the groundwater ingestion pathway.

a. Pathway completeness. If the groundwater ingestion pathway is complete, the soil leaching to groundwater pathway is considered complete.

b. Receptor evaluation. There is a single receptor type for this pathway and one applicable Tier 1 level.

c. Pathway clearance. If the pathway is incomplete or the pathway is complete and the maximum concentrations of chemicals of concern do not exceed the Tier 1 levels, no further action is required for assessment of this pathway.

d. Corrective action response. If the Tier 1 levels are exceeded for this pathway, a Tier 2 assessment must be conducted or alternatively, institutional controls or soil excavation may be undertaken in accordance with 135.9(7)*"h."*

e. Use of institutional controls. Institutional controls must satisfy the conditions applicable to the groundwater ingestion pathway as provided in 135.9(4)*"e."*

135.9(6) *Groundwater vapor to enclosed space pathway assessment.* This pathway addresses the potential for vapors from contaminated groundwater to migrate to enclosed spaces where humans could inhale chemicals of concern at unacceptable levels. This pathway assessment assumes the health-based Tier 1 levels will adequately protect against any associated short- and long-term explosive risks.

a. Pathway completeness. This pathway is always considered complete for purposes of Tier 1 and must be evaluated.

b. Explosive vapor survey. An explosive vapor survey must be conducted in accordance with procedures outlined in the department Tier 1 guidance. If potentially explosive levels are detected, the groundwater professional must notify the owner or operator with instructions to report the condition in accordance with 567—Chapter 131. The owner or operator must begin immediate response and abatement procedures in accordance with 567—135.7(455B) and 567—Chapter 133.

c. Receptor evaluation. For purposes of Tier 1, there is one receptor type for this pathway and the Tier 1 level applies regardless of the existence of actual or potential receptors.

d. Pathway clearance. No further action is required for this pathway, if the maximum groundwater concentrations do not exceed the Tier 1 levels for this pathway.

e. Corrective action response. If the maximum concentrations exceed the Tier 1 levels for this pathway, a Tier 2 assessment of this pathway must be conducted unless institutional controls are implemented. Technological controls are not acceptable at Tier 1 for this pathway.

f. Use of institutional controls. An institutional control must be effective to prohibit the placement of enclosed space receptors within 500 feet of the source.

135.9(7) *Soil vapor to enclosed space pathway assessment.* This pathway addresses the potential for vapors from contaminated soils to migrate to enclosed spaces where humans could inhale chemicals of concern at unacceptable levels. This pathway assessment assumes health-based screening levels at Tier 1 will adequately protect against short- and long-term explosive risks.

a. Pathway completeness. This pathway is always considered complete for purposes of Tier 1 and must be evaluated.

b. Explosive vapor survey. An explosive vapor survey must be conducted in accordance with procedures outlined in the department Tier 1 guidance. If potentially explosive levels are detected, the groundwater professional must notify the owner or operator with instructions to report the condition in accordance with 567—Chapter 131. The owner or operator must begin immediate response and abatement procedures in accordance with 567—135.7(455B) and 567—Chapter 133.

c. Receptor evaluation. For purposes of Tier 1, there is one receptor type for this pathway, and the Tier 1 level applies regardless of existing or potential receptors.

d. Pathway clearance. No further action is required for this pathway, if the maximum soil concentrations do not exceed the Tier 1 levels for this pathway. If the Tier 1 levels are exceeded, soil gas measurements may be taken in accordance with the Tier 2 guidance at the area(s) of maximum concentration. Subject to confirmation sampling, if the soil gas measurements do not exceed the target levels in 135.10(7)*"f,"* no further action is required for this pathway. If the Tier 1 level is not exceeded but the soil gas measurement exceeds the target level, further action is required for the pathway.

e. Soil gas samples. To establish that the soil gas measurement is representative of the highest expected levels, a groundwater professional must obtain two soil gas samples taken at least two weeks apart. One of the samples should be collected beneath the frost line depth during a seasonal period of lowest groundwater elevation.

f. Corrective action response. If the maximum concentrations exceed the Tier 1 levels and the soil gas measurements exceed target levels for this pathway, or if no soil gas measurement was taken, a Tier 2 assessment of this pathway must be conducted unless institutional controls are implemented or soil excavation is conducted as provided below. Technological controls are not acceptable at Tier 1 for this pathway.

g. Use of institutional controls. An institutional control must be effective to eliminate the placement of enclosed space receptors within 500 feet of the source.

h. Soil excavation. Excavation of contaminated soils for the purpose of removing soils contaminated above the Tier 1 levels is permissible as an alternative to conducting a Tier 2 assessment. Adequate field screening methods must be used to identify maximum concentrations during excavation. At a minimum, one soil sample must be taken for field screening every 100 square feet of the base and each sidewall. Soil samples must be taken for laboratory analysis at least every 400 square feet of the base and each sidewall of the excavated area to confirm that remaining concentrations are below Tier 1 levels. If the base or a sidewall of the excavation is less than 400 square feet, a minimum of one sample must be analyzed for each sidewall and the base.

135.9(8) *Groundwater to water line pathway assessment.* This pathway addresses the potential for creating a drinking water ingestion risk due to contact with water lines and causing infusion to the drinking water.

a. Pathway completeness and receptor evaluation.

(1) Actual receptors. This pathway is considered complete for an actual receptor if there is an existing water line within 200 feet of the source and the first encountered groundwater is less than 20 feet below ground surface.

(2) Potential receptors. This pathway is considered complete for a potential receptor if the first encountered groundwater is less than 20 feet below ground surface.

b. Pathway clearance. If the pathway is not complete, no further action is required for this pathway. If the pathway is complete and the maximum concentrations of all chemicals of concern do not exceed the Tier 1 levels for this pathway, no further action is required for this pathway.

c. Utility company notification. The utility company that supplies water service to the area must be notified of all actual and potential water line impacts as soon as knowledge of a potential risk is determined.

d. Corrective action response.

(1) For actual receptors, if the Tier 1 levels are exceeded for this pathway, all water lines within 200 feet must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department, or the water lines must be relocated beyond the 200-foot distance from the source. A Tier 2 assessment must be conducted for this pathway if lines are not replaced or relocated.

(2) For potential receptors, upon utility company notification, no further action will be required for this pathway.

135.9(9) *Soil to water line pathway assessment.* This pathway addresses the potential for creating a drinking water ingestion risk due to contact with water lines and infusion into the drinking water.

a. Pathway completeness and receptor evaluation.

(1) Actual receptors. This pathway is considered complete for an actual receptor if a water line exists within 200 feet of the source.

(2) Potential receptors. This pathway is always considered complete for potential receptors.

b. Pathway clearance. If the pathway is not complete for actual receptors, no further action is required for this pathway. If the pathway is complete for actual receptors and the maximum concentrations of all chemicals of concern do not exceed Tier 1 levels for this pathway, no further action is required. For potential receptors, upon utility company notification, no further action will be required for this pathway for potential receptors.

c. Utility company notification. The utility company that supplies water service to the area must be notified of all actual and potential water line impacts as soon as knowledge of a potential risk is determined.

d. Corrective action response. For actual receptors, if the Tier 1 levels are exceeded for this pathway, all water lines within 200 feet must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department, or the water lines must be relocated beyond the 200-foot distance from the source. Excavation of soils to below Tier 1 levels may be undertaken in accordance with 135.9(7)*"h."* If none of these options is implemented, a Tier 2 assessment must be conducted for this pathway.

135.9(10) *Surface water pathway assessment.* This pathway addresses the potential for contaminated groundwater to impact surface water bodies creating risks to human health and aquatic life.

a. Pathway completeness. This pathway is considered complete if a surface water body is present within 200 feet of the source. For purposes of Tier 1, surface water bodies include both general use segments and designated use segments as provided in 567—subrule 61.3(1).

b. Receptor evaluation. The Tier 1 levels for this pathway only apply to designated use segments of surface water bodies as provided in 567—subrules 61.3(1) and 61.3(5). The point of compliance is the source with the highest concentrations of chemicals of concern. General use segments of surface water bodies as provided in 567—paragraph 61.3(1)*"a"* are only subject to the visual inspection criteria.

c. Visual inspection requirements. A visual inspection of all surface water bodies within 200 feet of the source must be conducted to determine if there is evidence of a sheen on the water or there is evidence of petroleum residue along the bank. If a sheen or residue is evident or has been reported to

be present, the groundwater professional must make a sufficient investigation to reasonably determine its source. If in the opinion of the groundwater professional, the sheen is not associated with the underground storage tank site, the professional must report and reasonably justify this opinion. If in the opinion of the groundwater professional the sheen is not a petroleum-regulated substance, a sample must be laboratory tested in accordance with 567—135.16(455B) to confirm it is not a petroleum-regulated substance.

d. Pathway clearance. If the pathway is not complete or it is complete and the maximum concentrations of all chemicals of concern at the point of compliance do not exceed the Tier 1 levels and there is no petroleum sheen or residue attributable to the site, no further action is required for assessment of this pathway.

e. Corrective action response. If a Tier 1 level is exceeded for any chemical of concern for a designated use segment within 200 feet of the source, or the groundwater professional determines the presence of a petroleum-regulated substance sheen or residue, a Tier 2 assessment of this pathway must be conducted.

135.9(11) *Tier 1 submission and review procedures.*

a. Within 90 calendar days of release confirmation or another reasonable period of time determined by the department, owners and operators must submit to the department a Tier 1 report in a format prescribed by the department and in accordance with these rules and the department Tier 1 guidance.

b. If the owner or operator elects to prepare a Tier 2 site cleanup report instead of a Tier 1 assessment, the department must be notified in writing prior to the expiration of the Tier 1 submission deadline. The Tier 2 site cleanup report must be submitted to the department in accordance with 567—135.10(455B) within 180 calendar days of release confirmation or another reasonable period of time determined by the department.

c. A Tier 1 report is considered to be complete if it contains all the information and data required by this rule and the department Tier 1 guidance. The report is accurate if the information and data is reasonably reliable based first on application of the standards in these rules and department guidance and second, generally accepted industry standards.

d. The certified groundwater professional shall include the following certification with the Tier 1 site assessment report:

I, _____, Groundwater Professional Certification No. _____, am familiar with all applicable requirements of Iowa Code section 455B.474 and all rules and procedures adopted thereunder including, but not limited to, 567—Chapter 135 and the Department of Natural Resources Tier 1 guidance. Based on my knowledge of those documents and information I have prepared and reviewed regarding this site, UST Registration No. _____, LUST No._____ I certify that this document is complete and accurate as provided in 567 IAC 135.9(11)*"c"* and meets the applicable requirements of the Tier 1 site assessment.

Signature:

Date:

e. Upon receipt of the groundwater professional's certified Tier 1 report, the groundwater professional's proposed site classification for the site shall be determinative unless, within 90 days of receipt, the department identifies material information in the report that is inaccurate or incomplete. Material information may be data found to be inaccurate or incomplete or a report that lacks information that, if correct and complete, would result in a different site classification than proposed by the certified groundwater professional. If the department determines that the site cleanup report is inaccurate or incomplete, the department shall notify the groundwater professional of the inaccurate or incomplete information within 90 days of receipt of the report and shall work with the groundwater professional and the party responsible for cleanup to obtain correct information or additional information necessary to appropriately classify the site. If the groundwater professional recommends proceeding to Tier 2, or a Tier 2 site cleanup report is required pursuant to 135.7(4)*"g,"* 135.8(5), or

567—135.9(455B), the groundwater professional's site classification and pathway classification recommendations shall not be considered determinative until the Tier 2 report is submitted for review as provided in 135.10(11).

f. If a "no action required" site classification is proposed, the department shall review the report in accordance with 135.12(6) and the review standards in 135.9(11)*"e."*

135.9(12) *Tier 1 site classification and corrective action response.*

a. No action required site classification. At Tier 1, a site is only eligible for a "no action required" classification. To be classified as no action required, each pathway must meet the requirements for pathway clearance as specified in this rule. If the department determines a no action required site classification is appropriate, a no further action certificate will be issued as provided in 135.12(10).

b. Where an individual pathway or a chemical group meets the requirements for clearance but the site is not entitled to a no action required classification, only those pathways and chemical groups that do not meet the no further action requirements must be evaluated as part of a Tier 2 assessment as provided in 567—135.10(455B).

c. Compliance monitoring and confirmation sampling. Compliance monitoring is not an acceptable corrective action at Tier 1. Except for soil gas sampling under 135.9(7), confirmation sampling to verify a sample does not exceed a Tier 1 level is not required. However, the department retains the authority to require confirmation sampling from existing groundwater monitoring wells if a no action required classification is being proposed at Tier 1 and the department has a reasonable basis to question the representative validity of the samples based on, for example, the seasonal bias of the sampling, evidence of multiple sources of releases, marginal groundwater monitoring well locations and analytical variability.

d. Expedited corrective action is permissible in accordance with 135.12(11).

567—135.10(455B) Tier 2 site assessment policy and procedure.

135.10(1) *General conditions.* A Tier 2 site assessment must be conducted and a site cleanup report submitted for all sites that have not obtained a no action required site classification and for all pathways and chemicals of concern groups that have not obtained no further action clearance as provided in 567—135.9(455B). If in the course of conducting a Tier 2 assessment, data indicates the conditions for pathway clearance under Tier 1 no longer exist, the pathway shall be further assessed under this rule. The Tier 2 assessment and report must be completed whenever free product is discovered as provided in 567—135.7(455B). If the owner or operator elects to complete the Tier 2 site assessment without doing a Tier 1 assessment, all the Tier 1 requirements as provided in 567—135.9(455B) must be met in addition to requirements under this rule.

a. Guidance. The Tier 2 site assessment shall be conducted in accordance with the department's "Tier 2 Site Assessment Guidance" and these rules. The site cleanup report shall be submitted on forms and in a format prescribed by this guidance. The Tier 2 data analysis shall be performed by using computer software or online application developed by the department.

b. Classification. At Tier 2, individual pathways may be classified as high risk or low risk or no action required and separate classification criteria may apply to actual and potential receptors for any pathway. A single pathway may have multiple classifications based on actual or potential receptor evaluations. A pathway must meet both the criteria for actual and potential receptors for the pathway to obtain a classification of no action required. Sites may have multiple pathway classifications. For a site to obtain a no action required classification, all pathways must meet the individual pathway criteria for no action required classification.

c. Public right-of-way. As a general rule, public right-of-way will not be considered an area of potential receptor exposure except for potential sanitary sewer evaluation under the soil and groundwater vapor pathways (135.10(6) and 135.10(7)).

135.10(2) *General Tier 2 assessment procedures.*

a. Objectives. The objective of a Tier 2 assessment is to collect site-specific data and with the use of Tier 2 modeling determine what actual or potential receptors could be impacted by chemicals of concern and what concentrations at the source are predicted to achieve protection of these receptors. Both Tier 1 and Tier 2 are based on achieving similar levels of protection of human health, safety and the environment.

b. Groundwater modeling. Tier 2 uses fate and transport models to predict the maximum distance groundwater contamination is expected to move and the distribution of concentrations of chemicals of concern within this area. The model is used for two basic purposes. One, it is used to predict at what levels of concentration contamination would be expected to impact actual and potential receptors. Two, it is used to determine a concentration at the source that if achieved, and after dispersion and degradation, would protect actual and potential receptors at the point of exposure. In predicting the transport of contaminants, the models assume the contaminant plume is at "steady state" such that concentrations throughout the plume have reached a maximum level and are steady or decreasing. The Tier 2 models are only designed to predict transport in a direct line between the source and downgradient to a receptor. In order to more reasonably define a modeled plume in all directions, 135.10(2)*"i"* defines a method of decreasing modeled concentrations as a percentage of their distance in degrees from the downgradient direction.

c. Soil vapor models. The soil vapor models are vertical transport models and do not use modeling to predict soil contaminant transport horizontally to receptors.

d. Soil leaching to groundwater modeling. The soil leaching to groundwater model is a model that predicts the maximum concentrations of chemicals of concern that would be expected in groundwater due to vertical leaching from the area of maximum soil concentrations and then incorporates the groundwater transport models to predict contaminant transport through groundwater pathways.

e. Modeling default parameters. The Tier 2 model formulas and applicable parameters are designated in Appendix B and must be followed unless otherwise specified in these rules. Unless otherwise specified, target levels at a point of exposure may be the Tier 1 level(s) or may be determined using site-specific parameters. The target level at a point of exposure is calculated using the Tier 1 formulas in Appendix A and either site-specific measurements or the default values for those parameters identified as "optional" and "site-specific" in Appendix B.

f. Source width. The source width and source length are variables used in modeling and must be determined by the following criteria and as specified in the department's Tier 2 guidance. The following are not to be used as criteria for defining the extent of the contaminant plumes.

(1) Source width (equals S_w in models) for groundwater transport modeling. The sum of group one chemical (benzene, toluene, ethylbenzene, xylenes or "BTEX") concentrations for each groundwater sample is determined and the location of the sample with the maximum total BTEX is identified. Linear interpolation is used to estimate the area where groundwater concentrations would be expected to exceed 50 percent of the maximum BTEX value, and this area is considered for the source width measurement. The same procedure is used to determine source width for group two chemicals, using TEH in groundwater. The width of the groundwater contamination perpendicular to estimated groundwater flow direction (S_w) is determined, and the larger of either group one or group two chemicals is used in the groundwater transport model.

(2) Source width (S_w) and source length (equals W in models) for soil leaching to groundwater transport modeling. Both the source width perpendicular to the estimated groundwater flow direction (S_w) and the source length parallel to the estimated groundwater flow direction (W) are used in the soil leaching to groundwater model. The sum of BTEX concentrations for each soil sample is determined and the location of the sample with the maximum total BTEX is identified. Concentrations from both the vadose zone and the saturated zone must be considered when determining the maximum. Linear interpolation is used to estimate the area where soil concentrations would be expected to exceed 50 percent of the maximum BTEX value, and this area is considered for the source

width and source length measurements. The same procedure is used to determine source width for group 2 chemicals, using TEH in soil. Source width and source length measurements for BTEX in groundwater are also taken following the same linear interpolation criteria in 135.10(2)*"f"*(1). The source width value used in the model is the greatest of either the soil source width measurements or the groundwater source width measurement. The source length value used in the model is the greatest of either of the soil source length measurements or the groundwater length measurement.

g. Modeled simulation line. The simulation line represents the predicted maximum extent of groundwater contamination and distribution of contaminant concentrations between the source(s) and actual or potential receptor locations. The model calculates the simulation line using maximum concentrations at the source(s) and predicting the amount of dispersion and degradation. Modeled data in the simulation line are compared with actual contaminant concentrations to verify the predictive validity of the model and to make risk classification decisions.

h. Modeled site-specific target level (SSTL) line. The modeled SSTL line represents acceptable levels of contaminant concentrations at points between and including the source(s) and an applicable point(s) of exposure or other point(s) of compliance (ex. a potential receptor point of exposure). The SSTL line is calculated by assuming an applicable target level concentration at the point(s) of exposure or point(s) of compliance and modeling back to the source to determine the maximum concentrations at the source (SSTL) that must be achieved to meet the target level at the point of exposure or compliance. Comparison of contaminant concentrations from actual samples to this SSTL line is used to determine a risk classification and determine appropriate corrective action response.

i. Crossgradient and upgradient modeling. In determining the SSTL line and the simulation line in directions other than downgradient, the modeled contaminant concentrations are applied to reduced distances as specified in the "Tier 2 Guidance." The modeled results are applied to 100 percent of the distance within an angle of 30 degrees on either side of the range of downgradient directions as specified in Tier 2 guidance. The modeled results are applied to 20 percent of the distance in the upgradient direction and directly proportional distances between these two outer limits. If the groundwater gradient is less than 0.005 or the groundwater contaminant plume shows no definitive direction or shows directional reversals, the modeled concentrations are applied to 100 percent of the distance in all directions from the source. As the downgradient velocity increases, the upgradient modeled distance is reduced to less than 20 percent of the downgradient modeled distance.

j. Plume definition. The purpose of plume definition at Tier 2 is to obtain sufficient data to determine the impact on actual and potential receptors, to determine and confirm the highest levels of contamination, to verify the validity of the models, and to determine groundwater flow direction. The number and location of borings and monitoring wells and the specificity of plume definition will depend on the pathway or pathways being assessed and the actual or potential receptors of concern. Unless otherwise specified, groundwater and soil contamination shall be defined to Tier 1 levels for the applicable pathways. Linear interpolation between two known concentrations must be used to delineate plume extent. Samples with no concentrations detected shall be considered one-half the detection limit for interpolation purposes.

k. Pathway completeness. Unless a pathway has obtained clearance under Tier 1, each pathway must be evaluated at Tier 2. Pathways are generally considered complete (unless otherwise specified) and receptors affected if actual receptors or potential receptor points of exposure exist within the modeled contaminant plume using the modeled simulation line calculated to the applicable target level at a point of exposure. If the actual contaminant plume exceeds the modeled plume, the pathway is complete and must be evaluated if actual or potential points of exposure exist within a distance extending 10 percent beyond the edge of the defined plume.

l. Points of exposure and compliance. For actual receptors, the point(s) of exposure is the receptor. For potential receptors, the potential receptor point(s) of exposure is determined by using actual plume definition or the modeled simulation line to determine all points that exceed the target level(s) for potential receptors. The potential receptor point(s) of exposure is the location(s) closest to the source where a receptor could reasonably exist and that is not subject to an institutional control;

for example, the source is the potential receptor point of exposure if not subject to an institutional control or an adjoining property boundary line if that property is not subject to an institutional control. At Tier 2, the point(s) of exposure or potential receptor point(s) of exposure is a point of compliance unless otherwise specified. Other points of compliance are specified by rules and will generally include all points along the SSTL line for purposes of pathway and site classification and corrective action response.

135.10(3) *Bedrock assessment.*

a. General. As provided in 135.8(5), if bedrock is encountered before groundwater, special assessment procedures under this subrule apply. The Tier 2 assessment procedures apply to the extent they are not inconsistent with this subrule. The objectives of these special procedures are to avoid creating a preferential pathway for contamination through a confining layer to a bedrock aquifer; to avoid creating a preferential pathway to a fractured system, and to determine whether groundwater transport modeling can be used and, if not, what alternative procedures are required. The owner or operator may choose to conduct a Tier 3 assessment under 567—135.11(455B) as an alternative to proceeding under this subrule. For sites where bedrock is encountered before groundwater, there are three general categories of site conditions that determine the assessment procedures that apply:

(1) Nongranular bedrock. Nongranular bedrock is bedrock that is determined to not act as a granular aquifer as provided in 135.10(3)*"a"*(2). Nongranular bedrock generally has some type of fractured system where groundwater transport modeling cannot be applied and that makes it difficult to define the extent of contamination.

(2) Granular bedrock. Granular bedrock is bedrock that is determined to act as a granular aquifer and for which monitoring wells do not exist at the source. For purposes of this rule, a granular aquifer is one that shows no extraordinary variations or inconsistencies in groundwater elevations across the site, groundwater flow, hydraulic conductivities, or total dissolved solid concentrations among monitoring wells. Although the extent of contamination can be defined in granular bedrock, groundwater transport modeling cannot be used because monitoring wells shall not be installed at the source if soil contamination is present. If soil contamination above a Tier 1 level is not identified or an overexcavation of contaminated soil has successfully removed all soil contamination greater than a Tier 1 level, then monitoring wells can be installed in the source area and the site can be evaluated as exempt granular bedrock.

(3) Exempt granular bedrock. Exempt granular bedrock is bedrock that is determined to act as a granular aquifer as provided in 135.10(3)*"a"*(2) and for which monitoring wells exist at the source as of August 15, 1996. Sites in exempt granular bedrock shall be evaluated using regular Tier 1 and Tier 2 procedures in this rule.

NOTE: Nongranular bedrock is subject to special bedrock assessment procedures even if groundwater monitoring wells exist at the source because the flow is not predictable by the Tier 2 model.

b. Exempt soil pathways. The soil vapor to enclosed space pathway and the soil to water lines pathway shall be assessed under the regular Tier 2 procedures in 135.10(7) and 135.10(9), respectively. In all cases, the assessment must comply with the policy of avoiding a preferential pathway to groundwater consistent with 135.8(5) and this subrule.

c. Soil and groundwater assessment. The vertical and horizontal extent of soil contamination shall first be defined to Tier 1 levels for the soil leaching to groundwater pathway without drilling into bedrock. A minimum of three groundwater monitoring wells shall be located and installed between 50 to 100 feet beyond the soil contamination Tier 1 levels to avoid creating a preferential pathway. Analytical data as normally required by these rules and guidance must be obtained.

d. Soil contamination remediation. For all sites where soil contamination exceeds the soil leaching to groundwater Tier 1 levels, soil excavation or other active soil remediation technology must be conducted in accordance with department guidance to reduce concentrations to below this Tier 1 level. Soil remediation monitoring must be conducted in accordance with 567—135.12(455B).

e. Groundwater plume definition. If it is determined the groundwater acts in a manner consistent with a granular aquifer as provided in 135.10(3)*"a"*(2) and guidance but does not meet the criteria for exemption under 135.10(3)*"a"*(3), the plume must be defined. The policy of avoiding the creation of a preferential pathway to the bedrock aquifer in accordance with 135.8(5) must be followed.

f. Soil leaching to groundwater ingestion pathway. Under this subrule, the soil leaching to groundwater pathway only need be evaluated in combination with the groundwater ingestion pathway. Because of the policies requiring soil remediation to the soil leaching to groundwater Tier 1 levels under 135.10(3)*"d"* and *"k,"* the soil leaching pathway target levels applicable to other groundwater transport pathways and other soil pathways would not be exceeded. If a soil leaching to groundwater Tier 1 level is exceeded, the pathway is high risk.

g. Special procedures for the groundwater ingestion pathway.

(1) A protected groundwater source is assumed without measurements of hydraulic conductivity for all sites designated as granular or nongranular bedrock.

(2) Groundwater well receptor evaluation for granular and nongranular bedrock designations. All drinking and non-drinking water wells within 1,000 feet of the source must be identified and tested for chemicals of concern. All public water supply systems within one mile of the source must be identified and raw water tested for chemicals of concern. All area within 1,000 feet of the source is considered a potential receptor point of exposure.

(3) Target levels. The following target levels apply regardless of granular aquifer designation. If drinking water wells are within 1,000 feet of the source, the applicable target level is the groundwater ingestion pathway Tier 1 level for actual receptors. If non-drinking water wells are within 1,000 feet of the source, the applicable target level is the groundwater ingestion pathway Tier 1 level for potential receptors. For potential wells, the applicable target level is the groundwater ingestion pathway Tier 1 level for potential receptors.

(4) Sentry well. If the Tier 1 level for actual receptors is exceeded at sites designated as granular bedrock and the receptor has not yet been impacted, a monitoring well shall be placed between the source and an actual receptor, outside the defined plume and approximately 200 feet from the actual receptor. For alternative well placement, the certified groundwater professional must provide justification and obtain department approval. This monitoring well is to be used for monitoring potential groundwater contamination of the receptor.

(5) High risk classification. A site where bedrock is encountered before groundwater shall be classified high risk for this pathway if any of the following conditions exist regardless of granular aquifer determination: The target level at any actual receptor is exceeded; drinking water well receptors are present within 1,000 feet and groundwater concentrations in any monitoring well exceed the groundwater ingestion Tier 1 level for actual receptors; non-drinking water wells are within 1,000 feet and groundwater concentrations in any monitoring well exceed the groundwater ingestion pathway Tier 1 level for potential receptors; or for sites designated nongranular bedrock, if groundwater concentrations for chemicals of concern from any public water system well within one mile of the source exceed 40 percent of the Tier 1 level for actual receptors, and groundwater concentrations in any monitoring well exceed the groundwater ingestion Tier 1 level for actual receptors. Corrective action shall be undertaken as provided in 135.10(3)*"k."*

(6) Low risk classification. Sites without an actual receptor within 1,000 feet shall be classified as low risk for this pathway if no high risk conditions exist and the Tier 1 level for potential receptors is exceeded. The site is subject to monitoring as provided in 135.10(3)*"l."* If an actual receptor exists within 1,000 feet, a site designated as granular or nongranular bedrock shall be classified low risk for this pathway when soil contamination has been removed or remediated to below the soil leaching to groundwater Tier 1 levels and all groundwater monitoring wells are non-detect or below the applicable target level for actual and potential receptors. A site may be reclassified to no action required for this pathway after all monitoring wells meet the exit monitoring criteria as specified in 135.10(3)*"l."* (NOTE: Exit monitoring is required because groundwater monitoring wells are not located at the source or if they are, the data is highly unreliable given the nature of bedrock.) If actual receptors do

not exist or have been properly plugged and concentrations exceed the Tier 1 level for potential receptors, institutional controls and notification to permitting authorities may be employed in accordance with 135.10(4)*"h."* The institutional control must prohibit use of groundwater for 1,000 feet.

h. Special procedures for the groundwater vapor to enclosed space pathway.

(1) Soil gas plume. Soil gas measurements must be taken regardless of granular aquifer determination and in accordance with Tier 2 guidance to determine a soil gas plume. Soil gas where practical should be measured at the soil-bedrock interface. At a minimum, soil gas must be measured at the suspected area of maximum contamination and near the three monitoring wells with the highest concentrations that exceed the Tier 1 level for the groundwater to enclosed space pathway. Where the plume has been defined, soil gas measurements should be taken near wells exceeding the Tier 1 level. Other soil gas measurements must be taken as needed to define the extent of contamination where soil gas measurements exceed the soil gas vapor target levels.

(2) The soil gas target levels are those defined in 135.10(7)*"f."*

(3) High risk classification. A site designated as granular or nongranular bedrock shall be classified high risk for this pathway if an actual confined space receptor exists within 50 feet of the soil gas plume based on the soil gas target level as defined in 135.10(6).

(4) Low risk classification. A site designated as granular or nongranular bedrock shall be classified as low risk for this pathway if the soil gas exceeds the vapor target level at any point and no actual confined space receptors exist within 50 feet of the soil gas contaminant plume.

i. Special procedure for the groundwater to water line pathway.

(1) Target level. The applicable target level is the Tier 1 level for the specific type of water line.

(2) High risk classification. A site designated as granular or nongranular bedrock shall be classified high risk for this pathway if the highest groundwater elevation is within three feet of the bottom of a water line as provided in 135.10(8)*"a"*(1), risk classification cannot be determined as provided in 567—135.12(455B) due to limitations on placement of monitoring wells, and water lines exist within 200 feet of a monitoring well that exceeds the Tier 1 level.

j. Special procedures for the surface water pathway. Any surface water body within 200 feet of the source must be evaluated under the following for sites designated as granular or nongranular bedrock. The provisions of 135.10(10) apply to the extent they are not inconsistent with the following, including the visual inspection requirements.

(1) Point of compliance. The monitoring well closest to the surface water body must be used as the point of compliance to evaluate impacts to designated use segments as described in 135.10(10) and for general use segments that fail the visual inspection criteria of 135.10(10)*"b."* If the surface water criteria are exceeded for a designated use segment, an allowable discharge concentration must be calculated and met at the point of compliance. For general use segments failing the visual inspection criteria, the acutely toxic target level must be met at the point of compliance.

(2) High risk classification. A site designated as granular or nongranular bedrock shall be classified high risk for this pathway if the surface water body is within 200 feet of the source, risk classification cannot be determined as per 567—135.12(455B) due to limitations on placement of monitoring wells, and the monitoring well closest to the designated use segment exceeds the allowable discharge concentration. A general use segment failing the visual inspection criteria is high risk if, after the sheen is removed, the monitoring well closest to the general use segment exceeds the acutely toxic target level.

(3) Low risk classification. If the allowable discharge concentration is not exceeded at the point of compliance, the site shall be classified as low risk for this pathway and subject to monitoring under 135.10(3)*"l."* The monitoring well closest to the receptor shall serve as the sentry well for monitoring purposes.

k. High risk corrective action response. Owners and operators have the option to conduct a Tier 3 assessment in accordance with 567—135.11(455B).

(1) Groundwater ingestion pathway. For high risk sites, where soil exceeds the soil leaching to groundwater Tier 1 level for actual receptors, soil excavation or other active remediation of soils must be conducted in accordance with department guidance to reduce soil concentrations to below the soil leaching Tier 1 level. Corrective action other than monitoring of groundwater is required at sites designated as nongranular bedrock if the actual receptor has been or is likely to be impacted. Corrective action other than monitoring of groundwater is required at sites designated as granular bedrock if the actual receptor has been impacted or the sentry well required by 135.10(3)*"g"*(4) has been impacted above Tier 1 levels. Acceptable corrective action for impacted or vulnerable groundwater wells may include active remediation, technological controls, institutional controls, well plugging, relocation, and well reinstallation with construction measures sufficient to prevent contaminant infiltration to the well and to prevent formation of a preferential pathway.

(2) Groundwater ingestion pathway high risk monitoring. For high risk sites designated as nongranular or granular bedrock, if the soil concentrations do not exceed the soil leaching to groundwater Tier 1 levels or have been reduced to this level by corrective action, and corrective action of groundwater is not required as in 135.10(3)*"k"*(1), these sites shall be subject to groundwater monitoring as provided in 135.10(3)*"l."* Corrective action other than monitoring of groundwater is required at sites designated as granular bedrock if groundwater concentrations exceed the applicable target level less than 200 feet from an actual receptor. Reevaluation of the potential for impact to actual receptors is required at sites designated as nongranular bedrock if concentrations from monitoring wells increase more than 20 percent of the previous samples.

(3) For water line pathways. For high risk sites, active remediation must be conducted to reduce concentrations below the applicable target levels, or water lines and gaskets must be replaced or relocated, including the use of institutional and technological controls. If lines are polybutylene, polyethylene, or asbestos-cement, the lines must be removed or relocated. All water lines that are replaced must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department.

(4) Other pathways. For high risk sites other than groundwater ingestion and water lines, active remediation must be conducted to reduce concentrations below the applicable target levels, including the use of institutional and technological controls.

l. Monitoring. For high and low risk sites, annual monitoring at a minimum is required as specified below, and potential receptor status for low risk sites must be confirmed. Annual monitoring may be used to meet the exit requirements for no action required classification in accordance with 135.10(3)*"m."*

(1) Groundwater in nongranular bedrock designations. All groundwater monitoring wells must be monitored at least annually.

(2) Groundwater in granular bedrock designations. The following monitoring wells must be monitored at least annually: a well with detected levels of contamination closest to the leading edge of the groundwater plume between the source and the receptor, and a sentry well with concentrations below the applicable target level consistent with 135.10(3)*"g"*(4) and 135.10(3)*"j."*

(3) Soil gas. For sites where the soil gas target level is exceeded, annual monitoring of soil gas is required at the suspected area of maximum contamination and between the soil gas plume and any actual receptors within 100 feet of the soil gas plume.

m. No action required classification. A site may be given a no action required classification after conducting a Tier 2 assessment as provided in this subrule if maximum soil concentrations do not exceed the Tier 1 levels for the soil leaching pathway, and if groundwater exit monitoring criteria and soil gas confirmation sampling are met as specified below.

(1) Groundwater in nongranular bedrock designations. Exit monitoring requires that samples from all groundwater monitoring wells must not exceed the applicable target levels for annual sampling for three consecutive years. If soil contamination above a Tier 1 level is not identified or if an overexcavation has successfully removed all soil contamination greater than a Tier 1 level and

monitoring wells are installed in the source area, exit monitoring criteria are met when two consecutive samples collected at least six months apart from all monitoring wells show concentrations less than the lowest target level.

(2) Groundwater in granular bedrock designations. Exit monitoring must be met in two ways: A monitoring well between the source and the receptor must not exceed applicable target levels for three sampling events, and samples must be separated by at least six months; and the three most recent consecutive groundwater samples from a monitoring well between the source and the receptor with detected levels of contamination must show a steady or declining trend and meet the following criteria: The first of the three samples must be greater than detection limits, concentrations cannot increase more than 20 percent from the first of the three samples to the third sample; concentrations cannot increase more than 20 percent from the previous sample; and samples must be collected at least six months apart.

(3) Soil gas. Confirmation sampling for soil gas must be conducted as specified in 135.12(6)*"c."*

n. Properly plugged monitoring wells. After receiving a no action required classification, all monitoring wells must be properly plugged in accordance with 567—Chapters 39 and 49.

135.10(4) *Groundwater ingestion pathway assessment.*

a. Pathway completeness. Unless cleared at Tier 1, this pathway is complete and must be evaluated under any of the following conditions: (1) the first encountered groundwater is a protected groundwater source; or (2) there is a drinking water well or a non-drinking water well within the modeled groundwater plume or the actual plume as provided in 135.10(2)*"j"* and *"k."*

b. Receptor evaluation. All drinking and non-drinking water wells located within 100 feet of the largest actual plume (defined to the appropriate target level for the receptor type) must be tested, at a minimum, for chemicals of concern as part of the receptor evaluation. Actual plumes refer to groundwater plumes for all chemicals of concern. Untreated or raw water must be collected for analysis unless it is determined to be infeasible or impracticable.

All existing drinking water wells and non-drinking water wells within the modeled plume or the actual plume as provided in 135.10(4)*"a"* must be evaluated as actual receptors. Potential receptors only exist if the groundwater is a protected groundwater source. Potential receptor points of exposure are those points within the modeled plume or actual plume that exceed the potential point of exposure target level. The point(s) of compliance for actual receptor(s) is the receptor. The point(s) of compliance for potential receptor(s) is the potential receptor point of exposure as provided in 135.10(2)*"j"* and *"k."*

c. Target levels. For drinking water wells, the target level at the point(s) of exposure is the Tier 1 level for actual receptors. For non-drinking water wells, the target level at the point(s) of exposure is the Tier 1 levels for potential receptors. For potential receptors, the target level at the potential receptor point(s) of exposure is the Tier 1 level for potential receptors.

d. Pathway evaluation. The soil leaching to groundwater pathway must be evaluated in accordance with 135.9(5) if this pathway is complete.

e. Modeling. At Tier 2, the groundwater well located within the modeled plume is assumed to be drawing from the contaminated aquifer, and the groundwater transport model is designed to predict horizontal movement to the well. If the groundwater professional determines that assessment of the vertical movement of contamination is advisable to determine the potential or actual impact to the well source, a Tier 3 assessment of this vertical pathway may be conducted. The groundwater professional shall submit a work plan to the department specifying the assessment methods and objectives for approval in accordance with 567—135.11(455B). Factors that should be addressed include but are not limited to well depth and construction, radius of influence, hydrogeologic separation of aquifer, preferential pathways, and differing water quality characteristics.

f. Plume definition. The groundwater plume shall be defined to the applicable Tier 1 level for actual receptors except, where there are no actual receptors and the groundwater is a protected groundwater source, the plume shall be defined to the Tier 1 level for potential receptors.

g. Pathway classification. This pathway shall be classified as high risk, low risk or no action required in accordance with 567—135.12(455B).

h. Corrective action response. Corrective action must be conducted in accordance with 567—135.12(455B). Abandonment and plugging of wells in accordance with 567—Chapters 39 and 49 is an acceptable corrective action response.

i. Use of institutional controls. Institutional controls may be used to obtain no action required pathway classification. If the pathway is complete and the concentrations exceed the applicable Tier 1 level(s) for actual receptors, the drinking or non-drinking water well must be properly plugged in accordance with 567—Chapters 39 and 49 and the institutional control must prohibit the use of a protected groundwater source (if one exists) within the actual or modeled plume as provided in 135.10(2)*"j"* and *"k."* If the Tier 1 level is exceeded for potential receptors, the institutional control must prohibit the use of a protected groundwater source within the actual or modeled plume, whichever is greater. If concentrations exceed the Tier 1 level for drinking water wells and the groundwater is a protected groundwater source, the owner or operator must provide notification of the site conditions on a department form to the department water supply section, or if a county has delegated authority, then the designated county authority responsible for issuing private water supply construction permits or regulating non-public water well construction as provided in 567—Chapters 38 and 49.

j. Notification of well owners. Upon receipt of a Tier 2 site cleanup report and as soon as practicable, the department shall notify the owner of any public water supply well identified within the Tier 2 site cleanup report that a leaking underground storage tank site is within 2,500 feet and an assessment has been performed.

135.10(5) *Soil leaching to groundwater pathway assessment.*

a. General. The soil leaching to groundwater pathway is evaluated using a one-dimensional model that predicts vertical movement of contamination through soil to groundwater and transported by the groundwater to a receptor. The model is used to predict the maximum concentrations of chemicals of concern that would be present in groundwater beneath a source that is representative of residual soil contamination and maximum soil concentrations. The predicted groundwater concentrations then must be used as a groundwater source concentration to evaluate its impact on other groundwater transport pathways, including the groundwater ingestion pathway, the groundwater vapor pathway, the groundwater water line pathway and the surface water pathway.

b. Pathway completeness. This pathway is complete whenever a groundwater transport pathway is complete as provided in this rule.

c. Plume definition. The soil plume shall be defined to the Tier 1 levels for the soil leaching to groundwater pathway.

d. Receptor evaluation. Receptors for this pathway are the same as the receptors for each complete groundwater transport pathway.

e. Modeling and target levels. The soil and groundwater parameters shall be measured as provided in 135.10(2).

The soil leaching to groundwater model shall be used to calculate the predicted groundwater source concentration. Each applicable groundwater transport pathway model shall then be used in accordance with the rules for that pathway to predict potential impact to actual receptors, the location of potential receptor points of exposure and the SSTL in groundwater at the source. This SSTL then is used to calculate a SSTL for soil at the source. If the soil concentrations exceed the SSTL for soil, corrective action response shall be evaluated.

f. Corrective action response. If the maximum soil concentration at the source exceeds the SSTL for soil for actual or potential receptors, corrective action must be taken in accordance with 567—135.12(455B).

135.10(6) *Groundwater vapor to enclosed space pathway assessment.*

a. Pathway completeness. Unless cleared at Tier 1, this pathway is always considered complete for purposes of Tier 2.

b. Explosive vapor survey. If an explosive vapor survey has not been conducted as part of a Tier 1 assessment, an explosive vapor survey of enclosed spaces must be conducted during the Tier 2 assessment in accordance with 135.9(6)*"b"* and procedures outlined in the department's Tier 1 guidance.

c. Confined space receptor evaluation. Actual and potential receptors are evaluated at Tier 2 for this pathway.

(1) Actual receptors. An existing confined space within the modeled groundwater plume or the actual groundwater plume as provided in 135.10(2)*"j"* and *"k"* is an actual receptor. For the purpose of Tier 2, a confined space is a basement in a building occupied by humans. Buildings constructed with a concrete slab on grade or buildings constructed without a concrete slab, but with a crawl space are not considered confined spaces. Sanitary sewers are considered confined space receptors and preferential pathways if an occupied building exists within 200 feet of where the sewer line crosses over or through actual or modeled groundwater contamination that exceeds the target levels calculated for sewers. The sanitary sewer includes its utility envelope. The point of exposure is the receptor and points of compliance include the locations where target level measurements may be taken as provided in 135.10(6)*"f"* and *"g."*

(2) Potential receptors. Potential receptors are confined spaces that do not presently exist but could exist in the future. Areas within the actual groundwater plume perimeter or modeled groundwater plume perimeter are considered potential receptor points of exposure. Potential receptors are evaluated and target levels established based on the current zoning as provided in 135.10(6)*"f."* The potential receptor point of exposure is a point of compliance.

d. Vapor inhalation hazards. Owners and operators may be required to address vapor inhalation hazards in occupied spaces other than confined spaces as defined in these rules when evidence arises that would give the department a reasonable basis to believe vapor hazards are present or may occur.

e. Plume definition.

(1) The soil plume must be defined in accordance with 135.10(2)*"f"* for the purposes of estimating source width and source length used in soil leaching to groundwater and groundwater transport models.

(2) The groundwater plume must be defined to the target levels derived from site-specific data as provided in 135.10(6)*"f."*

f. Target levels. Target levels can be based on groundwater concentrations, soil gas measurements, and indoor vapor measurements as provided below.

(1) For actual receptors and potential receptors, groundwater modeling as provided in 135.10(2) is used to calculate the groundwater concentration target level at the point of exposure. Default residential exposure factors, default residential building parameters, and a target risk of 10^{-4} are used to determine target levels for actual receptors and potential receptor points of exposure in residential areas and areas with no zoning. Default nonresidential exposure factors, default nonresidential building parameters, and a target risk of 10^{-4} are used to determine target levels for actual receptors and potential receptor points of exposure in nonresidential areas. Default values are provided in Appendices A and B.

(2) For actual receptors, the indoor vapor target levels are designated in 135.10(7)*"f."* For actual and potential receptors, the soil gas target levels are designated in 135.10(7)*"f."*

(3) Sanitary sewers are treated as human health receptors, and groundwater concentration target levels at the point of exposure are based on the application of a target risk of 2×10^{-4} for carcinogens and a hazard quotient of 2 for noncarcinogens.

g. Pathway evaluation and classification. Upon completion of evaluation of analytical results of appropriate samples and modeled data, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B).

(1) Actual receptors. If it can be demonstrated that the groundwater plume has reached steady state concentrations under a confined space, indoor vapor measurements at the point(s) of exposure

and soil gas measurements at an alternative point(s) of compliance may be used for the pathway evaluation. When assessing sanitary sewers for pathway clearance, soil gas measurements may be evaluated against the soil gas target levels; however, indoor vapor cannot be used as criteria for pathway clearance. Soil gas measurements shall be taken and analyzed in accordance with 135.16(5) and the department's Tier 2 guidance, and at locations in the plume where measured groundwater concentrations exceed the levels that are projected by modeling to exist beneath the actual receptor. If measured groundwater concentrations beneath the actual receptor exceed the levels projected from modeling, then the soil gas measurements may be taken either adjacent to the actual receptor in areas expected to exhibit the greatest soil gas measurements or at an alternative point of compliance between the source and receptor where the actual groundwater concentrations exceed the groundwater concentrations that exist beneath the confined space. If the soil gas measurements and confirmation samples taken in accordance with 135.12(6)*"c"* do not exceed the soil gas target levels, the pathway as to actual receptors shall be classified no action required. If the soil gas target levels are exceeded, either the pathway shall be classified high risk, or indoor vapor measurements may be taken in accordance with the department's Tier 2 guidance. If indoor vapor measurements and confirmation samples do not exceed the indoor vapor target levels, the pathway as to actual confined space receptors shall be classified no action required. If the Tier 1 indoor vapor target levels are exceeded, the pathway shall be classified high risk.

(2) Potential receptors. If the potential receptor groundwater concentration target level(s) is exceeded at any potential receptor point of exposure based on actual data or modeling, the pathway shall be classified low risk. However, if soil gas measurements taken at the potential receptor point(s) of exposure and alternate point(s) of compliance and confirmation samples do not exceed the target levels in 135.10(7)*"f,"* the pathway, as to potential receptors, shall be classified no action required. If the target level(s) for potential sanitary sewer receptors is exceeded, the pathway shall be classified as low risk. Where the area of potential receptor exposure includes public right-of-way, the pathway may be classified as no action required if the owner or operator provides sufficient documentation to establish that there are no foreseeable plans for construction of sanitary sewers through the area of potential receptor exposure. The municipal authority must acknowledge consent to the no action required classification whenever target levels are exceeded. If the municipal authority reports that it has confirmed plans for construction of sanitary sewers through the area of potential receptor exposure, the pathway shall be reevaluated as an actual receptor.

h. Corrective action response. Unless the pathway is classified as no action required, corrective action for this pathway must be conducted as provided in 567—135.12(455B). Actual receptors are subject to corrective actions that (1) reduce groundwater concentrations beneath the enclosed space to below the target level; (2) reduce the measured soil gas levels to below the soil gas target levels; (3) reduce the indoor vapor concentrations to below the indoor vapor target level; or (4) reduce the vapor level to below 10 percent of the lower explosive limit (LEL), if applicable. Potential receptors are subject to the monitoring requirements in 135.12(5). Soil vapor monitoring may be conducted in lieu of groundwater monitoring for this pathway. Institutional or technological controls as provided in 567—135.12(455B) may be used.

i. Municipal authority notification for potential sewer receptors. The municipal authority responsible for sewer construction must be notified of the environmental conditions whenever target level(s) is exceeded for potential sanitary sewers. The notification must show the area where groundwater concentrations and soil gas samples exceed target levels. The owner or operator must acknowledge what plans, if any, exist for construction of sanitary sewers through the area of potential receptor exposure.

135.10(7) *Soil vapor to enclosed space pathway assessment.*

a. Pathway completeness. Unless cleared at Tier 1, this pathway is always considered complete for purposes of Tier 2.

b. Explosive vapor survey. If an explosive vapor survey has not been conducted as part of a Tier 1 assessment, an explosive vapor survey of enclosed spaces must be conducted during the Tier 2

assessment in accordance with 135.9(6)*"b"* and procedures outlined in the department's Tier 1 guidance.

c. Confined space receptor evaluation. Actual and potential receptors are evaluated at Tier 2 for this pathway.

(1) Actual receptors. An existing confined space within 50 feet of the edge of the plume is an actual receptor. For the purpose of Tier 2, a confined space is a basement in a building occupied by humans. Buildings constructed with a concrete slab on grade or buildings constructed without a concrete slab, but with a crawl space are not considered receptors. Sanitary sewers are considered confined space receptors and preferential pathways if an occupied building exists within 200 feet of where the sewer line crosses over or through soil contamination that exceeds the target levels calculated for sewers. The sanitary sewer includes its utility envelope. The point of exposure is the receptor and points of compliance include the locations where target level measurements may be taken as provided in 135.10(7)*"f"* and *"g."*

(2) Potential receptors. Potential receptors are confined spaces that do not presently exist but could exist in the future. Areas where soil concentrations are greater than the Tier 1 level applicable to residential areas or alternative target levels for nonresidential areas as specified in 135.10(7)*"f"* are considered potential receptor points of exposure. Potential receptors are evaluated and target levels established based on the current zoning. An area with no zoning is considered residential. The potential receptor point of exposure is a point of compliance.

d. Vapor inhalation hazards. Owners and operators may be required to address vapor inhalation hazards in occupied spaces other than confined spaces as defined in these rules when evidence arises that would give the department a reasonable basis to believe vapor hazards are present or may occur.

e. Plume definition. The soil plume must be defined to the Tier 1 level for this pathway unless vapor measurements taken at the area(s) with the maximum levels of soil contamination do not exceed the soil gas target level in 135.10(7)*"f."* If soil gas measurements taken from the area(s) of maximum soil concentration do not exceed target levels, confirmation sampling must be conducted in accordance with 135.12(6)*"c"* prior to proposing a no action pathway classification.

f. Target levels. Target levels can be based on soil concentrations, soil gas measurements, and indoor vapor measurements as provided below:

(1) For actual receptors, the soil concentration target level is the Tier 1 level. For potential receptors, the soil concentration target level for residential areas and areas with no zoning is the Tier 1 level. For areas zoned nonresidential, the target level is calculated using the default nonresidential exposure factors and building parameters from Appendix A and a target risk of 10^{-4} .

(2) The following indoor vapor target levels apply to actual receptors other than sanitary sewers and the soil gas target levels apply to all actual and potential receptors. These levels were derived from the ASTM indoor air inhalation and the soil vapor to enclosed space models designated in Appendix A.

	Indoor Vapor ($\mu g/m^3_{air}$)	**Soil Gas ($\mu g/m^3$)**
Benzene	39.2	600,000
Toluene	555	9,250,000

(3) Sanitary sewers are treated as human health receptors, and soil concentration target levels at the point of exposure are based on application of a target risk of 2×10^{-4} for carcinogens and hazard quotient of 2 for noncarcinogens.

g. Pathway evaluation and classification.

(1) Actual receptors. Confined space receptors may be evaluated using soil gas measurements and indoor vapor measurements. When assessing sanitary sewers for pathway clearance, soil gas measurements may be evaluated against the soil gas target levels, however, indoor vapor cannot be used as criteria for pathway clearance. Soil gas measurements shall be taken adjacent to the actual receptor or at an alternative point of compliance between the source and receptor such as the property

boundary and in accordance with 135.16(5) and the department's Tier 2 guidance. If the soil gas measurements and confirmation samples taken in accordance with 135.12(6)*"c"* do not exceed the soil gas target levels, the pathway as to actual receptors shall be classified no action required. If the soil gas target levels are exceeded, either the pathway shall be classified high risk, or indoor vapor measurements may be taken in accordance with the department's Tier 2 guidance. If indoor vapor measurements and confirmation samples do not exceed the indoor vapor target levels, the pathway as to actual receptors shall be classified no action required. If the indoor vapor target levels are exceeded, the pathway shall be classified high risk.

(2) Potential receptors. If the potential receptor target level(s) based on soil concentrations is exceeded at any potential receptor point of exposure, the pathway shall be classified low risk. However, if soil gas measurements taken at the potential receptor point(s) of exposure and alternate point(s) of compliance and confirmation samples do not exceed the target levels in 135.10(7)*"f,"* the pathway shall be classified no action required as to potential receptors. If the target level(s) for potential sanitary sewer receptors is exceeded, the pathway shall be classified as low risk. Where the area of potential receptor exposure includes public right-of-way, the pathway may be classified as no action required if the owner or operator provides sufficient documentation to establish that there are no foreseeable plans for construction of sanitary sewers through the area of potential receptor exposure. The municipal authority must acknowledge consent to the no action required classification whenever target levels are exceeded. If the municipal authority reports that it has confirmed plans for construction of sanitary sewers through the area of potential receptor exposure, the pathway shall be reevaluated as an actual receptor.

h. Corrective action response. Unless the pathway is classified as no action required, corrective action for this pathway must be conducted as provided in 567—135.12(455B) and in accordance with department Tier 2 guidance. Actual receptors are subject to corrective actions that (1) reduce the indoor vapor concentrations to below the target level; (2) reduce measured soil gas levels to below the soil gas target levels; and (3) if applicable, reduce the vapor level to below 10 percent of the lower explosive limit (LEL). Potential receptors are subject to monitoring requirements as provided in 135.12(5). Soil vapor monitoring may be conducted in lieu of soil monitoring for this pathway. Institutional or technological controls as provided in 567—135.12(455B) may be used.

i. Municipal authority notification for potential sewer receptors. The municipal authority responsible for sewer construction must be notified of the environmental conditions whenever target level(s) is exceeded for potential sanitary sewers. The notification must show the area where soil concentrations and soil gas samples exceed target levels. The owner or operator must acknowledge what plans, if any, exist for construction of sanitary sewers through the area of potential receptor exposure.

135.10(8) *Groundwater to water line pathway assessment.*

a. Pathway completeness and receptor evaluation.

(1) Actual receptors include all water lines where the highest groundwater elevation is higher than three feet below the bottom of the water line at the measured or predicted points of exposure. The highest groundwater elevation is the estimated average of the highest measured groundwater elevations for each year. All water lines must be evaluated for this pathway regardless of distance from the source and regardless of the Tier 1 evaluation, if the lines are in areas with actual data above the applicable Tier 1 level and modeled data above the SSTL line. If actual data exceeds modeled data, then all water lines are considered actual receptors if they are within a distance extending 10 percent beyond the edge of the contaminant plume defined by the actual data.

(2) Potential receptors include all areas where the first encountered groundwater is less than 20 feet deep and where actual data or modeled data are above Tier 1 levels.

(3) The point(s) of exposure is the water line, and the points of compliance are monitoring wells between the source and the water line that would be effective in monitoring whether the line has been or may be impacted by chemicals of concern.

b. Plume definition. If this pathway is complete for an actual receptor, the groundwater plume must be defined to the Tier 1 levels, with an emphasis between the source and any actual water lines. The water inside the water lines shall be analyzed for all chemicals of concern.

c. Target levels. Groundwater modeling as provided in 135.10(2) must be used to calculate the projected concentrations of chemicals of concern and site-specific target levels. The soil leaching to groundwater pathway must be evaluated to ensure contaminated soil will not cause future groundwater concentrations to exceed site-specific target levels. The target level at the point(s) of exposure is the Tier 1 level.

d. Pathway evaluation and classification. Upon completion of evaluation of analytical results of appropriate samples and modeled data, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B). The water quality inside the water lines is not a criterion for clearance of this pathway.

e. Utility company notification. The utility company that supplies water service to the area must be notified of all actual and potential water line impacts as soon as knowledge of a potential risk is determined. If the extent of contamination has been defined, this information must be included in utility company notification, and any previous notification made at Tier 1 must be amended to include this information.

f. Corrective action response.

(1) For actual receptors, unless the pathway is classified as no further action, corrective action for this pathway must be conducted as provided in 567—135.12(455B). If the concentrations of chemicals of concern in a water line exceed the Tier 1 levels for actual receptors for the groundwater ingestion pathway, immediate corrective action must be conducted to eliminate exposure to the water, including but not limited to replacement of the line with an approved material.

(2) For potential receptors, upon utility company notification, no further action will be required for this pathway for potential receptors.

135.10(9) *Soil to water line pathway assessment.*

a. Pathway completeness and receptor evaluation.

(1) Actual receptors include all water lines within ten feet of the soil plume defined to the Tier 1 level. All water lines must be evaluated for this pathway regardless of distance from the source if the lines are in areas where Tier 1 levels are exceeded.

(2) Potential receptors include all areas where Tier 1 levels are exceeded.

b. Plume definition. The extent of soil contamination must be defined to Tier 1 levels for the chemicals of concern.

c. Target level. The point(s) of exposure includes all areas within ten feet of the water line. The target level at the point(s) of exposure is the Tier 1 level.

d. Pathway classification. Upon completion of evaluation of analytical results of appropriate samples, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B). Measurements of water quality inside the water lines may be required, but are not allowed as criteria to clear this pathway.

e. Utility company notification. The utility company that supplies water service to the area must be notified of all actual and potential water line impacts as soon as knowledge of the potential risk is determined. If the extent of contamination has been defined, this information must be included in utility company notification, and any previous notification made at Tier 1 must be amended to include this information.

f. Corrective action response.

(1) For actual receptors, unless the pathway is classified as no further action, corrective action for this pathway must be conducted as provided in 567—135.12(455B).

(2) For potential receptors, upon utility company notification, no further action will be required for this pathway for potential receptors.

135.10(10) *Surface water pathway assessment.*

a. Pathway completeness. Unless maximum concentrations are less than the applicable Tier 1 levels, this pathway is complete and must be evaluated under any of the following conditions: (1) there is a designated use surface water within the modeled groundwater plume or the actual plume as provided in 135.10(2)*"f"* and *"g"*; or (2) any surface water body that failed the Tier 1 visual inspection as provided in 135.9(10).

b. Visual inspection. A visual inspection must be conducted according to 135.9(10)*"c."* If a sheen or residue from a petroleum-regulated substance is present, soil and groundwater sampling must be conducted to identify the source of the release and to define the extent of the contaminant plume to the levels acutely toxic to aquatic life as provided in 567—subrule 61.3(2).

c. Receptor evaluation.

(1) Surface water criteria apply only to designated use segments of surface water bodies as provided in 567—subrules 61.3(1) and 61.3(5). If the surface water body is a designated use segment and if maximum groundwater concentrations exceed applicable surface water criteria, the extent of contamination must be defined as provided in 135.10(10)*"d."* The point of compliance for measuring chemicals of concern at the point of exposure is the groundwater adjacent to the surface water body because surface water must be protected for low flow conditions. In-stream measurements of concentrations are not allowed as a basis for no further action.

(2) If the visual inspection indicates the presence of a petroleum sheen in a general use segment within 200 feet of the source, as defined in 567—paragraph 61.3(1)*"a,"* the segment must be evaluated as an actual receptor. The point of compliance for measuring chemicals of concern at the point of exposure is the groundwater adjacent to the general use segment.

d. Plume definition. The groundwater plume must be defined to the surface water criteria levels for designated use segment receptors and to the acutely toxic levels for general use segment receptors, with an emphasis between the source and the surface water body.

e. Target levels. Determining target levels for this pathway involves a two-step process.

(1) Groundwater modeling as provided in 135.10(2) must be used to calculate the projected concentrations of chemicals of concern at the point of compliance. If the modeled concentrations or field data at the point of compliance exceed surface water criteria for designated use segments, an allowable discharge concentration must be calculated. If the projected concentrations and actual concentrations at the point of compliance do not exceed surface water criteria, no further action is required to assess this pathway.

(2) The department water quality section will calculate the allowable discharge concentration using information provided by the certified groundwater professional on a department form. Required information includes, at a minimum, the site location and a discharge flow rate calculated according to the department's Tier 2 guidance. The allowable discharge concentration is the target level that must be met adjacent to the surface water body that is the point of compliance.

(3) The target level at the point of exposure/compliance for general use segments subject to evaluation is the acutely toxic levels established by the department under 567—Chapter 61 and 567—subrule 62.8(2). If the modeled concentrations of contaminant concentrations at the point of exposure/compliance exceed the acutely toxic levels, modeling must be used to determine site classifications and corrective action in accordance with 567—135.12(455B).

f. Pathway evaluation and classification. Upon completion of evaluation of analytical results of appropriate samples and modeled data, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B).

(1) For general use segments, as defined in 567—subrule 61.3(1), if the groundwater professional determines there is no sheen or residue present or if the site is not the source of the sheen or residue or if the sheen does not consist of petroleum-regulated substances, no further action is required for assessment of this pathway. If a petroleum-regulated substance sheen is present, the pathway is high risk and subject to classification in accordance with 567—135.12(455B).

(2) For designated use segments, as provided in 567—subrules 61.3(1) and 61.3(5), if projected concentrations of chemicals of concern and actual contaminant concentrations at the point of

compliance do not exceed the target level adjacent to the surface water, and the groundwater professional determines there is no sheen or residue present, no further action is required for assessment of this pathway.

g. Corrective action response. Unless the pathway is classified as no further action, corrective action for this pathway must be conducted as provided in 567—135.12(455B). For surface water bodies failing the visual inspection criteria, corrective action must eliminate the sheen and reduce concentrations to below the site specific target level in accordance with 567—135.12(455B).

135.10(11) *Tier 2 submission and review procedures.*

a. Owners and operators must submit a Tier 2 site cleanup report within 180 days of the date the department approves or is deemed to approve a Tier 1 assessment report under 135.9(12). If the owner or operator has elected to conduct a Tier 2 assessment instead of a Tier 1, or a Tier 2 assessment is required due to the presence of free product under 135.7(4), the Tier 2 site cleanup report must be submitted within 180 days of the date the release was confirmed. The department may establish an alternative schedule for submittal.

b. Site cleanup report completeness and accuracy. A Tier 2 site cleanup report is considered to be complete if it contains all the information and data required by this rule and the department's Tier 2 guidance. The report is considered accurate if the information and data are reasonably reliable based first on the standards in these rules and department guidance, and second, on generally accepted industry standards.

c. The certified groundwater professional responsible for completion of the Tier 2 site assessment and preparation of the report must accompany each Tier 2 site cleanup report with a certification as set out below:

I, _____, groundwater professional certification number _____, am familiar with all applicable requirements of Iowa Code section 455B.474 and all rules and procedures adopted thereunder including, but not limited to, the Department of Natural Resources' Tier 2 guidance. Based on my knowledge of those documents and the information I have prepared and reviewed regarding this site, UST registration number _____, LUST No._____, I certify that this document is complete and accurate as provided in 135.10(11) and meets the applicable requirements of the Tier 2 site cleanup report.

Signature

Date

d. Upon receipt of the groundwater professional's certified Tier 2 report, the groundwater professional's proposed site classification for the site shall be determinative unless, within 90 days of receipt, the department identifies material information in the report that is inaccurate or incomplete. Material information may be data found to be inaccurate or incomplete or a report that lacks information that, if accurate and complete, would result in a different site or pathway classification than proposed by the certified groundwater professional. If the department determines that the site cleanup report is inaccurate or incomplete, the department shall notify the groundwater professional of the inaccurate or incomplete information within 90 days of receipt of the report and shall work with the groundwater professional and the party responsible for cleanup to obtain correct information or additional information necessary to appropriately classify the site. If the groundwater professional recommends proceeding to Tier 3, the groundwater professional's site classification and any pathway classification recommendations subject to or influenced by a Tier 3 assessment shall not be considered determinative until the Tier 3 report is submitted for review as provided in 567—135.11(455B).

e. If a "no action required" site classification is proposed, the department shall review the report in accordance with 135.12(6) and the review standards in 135.10(11)*"d."*

f. The department may, in the interest of minimizing environmental or public health risks and promoting a more effective cleanup, require owners and operators to begin cleanup of soil and groundwater before the Tier 2 site cleanup report is approved.

567—135.11(455B) Tier 3 site assessment policy and procedure.

135.11(1) *General.* Tier 3 site assessment. Unless specifically limited by rule or an imminent hazard exists, an owner or operator may choose to prepare a Tier 3 site assessment as an alternative to completion of a Tier 2 assessment under 567—135.10(455B) or as an alternative to completion of a corrective action design report under 567—135.12(455B). Prior to conducting a Tier 3 site assessment, a groundwater professional must submit a work plan to the department for approval. The work plan must contain an evaluation of the specific site conditions that justify the use of a Tier 3 assessment, an outline of the proposed Tier 3 assessment procedures, a reporting format and a method for determining a risk classification consistent with the provisions underlying the risk classification system in 567—135.12(455B). Upon approval, the groundwater professional may implement the assessment plan and submit a report within a reasonable time designated by the department.

135.11(2) *Tier 3 site assessment.* A Tier 3 assessment may include but is not limited to the use of more site-specific or multidimensional models and assessment data, methods for calibrating Tier 2 models to make them more predictive of actual site conditions, and more extensive assessment of receptor construction and vulnerability to contaminant impacts. If use of Tier 2 models is proposed with substitution of other site-specific data (as opposed to the Tier 2 default parameters), the groundwater professional must adequately justify how site-specific data is to be measured and why it is necessary. The groundwater professional must demonstrate that the proposal has a proven applicability to underground storage tank sites or similar conditions or has a strong theoretical basis for applicability and is not biased toward underestimating assessment results. The Tier 3 assessment report shall make a recommendation for site classification as high risk, low risk or no action required, at least two corrective action response technologies and provide justification consistent with the standards and policies underlying risk classification and corrective action response under 567—135.12(455B) and Iowa Code chapter 455B, subchapter IV, part 8.

135.11(3) *Review and submittal.* The department will review the Tier 3 assessment for compliance with the terms of the approved work plan and based on principles consistent with these rules and Iowa Code chapter 455B, subchapter IV, part 8. Upon approval of the Tier 3 assessment, the department may require corrective action in accordance with 567—135.12(455B).

567—135.12(455B) Tier 2 and 3 site classification and corrective action response.

135.12(1) *General.* Iowa Code section 455B.474(1)*"a"*(4)(b) provides that sites shall be classified as high risk, low risk and no action required. Risk classification is accomplished by comparing actual contaminate concentrations to the concentrations that are predicted by the use of models. Concentrations must be compared to the simulation model that uses the maximum concentrations at a source and predicts at what levels actual or potential receptors could be impacted in the future. Concentrations must also be compared to the site-specific target level line that assumes a target level concentration at the point of exposure and is used to predict the reduction in concentration that must be achieved at the source in order to meet the applicable target level at the point of exposure. These models not only predict concentrations at points of exposure or a point of compliance at a source but also predict a distribution of concentrations between the source and the point of exposure, which may also be points of compliance. The comparison of contaminate concentrations with these distribution curves primarily is considered for purposes of judging whether the modeled data is reasonably predictive and what measures such as monitoring are prudent to determine the reliability of modeled data and actual contaminate concentrations.

For the soil vapor to enclosed space and soil to water line pathways, there are no horizontal transport models to use for predicting future impacts. Therefore, for these pathways, sites are classified as high risk, low risk or no action required based on specified criteria below and in 567—135.10(455B).

135.12(2) *High risk classification.* Except as provided below, sites shall be classified as high risk if, for any pathway, any actual contaminate concentrations exceed the site-specific target level line at any point for an actual receptor.

a. For the soil vapor to enclosed space and soil to water line pathways, sites shall be classified as high risk if the target levels for actual receptors are exceeded as provided in 135.10(7) and 135.10(9).

b. For the soil vapor or groundwater vapor to enclosed space pathways, sites shall be classified as high risk if the explosivity levels at applicable points of compliance are exceeded as provided in 135.10(6) and 135.10(7).

c. Generally, sites are classified as low risk if only potential receptor points of compliance are exceeded. The following is an exception. For the soil leaching to groundwater ingestion pathway for potential receptor conditions, the site shall be classified as high risk if the groundwater concentration(s) exceeds the groundwater Tier 1 level for potential receptor and the soil concentration exceeds the soil leaching site-specific target level at the source.

135.12(3) *High risk corrective action response.*

a. Objectives. The primary objectives of corrective action in response to a high risk classification are both short-term and long-term. The short-term goal is to eliminate or reduce the risk of exposure at actual receptors that have been or are imminently threatened with exposure above target levels. The longer term goal is to prevent exposure to actual receptors that are not currently impacted or are not imminently threatened with exposure. To achieve these objectives, it is the intent of these rules that concentrations of applicable chemicals of concern be reduced by active remediation to levels below the site-specific target level line at all points between the source(s) and the point(s) of exposure as well as to undertake such interim corrective action as necessary to eliminate or prevent exposure until concentrations below the SSTL line are achieved. If it is shown that concentrations at all applicable points have been reduced to below the SSTL line, the secondary objective is to establish that the actual chemical concentrations can be reasonably relied upon to predict future conditions at points of exposure rather than reliance on the modeled data. Reliance on actual contaminant concentrations is achieved by establishing through monitoring that concentrations within the contaminant plume are steady or declining. Institutional controls and technological controls may be used to sever pathways or control the risk of receptor impacts.

b. For the groundwater to water line and soil to water line receptors, these objectives are achieved by active remediation, replacement or relocation of high risk water line receptors in the actual and modeled plume areas. If water lines and gaskets are replaced in an area of contamination, they must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department.

c. In areas of free product, all water lines, regardless of construction material, must be relocated unless there is no other option and the department has approved an alternate plan of construction. Refer to 135.7(4)*"d"*(11). If a service line remains in the area of LNAPL, a backflow preventer shall be installed to prevent impacts to the larger water distribution system.

d. For the soil vapor pathway, these objectives are achieved by active remediation of soil contamination below the target level at the point(s) of exposure or other designated point(s) of compliance using the same measurement methods for receptor evaluation under 135.10(7) and 135.10(9).

e. For a site classified as high risk or reclassified as high risk for the soil leaching to groundwater ingestion pathway, these objectives are achieved by active remediation of soil contamination to reduce the soil concentration to below the site-specific target level at the source.

f. A corrective action design report (CADR) must be submitted by a certified groundwater professional for all high risk sites unless the terms of a corrective action plan are formalized in a memorandum of agreement within a reasonable time frame specified by the department. The CADR must be submitted on a form provided by the department and in accordance with department CADR guidance within 60 days of site classification approval as provided in 135.10(11). The CADR must identify at least two principally applicable corrective action options designed to meet the objectives in 135.12(3), an outline of the projected timetable and critical performance benchmarks, and a specific

monitoring proposal designed to verify its effectiveness and must provide sufficient supporting documentation consistent with industry standards that the technology is effective to accomplish site-specific objectives. The CADR must contain an analysis of its cost-effectiveness in relation to other options. The department will review the CADR in accordance with 135.12(9).

g. Interim monitoring. From the time a Tier 2 site cleanup report is submitted and until the department determines a site is classified as no action required, interim monitoring is required at least annually for all sites classified as high risk. Groundwater samples must be taken: (1) from a monitoring well at the maximum source concentration; (2) from a transition well, meaning a monitoring well with detected levels of contamination closest to the leading edge of the groundwater plume as defined to the pathway-specific target level, and between the source(s) and the point(s) of exposure; and (3) from a guard well, meaning a monitoring well between the source(s) and the point(s) of exposure with concentrations below the SSTL line. If a receptor is located within an actual plume contoured to the applicable target level for that receptor, the point of exposure must be monitored. If concentrations at the receptor already exceed the applicable target level for that receptor, corrective actions must be implemented as soon as practicable. Monitoring conducted as part of remediation or as a condition of establishing a no action required classification may be used to the extent it meets these criteria. Soil monitoring is required at least annually for all applicable pathways in accordance with 135.12(5)*"d."* All drinking water wells and non-drinking water wells within 100 feet of the largest actual plume (defined to the appropriate target level for the receptor type) must be tested annually for chemicals of concern. Actual plumes refer to groundwater plumes for all chemicals of concern.

h. Remediation monitoring. Remediation monitoring during operation of a remediation system is required at least four times each year to evaluate effectiveness of the system. A remediation monitoring schedule and plan must be specified in the corrective action design report and approved by the department.

i. Technological controls. The purpose of a technological control is to effectively sever a pathway by use of technologies such that an applicable receptor could not be exposed to chemicals of concern above an applicable target risk level. Technological controls are an acceptable corrective action response either alone or in combination with other remediation systems. The purpose of technological controls may be to control plume migration through use of containment technologies, barriers, etc., both as an interim or permanent corrective action response or to permanently sever a pathway to a receptor. Controls may also be appropriate to treat or control contamination at the point of exposure. Any technological control proposed as a permanent corrective action option without meeting the reduction in contaminant concentrations objectives must establish that the pathway to a receptor will be permanently severed or controlled. The effectiveness of a technological control must be monitored under a department approved plan until concentrations fall below the site-specific target level line or its effectiveness as a permanent response is established and no adverse effects are created.

j. Following completion of corrective action, the site must meet exit monitoring criteria to be reclassified as no action required as specified in 135.12(6)*"c."* At any point where an institutional or technological control is implemented and approved by the department, the site may be reclassified as no action required consistent with 135.12(6).

135.12(4) *Low risk classification.* A site shall be classified as low risk if none of the pathways are high risk and if any of the pathways are low risk. A pathway shall be classified low risk if it meets one of the following conditions:

a. For actual and potential receptors, if the modeled data and the actual concentrations are less than the site-specific target level line, and any of the actual concentrations are greater than the simulation line.

b. For potential receptors, if any actual concentrations exceed the site-specific target level line at any point.

c. For the soil leaching to groundwater ingestion pathway where modeling predicts that the Tier 1 levels for potential receptors would be exceeded in groundwater at applicable potential receptor

points of compliance and the soil concentration exceeds the soil leaching to groundwater site-specific target level but groundwater concentrations are currently below the Tier 1 level for potential receptors, the site shall be initially classified as low risk and subject to monitoring under 135.12(5)*"d"*(2). If at any time during the three-year monitoring period, groundwater concentrations exceed the Tier 1 level for potential receptors, the site shall be classified as high risk requiring soil remediation in accordance with 135.12(3)*"d."*

135.12(5) *Low risk corrective action response.*

a. Purpose. For sites or pathways classified as low risk, the purpose of monitoring is to determine if concentrations are decreasing such that reclassification to no action required may be appropriate or if the contaminant plume is stable such that reclassification to no action required can be achieved with implementation of an institutional control in accordance with 135.12(8), or if concentrations are increasing above the site-specific target level line such that reclassification to high risk is appropriate. Monitoring is necessary to evaluate impacts to actual receptors and assess the continued status of potential receptor conditions. Low risk monitoring shall be conducted and reported by a certified groundwater professional.

b. For sites or pathways classified as low risk, provide a best management practices plan. The plan must include maintenance procedures, schedule of activities, prohibition of practices, and other management practices, or a combination thereof, which, after problem assessment, are determined to be the most effective means of monitoring and preventing additional contamination of the groundwater and soil. The plan will also contain a contamination monitoring proposal containing sufficient sampling points to ensure the detection of any significant movement of or increase in contaminant concentration.

c. Groundwater monitoring. For groundwater pathways, samples must be taken at a minimum of once per year: (1) from a monitoring well at the maximum source concentration; (2) a transitional well meaning a well with detected levels of contamination closest to the leading edge of the groundwater plume as defined to the pathway-specific target level and between the source and the receptor; and (3) a guard well meaning a monitoring well between the source and the point of exposure with concentrations below the SSTL line. (NOTE: Monitoring under this provision may be used to satisfy exit monitoring if it otherwise meets the criteria in 135.12(6).)

d. Soil monitoring.

(1) For the soil vapor to enclosed space pathway potential receptors, soil gas samples must be taken at a minimum of once per year in the area(s) of expected maximum vapor concentrations where an institutional control is not in place.

(2) For the soil leaching to groundwater pathway potential receptors, annual groundwater monitoring is required for a minimum of three years as provided in 135.12(5)*"c."* If groundwater concentrations are below the applicable SSTL line for all three years, no further action is required. If groundwater concentrations exceed the applicable SSTL line in any of the three years, corrective action is required to reduce soil concentrations to below the Tier 1 levels for soil leaching to groundwater. Therefore, annual monitoring of soil is not applicable.

(3) For the soil to water line pathway potential receptors, notification of the utility company is required. Notification will result in reclassification to no action required. Therefore, annual monitoring of soil is not applicable.

e. Receptors must be evaluated at least annually to ensure no actual or modeled data are above the site-specific target level line for any actual receptors. Potential receptor areas of concern must be evaluated at least annually and the presence of no actual receptors confirmed. If actual receptors are present or reasonably expected to be brought into existence, the owner or operator must report this fact to the department as soon as practicable. Annual monitoring that also meets the exit criteria under 135.12(6) may be used for that purpose.

f. The site or pathway must meet exit monitoring criteria to be reclassified as no action required as specified in 135.12(6)*"b."* If concentrations for actual receptors increase above the site-specific

target level line or potential receptor status changes to actual receptor status, the site must be reclassified as high risk and further corrective action required in accordance with 135.12(3).

135.12(6) *No action required classification.* A site shall be classified as no action required if all of the pathways are classified as no action required as provided below:

a. Soil pathways shall be classified as no action required if samples are less than the applicable target levels as defined for each pathway and confirmational sampling requirements have been met.

b. For initial classification, groundwater pathways shall be classified as no action required if the contaminant concentrations are below the site-specific target level line and all concentrations are at or less than the simulation line, and confirmation monitoring has been completed successfully. Confirmation sampling for groundwater is a second sample that confirms the no action required criteria.

c. A groundwater pathway shall be reclassified from high risk to no action required if all contaminant concentrations are below the site-specific target level and if exit monitoring criteria have been met. Exit monitoring criteria means that the three most recent consecutive groundwater samples from all monitoring wells must show a steady or declining trend and the most recent samples are below the site-specific target level. Other criteria include the following: The first of the three samples for the source well and transition well must be more than detection limits; concentrations cannot increase more than 20 percent from the first of the three samples to the third sample; concentrations cannot increase more than 20 percent of the previous sample; and samples must be separated by at least six months.

d. A low risk site shall be reclassified as "no action required" if contaminant concentrations are below the site-specific target level and if exit monitoring criteria have been met pursuant to 135.12(6)*"c"* or if the site has maintained less than the applicable target level for four consecutive sampling events separated by at least six months as defined in the monitoring plan regardless of exit monitoring criteria and guidance.

e. Confirmation sampling for soil gas and indoor vapor. For the enclosed space pathways, confirmation sampling is required to reasonably establish that the soil gas and indoor vapor samples represent the highest expected levels. A groundwater professional must obtain two samples taken at least two weeks apart. One of the samples should be collected beneath the frost line depth during a seasonal period of lowest groundwater elevation.

f. As a condition of obtaining site classification as no action required, all groundwater monitoring wells must be properly plugged in accordance with 567—Chapters 39 and 49 unless the department requires selected wells to be maintained or a written request with justification and a plan for properly maintaining the wells are submitted to the department for approval. Approval to maintain wells shall be deemed granted if not disapproved with reason within 30 days of request.

g. Prior to acceptance of a request to classify the site as no action required, and in the event there is a question of validity of the data or sampling methods, laboratory analysis procedures, indication of plume movement, or the department obtains information about new conditions at the site, the department may conduct or require the owner to conduct confirmation sampling of the soil, groundwater, soil gas, or indoor vapor to confirm that the no action required criteria have been met.

h. The department may waive, at its discretion, the exit monitoring criteria based on a certified groundwater professional's written justification to support a no action required classification for the site based on a reasoned assessment of data, trends, receptor status, and corrective actions performed. One example is when steady and declining criteria have not been met due solely to variations among a laboratory's lowest achievable detection limits.

135.12(7) *Reclassification.* Any site or pathway that is classified as high risk may be reclassified to low risk if in the course of corrective action the criteria for low risk classification are established. Any site or pathway that is classified as low risk may be reclassified to high risk if in the course of monitoring the conditions for high risk classification are established. Sites subject to department-approved institutional or technological controls are classified as no action required if all other criteria for no action required classification are satisfied.

135.12(8) *Use of institutional and technological controls.*

a. Purpose. The purpose of an institutional control is to restrict access to or use of property such that an applicable receptor could not be exposed to chemicals of concern for as long as the target level is exceeded at applicable points of exposure and compliance. Institutional controls include:

(1) A law of the United States or the state;

(2) A regulation issued pursuant to federal or state laws;

(3) An ordinance or regulation of a political subdivision in which real estate subject to the institutional control is located;

(4) An environmental covenant as provided in Iowa Code chapter 455I;

(5) Any other institutional control the owner or operator can reasonably demonstrate to the department will reduce the risk from a release throughout the period necessary to ensure that no applicable target level is likely to be exceeded.

b. Modification or termination of institutional and technological controls. At a point when the department determines that an institutional or technological control has been removed or is no longer effective for the purpose intended, regardless of the issuance of a no further action certification or previous site classification, it may require owners and operators to undertake such reevaluation of the site conditions as necessary to determine an appropriate site classification and corrective action response. If the owner or operator is in control of the affected property, the department may require reimplementation of the institutional or technological control or may require a Tier 2 assessment of the affected pathway(s) be conducted to reevaluate the site conditions and determine alternative corrective action response. An owner or operator subject to an institutional or technological control may request modification or termination of the control by conducting a Tier 2 assessment of the affected pathway or conduct such other assessment as required by the department to establish that the control is no longer required given current site conditions.

c. If the owner or operator is not in control of the affected property or cannot obtain control and the party in control refuses to continue implementation of an institutional control, the department may require the owner or operator to take such legal action as available to enforce institution of the control or may require the owner or operator to undertake a Tier 2 assessment to determine site classification and an alternative corrective action response. If a person in control of the affected property appears to be contractually obligated to maintain an institutional or technological control, the department may, but is not required to, attempt enforcement of the contractual obligation as an alternative to requiring corrective action by the owner or operator.

d. If a site is classified no action required, subject to the existence of an institutional control or technological control, the holder of the fee interest in the real estate subject to the institutional control or technological control may request, at any time, that the department terminate the institutional control or technological control requirement. The department shall terminate the requirement for an institutional control if the holder demonstrates by completion of a Tier 2 assessment of the applicable pathway or other assessment as required by the department that the site conditions warranting the control no longer exist and that the site or pathway has met exit criteria for no action required classification under 135.12(6).

135.12(9) *Corrective action design report submission and review procedures.*

a. Owners and operators must submit a CADR within 60 days of the date the department approves or is deemed to approve a Tier 2 assessment report under 135.10(11) or a Tier 3 assessment is to be conducted. The department may establish an alternative schedule for submittal. As an alternative to submitting a CADR, owners or operators may participate in a corrective action meeting process to develop a corrective action plan that would be incorporated into a memorandum of agreement or other written agreement approved by the department. Owners or operators shall implement the terms of an approved CADR, memorandum of agreement or other corrective action plan agreement.

b. Corrective action design report completeness and accuracy. A CADR is considered to be complete if it contains all the information and data required by this rule and the department's

guidance. The report is considered accurate if the information and data are reasonably reliable based first on the standards in these rules and department guidance, and second, on generally accepted industry standards.

c. The certified groundwater professional responsible for completion of the CADR must provide the following certification with the CADR:

I, _____, groundwater professional certification number _____, am familiar with all applicable requirements of Iowa Code section 455B.474 and all rules and procedures adopted thereunder including, but not limited to, the Department of Natural Resources' guidance and specifications for corrective action design reports. Based on my knowledge of those documents and the information I have prepared and reviewed regarding this site, UST registration number _____, LUST No._____, I certify that this document is complete and accurate as provided in 135.12(9) and meets the applicable requirements of the corrective action design report, and that the recommended corrective action can reasonably be expected to meet its stated objectives.

Signature

Date

d. Review. A CADR submitted by a groundwater professional shall be accepted by the department and shall be primarily relied upon by the department to determine the corrective action response requirements of the site. However, if within 90 days of receipt of a CADR, the department identifies material information in the CADR that is inaccurate or incomplete, and if based upon information in the report the appropriate corrective action response cannot be reasonably determined by the department based on industry standards, the department may reject the report and require modifications. If the department does not reject the report within 90 days of receipt, the report shall be deemed approved as submitted unless changes to the report are requested by the groundwater professional. The department shall work with the groundwater professional and the owner or operator to correct any materially inaccurate information or to obtain the additional information necessary to determine the appropriate corrective action response as soon as practicable.

e. Memorandums of agreement. Owners or operators that fail to implement the actions or meet the activity schedule in a memorandum of agreement resulting from a corrective action meeting or other written corrective action plan agreement or that fail to implement the actions or meet the schedule outlined in an approved CADR are subject to legal action.

135.12(10) *Monitoring certificates and no further action certificates.*

a. Monitoring certificate. The department will issue a monitoring certificate to the owner or operator of an underground storage tank from which a release has occurred, the current property owner, or other responsible party who has undertaken the corrective action warranting issuance of the certificate. Sites classified as low risk or sites classified as high risk/monitoring shall be eligible for a monitoring certificate. The monitoring certificate will be valid until the site is reclassified to a high risk requiring active remediation or no action required site. A site that has been issued a monitoring certificate shall not be eligible to receive a certificate evidencing completion of remediation until the site is reclassified as no action required. The monitoring certificate may be invalidated and the site reclassified to high risk if it is determined by the department that the owner of the site is not in compliance with the requirements specified in the monitoring certificate.

b. No further action certificate. When the no action required site classification has been determined based on a recommendation of the certified groundwater professional as provided in 135.9(11), 135.10(11) and 135.12(6) (see also Iowa Code section 455B.474(1)*"a"*(8)(a) and (c)), the department shall issue a no further action certificate.

The department will issue a no further action certificate to an owner or operator of an underground storage tank from which a release has occurred, the current property owner, or other responsible party who has undertaken the corrective action warranting classification of the site as no action required. Prior to the issuance of a no further action certificate, an accurate legal description of the property on

which the underground storage tanks are or were formerly located shall be submitted to the department. The following conditions apply:

(1) If free product is present, the department shall not issue a no further action certificate until the department has approved termination of all free product assessment and recovery in accordance with 135.7(4).

(2) The site has been determined by a certified groundwater professional not to present an unreasonable risk to the public health and safety or the environment.

(3) A person issued the certificate or a subsequent purchaser of the site cannot be required to perform further corrective action because action standards are changed at a later date. Action standards refer to applicable standards under this rule.

(4) The certified groundwater professional has certified that all groundwater monitoring wells have been permanently closed in accordance with 135.12(6)*"f"* with the exception of wells that are allowed to be maintained pursuant to 135.12(6)*"f."* Wells not properly maintained shall be referred to the water supply section of the department that enforces 567—Chapters 39 and 49.

(5) The certificate shall not prevent the department from ordering remediation of a release identified subsequent to the release for which the no further action certificate was issued. The certificate shall not prevent the department from requiring corrective action of a release of a regulated substance from an unregulated tank.

(6) The certificate will not constitute a warranty of any kind to any person as to the condition, marketability or value of the described property.

(7) The certificate shall reflect any institutional control utilized to ensure compliance with any applicable Tier 2 level; and may include a notation that the classification is based on the fact that designated potential receptors are not in existence.

(8) The certificate shall be in a form provided by the department that is recordable in accordance with Iowa Code section 558.1 et seq.

(9) The owner or operator or other persons conducting corrective action shall be responsible for recording the no further action certificate with the county recorder and return a file-stamped copy to the department within 30 days of the issue date. At its discretion, the department may record the no further action certificate with the appropriate county recorder as authorized in Iowa Code section 455B.474(1)*"a"*(8)(c).

c. The department shall modify any issued no further action certificates containing institutional controls once the owner, operator or their successor or assign has demonstrated that the institutional control is no longer necessary to meet the applicable Tier 2 level as provided in 135.12(10).

135.12(11) *Expedited corrective action.* An owner, operator or responsible party of a site at which a release of regulated substance is suspected to have occurred may carry out corrective actions at the site so long as the department receives notice of the expedited cleanup activities prior to 30 calendar days of their commencement; the owner, operator, or responsible party complies with the provisions of these rules; and the corrective action does not include active treatment of groundwater other than:

a. As previously approved by the department; or

b. Free product recovery pursuant to 135.7(4).

c. Soil overexcavation. When undertaking overexcavation of contaminated soils, adequate field screening methods must be used to identify maximum concentrations during excavation. At a minimum one soil sample must be taken for field screening every 100 square feet of the base and each sidewall. Soil samples must be taken for laboratory analysis at least every 400 square feet of the base and each sidewall of the excavated area to confirm remaining concentrations are below Tier 1 levels. If the excavation is less than 400 square feet, a minimum of one sample must be analyzed for each sidewall and the base. The owner or operator must maintain adequate records of the excavation area to document compliance with this procedure unless submitted to the department and must provide it to the department upon request.

567—135.13(455B) Public participation.

135.13(1) For each confirmed release that is classified as high or low risk, the department must provide notice to the public by means designated to reach those members of the public directly affected by the release and the recommended corrective action response. This notice may include but is not limited to public notice in local newspapers, block advertisements, public service announcements, publication in a state register, letters to individual households, or personal contacts by the staff.

135.13(2) The department must ensure site release information and decisions concerning the Tier 1 assessment report, Tier 2 and Tier 3 site cleanup reports are made available to the public for inspection upon request.

135.13(3) Before approving the Tier 2 or Tier 3 site cleanup report, the department may hold a public meeting to consider comments on the proposed corrective action response if there is sufficient public interest, or for any other reason.

135.13(4) The department must give a public notice that complies with 135.13(1) above if the implementation of the approved Tier 2 or Tier 3 site cleanup report does not achieve the established cleanup levels in the report and the termination of that report is under consideration by the department.

567—135.14(455B) Action levels. The following corrective action levels apply to petroleum-regulated substances as regulated by this chapter. These action levels shall be used to determine if further corrective action under 567—135.6(455B) through 567—135.12(455B) or 567—135.15(455B) is required as the result of tank closure sampling under 135.15(3) or other analytical results submitted to the department. The contaminant concentrations must be determined by laboratory analysis as stated in 567—135.16(455B). Final cleanup determination is not limited to these contaminants. The contamination corrective action levels are:

	Soil (mg/kg)	**Groundwater (µg/L)**
Benzene	0.54	5
Toluene	3.2	1,000
Ethylbenzene	15	700
Xylenes	52	10,000
Total Extractable Hydrocarbons—Diesel	3,800	1,200
Total Extractable Hydrocarbons—Waste Oil		400

567—135.15(455B) Out-of-service UST systems, temporary closure, and permanent closure.

135.15(1) *Out-of-service UST systems and temporary closure.*

a. UST systems not meeting either the performance standards in 135.3(1) for new UST systems or the upgrading requirements in 135.3(2) by December 22, 1998, must be permanently closed according to 135.15(2). The tanks cannot be brought back into use.

b. When a UST system in compliance with new tank standards is out of service for less than three months, owners and operators must:

(1) Continue operation and maintenance of corrosion protection in accordance with 135.4(2);

(2) Continue operation and maintenance of any release detection in accordance with 567—135.5(455B) unless the system is empty. The UST system is empty when all materials have been removed using commonly employed practices. No more than 2.5 centimeters (1 inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, may remain in the system;

(3) Comply with 567—135.6(455B) through 567—135.12(455B) if a release is suspected or confirmed;

(4) Maintain financial responsibility in accordance with 567—Chapter 136. If at any time financial responsibility coverage is or will be terminated, a site check for contamination must be

completed before coverage is terminated. A site check must use the closure-in-place sampling procedures in 135.15(3)*"b"* and *"d"* or the Tier 1 site assessment in 567—135.9(455B). If the tanks are located in a contaminated area with active monitoring and remediation, the tank owner may request the department waive the site check providing justification.

(5) Continue to pay the tank management fee as required in 135.3(5).

(6) Continue to have compliance inspections conducted as required in 567—135.19(455B).

c. When a UST system is out of service for three months or more, an owner must submit a notification of temporary closure form to the department. Owners and operators must complete the requirements in 135.15(1)*"b"* for temporary closure and certify the following:

(1) The UST system is empty of all regulated substances (e.g., receipt of product removal).

(2) Vent lines are open and functioning.

(3) All other piping, pumps, accesses, and ancillary equipment are capped and locked.

(4) The corrosion protection system is being maintained in accordance with 135.4(2). Include documentation that electricity is being maintained to operate the impressed current cathodic protection system if present.

(5) For lined tanks, provide a copy of the last internal inspection.

(6) Provide proof of financial responsibility (e.g., insurance) according to 567—Chapter 136.

d. When a tank system is temporarily closed for more than 12 months, the owner must remain in compliance with the department's temporary closure requirements in 135.15(1)*"c."* The department may provide an extension to the 12-month temporary closure period. Owners and operators must complete a site check in accordance with 135.6(3)*"b"* before such an extension can be applied for.

e. If a tank system is temporarily closed for more than 12 months, but the tank system has not been temporarily closed according to the requirements of 135.15(1)*"c,"* or the owner or operator has failed to maintain out-of-service requirements in 135.15(1)*"b,"* the UST system must be permanently closed in accordance with 135.15(2).

f. Prior to returning a temporarily closed tank back into service, the owner or operator must complete and submit the department's return-to-service form signed by a certified installer and provide the following documentation unless otherwise approved by the department. The tank system cannot be operated or receive fuel until current tank tags have been issued.

(1) Documentation that the tanks were temporarily closed in accordance with 135.15(1).

(2) Where applicable, documentation that corrosion protection has been maintained continuously in accordance with 135.4(2). The owner or operator must provide an inspection log of the cathodic protection system and the inspection report of the cathodic protection system completed by an Iowa-certified cathodic protection tester.

(3) For lined tanks, provide a lining and tank integrity inspection report.

(4) Results of precision tightness tests (0.1 gph) conducted on tanks in accordance with 567—135.5(455B).

(5) Results of precision tightness tests (0.1 gph) conducted on lines in accordance with 567—135.5(455B). This includes piping used for remote fill.

(6) Function test (3.0 gph) results of mechanical or electronic leak detectors conducted in accordance with 567—135.5(455B).

NOTE: Function tests are not required on confirmed "safe suction" dispensing lines.

(7) Tank and piping leak detection is operational and in good condition.

(8) Secondary containment is installed where necessary in accordance with 135.3(9).

(9) Spill containment, overfill prevention and all containment sumps are in good condition and operating in accordance with 135.4(1). Tightness tests conducted within the last 12 months must be provided for secondary containment of tanks, piping, sumps, under dispenser containment and spill containment.

(10) Copy of the financial responsibility (e.g., UST insurance) mechanism in accordance with 567—Chapter 136.

(11) Certification from an Iowa-certified installer that the UST system and equipment meet all regulatory requirements for startup and operation.

(12) Copies of Class A and Class B operator training certificates.

(13) Change of ownership form (if the UST system was sold).

135.15(2) *Permanent closure and changes-in-service.* Permanent closure of an underground storage tank system must be conducted by an Iowa-certified tank remover. Closure sampling must be conducted by or under the supervision of an Iowa-certified groundwater professional.

a. At least 30 days before beginning either permanent closure or a change-in-service under 135.15(2)*"b"* and *"c,"* owners and operators must notify the department of their intent to permanently close or make the change-in-service. An owner or operator must seek prior approval to permanently close a tank in a time frame shorter than the 30-day notice. The required assessment of the excavation zone under 135.15(3) must be performed after notifying the department but before completion of the permanent closure or a change-in-service.

b. To permanently close a tank or piping, owners and operators must empty and clean them by removing all liquids and accumulated sludge. All tanks taken out of service permanently must also be removed from the ground, filled with an inert solid material, or closed in place by a method approved by the department. Piping must be removed from the ground or have the ends plugged with an inert solid material.

c. Continued use of a UST system to store a nonregulated substance is considered a change-in-service. Before a change-in-service, owners and operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with 135.15(3).

d. Permanent closure procedures must be followed in the replacement of tanks or piping. Notification must be made using DNR Form 542-1308, "Notification of Tank Closure or Change-in-Service." The form must include the date scheduled for the closure. Confirmation of the closure date must be given to the DNR field office 24 hours prior to the actual closure. The required assessment of the excavation zone under 135.15(3) must be performed after notifying the department but before completion of the permanent closure or change-in-service.

NOTE: The cleaning and closure procedures listed in 40 CFR 280.71(c) may be used to comply with 135.15(2).

135.15(3) *Assessing the site at closure or change-in-service.*

a. Before permanent closure or a change-in-service is completed, owners or operators must measure for the presence of a release where contamination is most likely to be present at the UST site. This soil and groundwater closure investigation must be conducted or supervised by a groundwater professional certified under 567—Chapter 134 unless the department in its discretion grants an exemption and provides direct supervision of the closure investigation. In selecting the sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release.

(1) At UST sites with a history of petroleum storage, soil and groundwater samples shall in every case be analyzed for benzene, toluene, ethylbenzene, and xylenes (BTEX) with each compound reported separately in accordance with 567—135.16(455B). If there has been a history or suspected history of petroleum storage other than gasoline or gasoline blends (i.e., all grades of diesel fuels, fuel oil, kerosene, oil and mineral spirits), or such storage history is unknown or uncertain, soil and groundwater samples shall also be analyzed for total extractable hydrocarbons in accordance with 567—135.16(455B).

(2) All such samples shall be collected separately and shipped to a laboratory certified under 567—Chapter 83 within 72 hours of collection. Samples shall be refrigerated and protected from freezing during shipment to the laboratory.

(3) When a UST is removed from an area of confirmed contamination, the department may waive closure sampling if written documentation is submitted with the closure notification.

Documentation should include laboratory analytical reports and a site map showing tank and piping locations along with contamination plume and sampling locations.

b. For all permanent tank and piping closures or changes-in-service, at least one water sample must be taken from the first saturated groundwater zone via a developed monitoring well except as provided in 135.15(3)*"g."* The well must be located downgradient from and as close as possible to the UST system but no farther away than 20 feet from system components. At some tank and piping closures, a minimum of one monitoring well may not be sufficient to represent a release where it is most likely to be present. An additional groundwater monitoring well or wells may be necessary.

If, however, the first saturated groundwater zone is not encountered within 10 feet below the lowest elevation of the tank excavation, the requirement for groundwater sampling shall not apply unless:

(1) Sands or highly permeable soils are encountered within 10 feet below the lowest level of the tank excavation that together with the underlying geology would, in the judgment of the department, pose the reasonable possibility that contamination may have reached groundwaters deeper than 10 feet below the lowest level of the tank excavation. The method of determining highly permeable soil is found in the departmental guidance document entitled "Underground Storage Tank Closure Guidance."

(2) Indications of potential groundwater contamination, including petroleum products in utility lines, petroleum products in private wells, petroleum product vapors in basements or other structures, occur in the area of the tank installation undergoing closure or change-in-service.

c. For permanent closure by tank removal, the departmental guidance document entitled "Underground Storage Tank Closure Guidance" must be followed. The minimum number of soil samples that must be taken depends on the tank size and length of product piping. Samples must be taken at a depth of 1 to 2 feet beneath the tank fill area below the base of the tank along the tank's centerline. Soil samples must also be taken at least every 10 feet along the product piping at a depth of 1 to 2 feet beneath the piping fill area below the piping, unless alternate sampling is approved by the department.

If sands or other highly permeable soils are encountered, alternative sampling methods may be required.

If contamination is suspected or found in any area within the excavation (i.e., sidewall or bottom), a soil sample must be taken at that location.

The numbers of samples required for tanks are as follows:

Nominal Tank Capacity (gallons)	Number of Samples	Location on Centerline
1,000 or less	1	center of tank
1,001 - 8,000	2	1/3 from ends
8,001 - 30,000	3	5 feet from ends and at center of tank
30,001 - 40,000	4	5 and 15 feet from ends
40,001 and more	5	5 and 15 feet from ends and at center of tank

d. For closing a tank in place by filling with an inert solid material or for a change-in-service, the departmental guidance document entitled "Underground Storage Tank Closure Guidance" must be followed. The minimum number of soil borings required for sampling depends on the size of the tank and the length of the product piping. Soil samples must be taken within 5 feet of the sides and ends of the tank at a depth of 2 to 4 feet below the base of the tank, but outside the backfill material, at equal intervals around the tank. Soil samples must also be taken at least every 10 feet along the product piping at a depth of 1 to 2 feet beneath the piping fill area below the piping, unless alternate sampling is approved by the department. If sands or other highly permeable soils are encountered, alternative sampling methods may be required.

The minimum numbers of soil borings and samples required are as follows:

Nominal Tank Capacity (gallons)	Number of Samples	Location of Samples
6,000 or less	4	1 each end and each side
6,001 - 12,000	6	1 each end and 2 each side
12,001 or more	8	1 each end and 3 each side

e. A closure report in a format prescribed by the department must be submitted to the department within 45 days of the tank removal or closure in place. Refer to the Underground Storage Tank Closure Guidance for reporting format. The tank tags must be returned with the closure report.

f. The requirements of this subrule are satisfied if one of the external release detection methods allowed in 135.5(4)*"e"* and *"f"* is operating in accordance with the requirements in 135.5(4) at the time of closure and indicates no release has occurred.

g. If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered during the site assessment or by any other manner, contact the department in accordance with 135.6(1). Normal closure procedures no longer apply. Owners and operators must begin corrective action in accordance with 567—135.7(455B) through 567—135.12(455B).

Identification of free product requires immediate response in accordance with 135.7(4). If contamination appears extensive or the groundwater is known to be contaminated, a full assessment of the contamination will be required. When a full assessment is required or anticipated, collection of the required closure samples is not required. If contamination appears limited to soils, overexcavation of the contaminated soils in accordance with 135.15(4) may be allowed at the time of closure.

135.15(4) *Overexcavation of contaminated soils at closure.*

a. If contaminated soils are discovered while assessing a site at closure in accordance with 135.15(3), owners and operators may overexcavate up to one foot of the contaminated soils surrounding the tank pit. The contamination and overexcavation must be reported to the department in accordance with the requirements of 135.6(4)*"a"* prior to backfilling the excavation. If excavation is limited to one foot of contaminated soils, a soil sample shall be taken and laboratory analyzed in accordance with 567—135.16(455B) from the area showing the greatest contamination. Any overexcavation of contaminated soils beyond one foot of contaminated soils is considered expedited corrective action and must be conducted by or under supervision of a certified groundwater professional in accordance with the procedures in 135.12(11).

b. Excavated contaminated soils must be properly disposed in accordance with 567—Chapters 100, 101, 102, 120, and 121.

c. A report must be submitted to the department within 30 days of completion of the laboratory analysis. The report must include the requirements of 135.15(3)*"e"* and a dimensional drawing showing the depth and area of the excavation prior to and after overexcavation. The area of contamination must be shown.

135.15(5) *Applicability to previously closed UST systems.* When directed by the department, the owner and operator of a UST system permanently closed before October 24, 1988, must assess the excavation zone and close the UST system in accordance with this rule if releases from the UST may, in the judgment of the department, pose a current or potential threat to human health and the environment.

135.15(6) *Closure records.* Owners and operators must maintain records in accordance with 135.4(5) that are capable of demonstrating compliance with closure requirements under this rule. The results of the excavation zone assessment required in 135.15(3) must be maintained for at least three years after completion of permanent closure or change-in-service in one of the following ways:

a. By the owners and operators who took the UST system out of service;

b. By the current owners and operators of the UST system site; or

c. By mailing these records to the department if they cannot be maintained at the closed facility.

135.15(7) *Applicability to pre-1974 USTs.* The closure provisions of 567—135.15(455B) are not applicable to USTs that have been out of operation prior to January 1, 1974. For purposes of this

subrule, out of operation means that no regulated substance has been deposited into or dispensed from the tanks and that the tanks do not currently contain an accumulation of regulated substances other than a de minimis amount as provided in 135.15(1)*"a."*

Owners and operators or other interested parties are not required to submit documentation that USTs meet the exemption conditions and may rely on this subrule as guidance. However, should a question arise as to whether USTs meet the exemption, or owners and operators or other interested parties request acknowledgment by the department that USTs are exempt, they must submit an affidavit on a form provided by the department. The affiant must certify that based on a reasonable investigation and to the best of the affiant's knowledge, the USTs were taken out of operation prior to January 1, 1974, the USTs have not contained a regulated substance since January 1, 1974, and the USTs do not currently contain an accumulation of regulated substances.

If the department has a reasonable basis to suspect a release has occurred, the release investigation and confirmation steps of 567—135.6(455B) and the corrective action requirements as provided in 567—135.7(455B) through 567—135.12(455B) shall apply.

567—135.16(455B) Laboratory analytical methods for petroleum contamination of soil and water.

135.16(1) *General.* When analyzing for petroleum or hazardous substances, owners and operators of UST systems must use a laboratory certified under 567—Chapter 83. In addition they must ensure that all samples are properly preserved and shipped within 72 hours of collection to a laboratory certified under 567—Chapter 83. This rule provides acceptable analytical procedures for petroleum substances and required information that must be provided in all laboratory reports.

135.16(2) *Laboratory report.* All laboratory reports must contain the following information:

a. Laboratory name, address, telephone number and Iowa laboratory certification number. If analytical work is subcontracted to another laboratory, the analytical report from the certified laboratory that analyzed the sample must be submitted and include the information required in this subrule.

b. Medium sampled (soil, water).

c. Client submitting sample (name, address, telephone number).

d. Sample collector (name, telephone number).

e. UST site address.

f. Clients sample location identifier.

g. Date sample was collected.

h. Date sample was received at laboratory.

i. Date sample was analyzed.

j. Results of analyses and units of measure.

k. Detection limits.

l. Methods used in sample analyses (preparation method, sample detection method, and quantitative method).

m. Laboratory sample number.

n. Analyst name.

o. Signature of analyst's supervisor.

p. Condition in which the sample was received at the laboratory and whether it was properly sealed and preserved.

q. Note that analytical results are questionable if a sample exceeded an established holding time or was improperly preserved. (The recommended holding time for properly cooled and sealed petroleum contaminated samples is 14 days, except for water samples containing volatile organic compounds that have a 7-day holding time unless acid-preserved.)

r. Laboratory reports required by this chapter for tank closure investigations under 567—135.15(455B) and site checks under 135.6(3) or Tier 1 or Tier 2 assessments under 567—135.9(455B) through 567—135.11(455B) must include a copy of the chromatograms and

associated quantitation reports for the waste oil, diesel and gasoline standard used by the laboratory in analyzing submitted samples. The laboratory analytical report for each sample must state whether the sample tested matches the laboratory standard for waste oil, diesel or gasoline or that the sample cannot be reliably matched with any of these standards. A copy of the chromatograms and associated quantitation reports for only the soil and groundwater samples with the maximum concentrations of BTEX and TEH must be included.

135.16(3) *Analysis of soil and water for high volatile petroleum compounds (i.e., gasoline, benzene, ethylbenzene, toluene, xylene).* Sample preparation and analysis shall be by Method OA-1, "Method for Determination of Volatile Petroleum Hydrocarbons (gasoline)," revision 12/01/2019, state hygienic laboratory at the University of Iowa, or EPA Method 8260D, "Test Methods for Evaluating Solid Waste," 3rd Edition–Update 6, July 2018. Copies of Method OA-1 are available from the department.

135.16(4) *Analysis of soil and water for low volatile petroleum hydrocarbon contamination (i.e., all grades of diesel fuel, fuel oil, kerosene, oil, and mineral spirits).* Sample preparation and analysis shall be by Method OA-2, "Determination of Extractable Petroleum Products (and Related Low Volatility Organic Compounds)," revision 12/01/2019, state hygienic laboratory at the University of Iowa. Copies of Method OA-2 are available from the department.

135.16(5) *Analysis of soil gas for volatile petroleum hydrocarbons.* Analysis of soil gas for volatile petroleum hydrocarbons shall be conducted in accordance with the National Institute for Occupational Safety and Health (NIOSH) Method 1501, Issue 3, March 15, 2003, or a department-approved equivalent method.

135.16(6) *Analytical methods for methyl tertiary-butyl ether (MTBE).* Analysis of water for MTBE must be conducted by a laboratory certified under 567—Chapter 83 for petroleum analyses.

a. Sample preparation and analysis shall be by U.S. Environmental Protection Agency Method 8260D, "Test Methods for Evaluating Solid Waste," 3rd Edition–Update 6, July 2018.

b. Laboratories performing the analyses must run standards for MTBE on a routine basis, and standards for other possible compounds like ethyl tertiary-butyl ether (ETBE), tertiary-amyl methyl ether (TAME), di-isopropyl ether (DIPE), and tertiary-butyl alcohol (TBA) to be certain of their identification should they be detected.

c. Laboratories must run a method detection limit study and an initial demonstration of capability for MTBE. These records must be kept on file.

d. The minimum detection level for MTBE in water is 15 µg/L.

567—135.17(455B) Evaluation of ability to pay.

135.17(1) General. The ability to pay guidance procedures referenced in this rule will be used by the department when an owner or operator of an underground storage tank (UST) claims to be financially unable to comply with corrective action requirements under 567—135.7(455B) through 567—135.12(455B) or closure investigation requirements under 567—135.15(455B). If an owner or operator of a regulated UST claims to be financially unable to meet these departmental requirements, that responsible party must provide documentation of the party's finances on forms provided by the department in order for the department to act on the claim of financial inability. The department may request additional financial documentation to verify or supplement reported information.

135.17(2) Individual claims. The financial ability of individual owners and operators of USTs, with or without an active business (including but not limited to sole proprietorships and general partnerships), may be evaluated using the most current version of "INDIPAY" developed by the U.S. Environmental Protection Agency and generally accepted principles of financial analysis. This guidance is only one tool the department may use in evaluating claims of financial inability.

135.17(3) Corporate claims. The financial ability of corporate owners and operators of USTs may be evaluated using the most current version of "ABEL" developed by the U.S. Environmental Protection Agency and generally accepted principles of financial analysis. This guidance is only one tool the department may use in evaluating claims of financial inability.

135.17(4) Federal LUST Trust Fund. The financial ability of owners and operators of USTs shall be evaluated for the purpose of determining if the department is authorized to use Federal LUST Trust Fund moneys as provided in the current cooperative agreement with the U.S. Environmental Protection Agency, Region VII. A determination of financial inability does not create an entitlement or any expectation interest on behalf of an owner or operator that Federal LUST Trust Fund moneys will be used for corrective action at any individual site.

135.17(5) The evaluation of financial ability will also be used by the department in making other administrative planning decisions including but not limited to decisions as to whether to pursue and when to pursue administrative or judicial enforcement of regulatory and statutory duties and the assessment of penalties. A determination of financial inability does not create an entitlement or expectation interest that enforcement actions will be deferred or suspended. The evaluation of this factor is only one of many affecting the department's fully discretionary decisions regarding enforcement options and program planning.

135.17(6) An evaluation of financial inability as provided in this rule does not relieve any owner or operator of legal liability to comply with department rules or Iowa Code chapter 455B or provide a defense to any legal actions to establish liability or enforce compliance.

567—135.18(455B) Analyzing for methyl tertiary-butyl ether (MTBE).

135.18(1) *General.* The objective of analyzing for MTBE is to determine its presence in water samples collected as part of investigation and remediation of contamination for underground storage tank facilities.

135.18(2) *Required MTBE testing.* Water samples must be analyzed for MTBE when collected for risk-based corrective action as required in 567—135.8(455B) through 567—135.12(455B). These sampling requirements include but are not limited to Tier 2 and Tier 3 assessments where groundwater ingestion pathway evaluation and subsequent monitoring is required.

135.18(3) *MTBE testing not required.* Analysis for MTBE is not required for the following:

a. Closure sampling under 567—135.15(455B).

b. Site checks under 135.6(3).

c. If prior analysis under 135.18(2) has not shown MTBE present.

d. If the department determines MTBE analysis is no longer needed at a site.

135.18(4) *Reporting.* The analytical data must be submitted in a format prescribed by the department.

567—135.19(455B) Compliance inspection of UST system.

135.19(1) The owner or operator must have the UST system inspected and an inspection report submitted to the department by a UST compliance inspector certified by the department under 567—Chapter 134. An initial compliance site inspection shall be conducted within two years after new tank installation. All subsequent compliance site inspections conducted after the initial compliance site inspection shall be conducted within 24 months of the prior compliance site inspection. Compliance site inspections must be separated by at least six months.

135.19(2) Compliance inspection requirements. The owner or operator is responsible to ensure the department receives ten days' prior notice by the compliance inspector of the date of a site inspection and the name of the inspector as provided in 567—134.10(455B). The owner and operator must comply with the following as part of the inspection process.

a. Review and respond to the inspection report provided by the certified compliance inspector and complete the corrective actions specified in the compliance inspection report within the specified time frames.

b. Provide all records and documentation required by the certified compliance inspector and this chapter.

c. Upon notification of a suspected release by the certified compliance inspector pursuant to 567—paragraph 134.10(3)*"b,"* report the condition to the department and undertake steps to investigate and confirm the suspected release as provided in 567—135.6(455B).

d. Ensure that the compliance inspector completes and submits an electronic inspection form in accordance with 567—subrule 134.10(3).

135.19(3) The owner and operator shall do the following upon receipt of a compliance inspection report as provided in 567—paragraph 134.10(3)*"b,"* which finds violations of the department's rules:

a. Take all actions necessary to correct any compliance violations or deficiencies in accordance with this chapter. Corrective action must be taken within 60 days of receipt of the inspector's report or another reasonable time period approved by the department. The granting of time to remedy a violation does not preclude the department from exercising its discretion to assess penalties for the violation.

b. Within 60 days of receipt of the inspector's report, provide documentation to the compliance inspector that the violation or deficiencies have been corrected.

c. Conduct a follow-up inspection in instances where there are serious problems or a history of repeated violations when required by the department.

135.19(4) Conflict of interest. A compliance site inspection must be conducted by a certified compliance inspector who is not the owner or operator of the UST system being inspected, an employee of the owner or operator of the UST system being inspected, or a person having daily on-site responsibility for the operation and maintenance of the UST system.

567—135.20(455B) UST systems with field-constructed tanks and airport hydrant fuel distribution systems. The commission adopts by reference the definitions and requirements of 40 CFR 280 Subpart K.

These rules are intended to implement Iowa Code sections 455B.304, 455B.424 and 455B.474.

Appendix A - Tier 1 Table, Assumptions, Equations and Parameter Values

Iowa Tier 1 Look-Up Table

Media	Exposure Pathway	Receptor	Group 1				Group 2: TEH	
			Benzene	Toluene	Ethylbenzene	Xylenes	Diesel*	Waste Oil
Groundwater (µg/L)	Groundwater Ingestion	Actual	5	1,000	700	10,000	1,200	400
		Potential	290	7,300	3,700	73,000	75,000	40,000
	Groundwater Vapor to Enclosed Space	All	1,540	20,190	46,000	NA	2,200,000	NA
	Groundwater to Water Line	PVC or Gasketed Mains	7,500	6,250	40,000	48,000	75,000	40,000
		PVC or Gasketed Service Lines	3,750	3,120	20,000	24,000	75,000	40,000
		PE/PB/AC Mains or Service Lines	200	3,120	3,400	19,000	75,000	40,000
	Surface Water	All	290	1,000	3,700	73,000	75,000	40,000
Soil (mg/kg)	Soil Leaching to Groundwater	All	0.54	42	15	NA	3,800	NA
	Soil Vapor to Enclosed Space	All	1.16	48	79	NA	47,500	NA
	Soil to Water Line	All	2.0	3.2	45	52	10,500	NA

NA: Not applicable. There are no limits for the chemical for the pathway, because for groundwater pathways the concentration for the designated risk would be greater than the solubility of the pure chemical in water, and for soil pathways the concentration for the designated risk would be greater than the soil concentration if pure chemical were present in the soil.

TEH: Total Extractable Hydrocarbons. The TEH value is based on risks from naphthalene, benzo(a)pyrene, benz(a)anthracene, and chrysene. Refer to Appendix B for further details.

Diesel*: Standards in the Diesel column apply to all low volatile petroleum hydrocarbons except waste oil.

Assumptions Used for Iowa Tier 1 Look-Up Table Generation

1. Groundwater ingestion pathway. The maximum contaminant levels (MCLs) were used for Group 1 chemicals. The target risk for carcinogens for actual receptors is 10^{-6} and for potential receptors is 10^{-4}. A hazard quotient of one, and residential exposure and building parameters are assumed.

2. Groundwater vapor to enclosed space pathway. Residential exposure and residential building parameters are assumed; no inhalation reference dose is used for benzene; the capillary fringe is assumed to be the source of groundwater vapor; and the hazard quotient is 1 and target risk for carcinogens is $1x10^{-4}$.

3. Groundwater to water line. This pathway uses the same assumptions as the groundwater ingestion pathway for potential receptors, including a target risk for carcinogens of 10^{-4}.

4. Surface water. This pathway uses the same assumptions as the groundwater ingestion pathway for potential receptors, including a target risk for carcinogens of 10^{-4}, except for toluene which has a chronic level for aquatic life of 1,000 as in the definition for surface water criteria in 567—135.2(455B).

5. Soil leaching to groundwater. This pathway assumes the groundwater will be protected to the same levels as the groundwater ingestion pathway for potential receptors, using residential exposure and a target risk for carcinogens of 10^{-4}.

6. Soil vapor to enclosed space pathway. The target risk for carcinogens is $1x10^{-4}$; the hazard quotient is 1; no inhalation reference dose is used for benzene; residential exposure factors are assumed; and the average of the residential and nonresidential building parameters is assumed.

7. Soil to water line pathway. This pathway uses the soil leaching to groundwater model with nonresidential exposure and a target risk for carcinogens of 10^{-4}.

In addition to these assumptions, the equations and parameter values used to generate the Iowa Tier 1 Look-Up Table are described below.

Groundwater Ingestion Equations

Carcinogens:

$$RBSL_W\left[\frac{mg}{L-H_2O}\right]=\frac{TR\ \times BW\times AT_c\times\frac{365\ days}{year}}{SF_O\times IR_W\times EF\times ED}$$

Noncarcinogens:

$$RBSL_W\left[\frac{mg}{L-H_2O}\right]=\frac{THQ\ \times RfD_O\times BW\times AT_n\times\frac{365\ days}{year}}{IR_W\times EF\times ED}$$

Soil Leaching to Groundwater Equations

$$RBSL_{sl}\left[\frac{mg}{kg-soil}\right]=\frac{RBSL_w\left[\frac{mg}{L-H_2O}\right]}{LF}$$

$$LF\left[\frac{mg/L-H_2O}{mg/kg-soil}\right]=\frac{\rho_s}{\theta_{ws}+k_s\rho_s+H\theta_{as}\left(1+\frac{U\delta}{IW}\right)}$$

Soil Vapor to Enclosed Space Equations

$$RBSL_{sv}\left[\frac{mg}{kg-soil}\right]=\frac{RBSL_{air}\left[\frac{\mu g}{m^3-air}\right]}{VF_{sv}}\left(\frac{mg}{1000\mu g}\right)$$

$$VF_{sv}\left[\frac{mg/m^3-air}{mg/kg-soil}\right]=\frac{\frac{H\rho_S}{\theta_{WS}+k_s\rho_s+H\theta_{as}}\left[\frac{D_S^{eff}/L_s}{ER\,L_B}\right]}{1+\left[\frac{D_s^{eff}/L_s}{ER\,L_B}\right]+\left[\frac{D_s^{eff}/L_s}{\left(D_{crack}^{eff}/L_{crack}\right)^{\eta}}\right]}\left(10^3\,\frac{cm^3-kg}{m^3-g}\right)$$

$$D_{crack}^{eff}\left[\frac{cm^2}{s}\right]=D^{air}\frac{\theta_{acrack}^{3.33}}{\theta_T^2}+D^{wat}\frac{1}{H}\frac{\theta_{wcrack}^{3.33}}{\theta_T^2}$$

$$D_s^{eff}\left[\frac{cm^2}{s}\right]=D^{air}\frac{\theta_{as}^{3.33}}{\theta_T^2}+D^{wat}\frac{1}{H}\frac{\theta_{ws}^{3.33}}{\theta_T^2}$$

Indoor Air Inhalation Equations

Carcinogens:

$$RBSL_{air}\left[\frac{\mu g}{m^3-air}\right]=\frac{TR\times BW\times AT_c\times\frac{365days}{year}\times\frac{1000\mu g}{mg}}{SF_i\times IR_{air}\times EF\times ED}$$

Noncarcinogens:

$$RBSL_{air}\left[\frac{\mu g}{m^3-air}\right]=\frac{THQ\times RfD_i\times BW\times AT_n\times\frac{365}{\frac{days}{year}}\times\frac{1000\mu g}{mg}}{IR_{air}\times EF\times ED}$$

Groundwater Vapor to Enclosed Space Equations

$$RBSL_{gw}\left[\frac{mg}{L-H_2O}\right]=\frac{RBSL_{air}\left[\frac{\mu g}{m^3-air}\right]}{VF_{gw}}\left(\frac{mg}{1000\mu g}\right)$$

$$RBSL_{air}\left[\frac{\mu g}{m^3-air}\right]=\frac{THQ\times RfD_i\times BW\times AT_n\times\frac{365}{\frac{days}{year}}\times\frac{1000\mu g}{mg}}{IR_{air}\times EF\times ED}$$

Variable Definitions

Symbol	Definition
δ	groundwater mixing zone thickness (cm)
η	areal fraction of cracks in foundation/wall (cm^2-cracks/cm^2-area)
ρ_s	soil bulk density (g/cm^3)
θ_{acrack}	volumetric air content in foundation/wall cracks (cm^3-air/cm^3-soil)
θ_{as}	volumetric air content in vadose zone (cm^3-air/cm^3-soil)
θ_T	total soil porosity (cm^3-voids/cm^3-soil)
θ_{wcrack}	volumetric water content in foundation/wall cracks (cm^3-H_2O/cm^3-soil)
θ_{ws}	volumetric water content in vadose zone (cm^3-H_2O/cm^3-soil)
AT_c	averaging time for carcinogens (years)
AT_n	averaging time for noncarcinogens (years)
BW	body weight (kg)
D^{air}	chemical diffusion coefficient in air (cm^2/s)
D^{wat}	chemical diffusion coefficient in water (cm^2/s)
D^{eff}_{crack}	effective diffusion coefficient through foundation cracks (cm^2/s)
D^{eff}_{s}	effective diffusion coefficient in soil based on vapor-phase concentration (cm^2/s)
ED	exposure duration (years)
EF	exposure frequency (days/year)
ER	enclosed space air exchange rate (s^{-1})
f_{oc}	fraction organic carbon in the soil (kg-C/kg-soil)
H	henry's law constant (L-H_2O)/L-air)
i	groundwater head gradient (cm/cm)
I	infiltration rate of water through soil (cm/year)
IR_{air}	daily indoor inhalation rate (m^3/day)
IR_w	daily water ingestion rate (L/day)
K	hydraulic conductivity (cm/year)
K_{oc}	carbon-water sorption coefficient (L-H_2O/kg-C)
k_s	soil-water sorption coefficient (L-H_2O/kg-soil), f_{oc} x K_{oc}
L_B	enclosed space volume/infiltration area ratio (cm)
L_{crack}	enclosed space foundation or wall thickness (cm)
LF	leaching factor from soil to groundwater ((mg/L-H_2O)/(mg/kg-soil))
L_{gw}	depth to groundwater from the enclosed space foundation (cm)
L_s	depth to subsurface soil sources from the enclosed space foundation (cm)
$RBSL_{air}$	Risk-Based Screening Level for indoor air ($\mu g/m^3$-air)
$RBSL_{gw}$	Risk-Based Screening Level for vapor from groundwater to enclosed space air inhalation (mg/L-H_2O)
$RBSL_{sl}$	Risk-Based Screening Level for soil leaching to groundwater (mg/kg-soil)
$RBSLs_v$	Risk-Based Screening Level for vapors from soil to enclosed space air inhalation (mg/kg-soil)
$RBSL_w$	Risk-Based Screening Level for groundwater ingestion (mg/L-H_2O)
RfD_i	inhalation chronic reference dose (mg/(kg-day))
RfD_o	oral chronic reference dose (mg/(kg-day))
SF_i	inhalation cancer slope factor ((kg-day)/mg)
SF_o	oral cancer slope factor ((kg-day)/mg)
THQ	target hazard quotient for individual constituents (unitless)
TR	target excess individual lifetime cancer risk (unitless)

Symbol	Definition
U	groundwater Darcy velocity (cm/year), U=Ki
VF_{gw}	volatilization factor for vapors from groundwater to enclosed space ((mg/m^3-air)/(mg/kg-soil))
VF_{sv}	volatilization factor for vapors from soil to enclosed space ((mg/m^3-air)/(mg/kg-soil))
W	width of soil source area parallel to groundwater flow direction (cm)

Soil and Groundwater Parameter Values Used for Iowa Tier 1 Table Generation

Parameter		Iowa Tier 1 Table Value
K	hydraulic conductivity	16060 cm/year
i	groundwater head gradient	0.01 cm/cm
W	width of soil source area parallel to groundwater flow direction	1500 cm
I	infiltration rate of water through soil	7 cm/year
δ	groundwater mixing zone thickness	200 cm
ρ_s	soil bulk density	1.86 g/cm^3
θ_{as}	volumetric air content in vadose zone	0.2 cm^3-air/cm^3-soil
θ_{ws}	volumetric water content in vadose zone	0.1 cm^3-H_2O/cm^3-soil
θ_{acrack}	volumetric air content in foundation/wall cracks	0.2 cm^3-air/cm^3-soil
θ_{wcrack}	volumetric water content in foundation/wall cracks	0.1 cm^3-H_2O/cm^3-soil
θ_T	total soil porosity	0.3 cm^3-voids/cm^3-soil
f_{oc}	fraction organic carbon in the soil	0.01 kg-C/kg-soil
L_s	depth to subsurface soil sources from the enclosed space foundation	1 cm
L_{gw}	depth to groundwater from the enclosed space foundation	1 cm

Exposure Factors Used in Iowa Tier 1 Table Generation

Parameter		Residential	Nonresidential
AT_c (years)	averaging time for carcinogens	70	70
AT_n (years)	averaging time for noncarcinogens	30	25
BW (kg)	body weight	70	70
ED (years)	exposure duration	30	25
EF (days/year)	exposure frequency	350	250
IR_{air} (m^3/day)	daily indoor inhalation rate	15	20
IR_w (L/day)	daily water ingestion rate	2	1
THQ (unitless)	target hazard quotient for individual constituents	1.0	1.0

Building Parameters Used in Iowa Tier 1 Table Generation

Parameter		Residential	Nonresidential
ER (s^{-1})	enclosed space air exchange rate	0.00014	0.00023
L_B (cm)	enclosed space volume/infiltration area ratio	200	300
L_{crack} (cm)	enclosed space foundation or wall thickness	15	15
η	areal fraction of cracks in foundation/wall	0.01	0.01

Chemical-Specific Parameter Values Used for Iowa Tier 1 Table Generation

Chemical	D^{air} (cm^2/s)	D^{wat} (cm^2/s)	H (L-air/L-water)	log(K_{oc}), L/kg
Benzene	0.093	1.1e-5	0.22	1.58
Toluene	0.085	9.4e-6	0.26	2.13
Ethylbenzene	0.076	8.5e-6	0.32	1.98
Xylenes	0.072	8.5e-6	0.29	2.38
Naphthalene	0.072	9.4e-6	0.049	3.11
Benzo(a)pyrene	0.050	5.8e-6	5.8e-8	5.59

Chemical	D^{air} (cm^2/s)	D^{wat} (cm^2/s)	H (L-air/L-water)	log(K_{oc}), L/kg
Benz(a)anthracene	0.05	9.0e-6	5.74e-7	6.14
Chrysene	0.025	6.2e-6	4.9e-7	5.30

Saturation Values Used to Determine "NA" for the Iowa Tier 1 Table

Chemical	Solubility in Water (mg/L) S	Saturation in Soil (mg/kg) C_s^{sat}
Benzene	1,750	801
Toluene	535	765
Ethylbenzene	152	159
Xylenes	198	492
Naphthalene	31	401
Benzo(a)pyrene	0.0012	4.69
Benz(a)anthracene	0.014	193.3
Chrysene	0.0028	5.59

The maximum solubility of the pure chemical in water is listed in the table above. The equation below is used to calculate the soil concentration (C_s^{sat}) at which dissolved pore-water and vapor phases become saturated. Tier 1 default values are used in the equation. "NA" (for not applicable) is used in the Tier 1 table when the risk-based value exceeds maximum solubility for water (S) or maximum saturation for soil (C_s^{sat}).

$$C_s^{\,sat}\left[\frac{mg}{kg-soil}\right] = \frac{S}{\rho_s} \times (H\theta_{as} + \theta_{ws} + k_s\rho_s)$$

Slope Factors and Reference Doses Used for Iowa Tier 1 Table Generation

Chemical	SF_i ((kg-day)/mg)	SF_o ((kg-day)/mg)	RfD_i (mg/(kg-day))	RfD_o (mg/(kg-day))
Benzene	0.029	0.029	----	----
Toluene	----	----	0.114	0.2
Ethylbenzene	----	----	0.286	0.1
Xylenes	----	----	2.0	2.0
Naphthalene	----	----	0.004	0.004
Benzo(a)pyrene	6.1	7.3	----	----
Benz(a)anthracene	0.61	0.73	----	----
Chrysene	0.061	0.073	----	----

Appendix B – Tier 2 Equations and Parameter Values (Revised Model)

All Tier 1 equations and parameters apply at Tier 2 except as specified below.

Equation for Tier 2 Groundwater Contaminant Transport Model

Equation (1)

$$C(x) = C_s \exp\left(\frac{X_m}{2a_x}\left[1 - \sqrt{1 + \frac{4\lambda a_x}{u}}\right]\right) \mathrm{erf}\left(\frac{S_w}{4\sqrt{a_y x_m}}\right) erf\left(\frac{S_d}{4\sqrt{a_z x_m}}\right)$$

Equation (2)

Where xm = ax + bxc

The value of Xm is computed from Equation (2), where the values for a, b and c in Equation (2) are given in Table 1.

Table 1. Parameter Values for Equation (2)

Chemical	a	b	c
Benzene	1	0.000000227987	3.929438689
Toluene	1	0.000030701	3.133842393
Ethylbenzene	1	0.0001	2.8
Xylenes	1	0.0	0.0
TEH-Diesel	1	0.000000565	3.625804634
TEH-Waste Oil	1	0.000000565	3.625804634
Naphthalene	1	0	0

Variable definitions

x: distance in the x direction downgradient from the source

erf( ): the error function

C(x): chemical concentration in groundwater at x

C_s: Source concentration in groundwater (groundwater concentration at x=0)

S_w: width of the source (perpendicular to x)

S_d: vertical thickness of the source

u: groundwater velocity (pore water velocity); u=Ki/θe

K: hydraulic conductivity

i: groundwater head gradient

θe: effective porosity

λ: first order decay coefficient, chemical specific

αx, αy, αz: dispersivities in the x, y and z directions, respectively

For the following lists of parameters, one of three is required: site-specific measurements, defaults or the option of either (which means the default may be used or replaced with a site-specific measurement).

Soil parameters

Parameter		Default Value	Required
ρ_s	soil bulk density	1.86 g/cm^3	option
f_{oc}	fraction organic carbon in the soil	0.01 kg-C/kg-soil	option
θ_T	total soil porosity	0.3cm^3-voids/cm^3-soil	option

Parameter		Default Value	Required
θ_{as}	volumetric air content in vadose zone	0.2cm^3-air/cm^3-soil	default
θ_{ws}	volumetric water content in vadose zone	0.1cm^3-H_2O/cm^3-soil	default
θ_{acrack}	volumetric air content in foundation/wall cracks	0.2cm^3-air/cm^3-soil	default
θ_{wcrack}	volumetric water content in foundation/wall cracks	0.1cm^3-H_2O/cm^3-soil	default
I	infiltration rate of water through soil	7 cm/year	default

If the total porosity is measured, assume 1/3 is air filled and 2/3 is water filled for determining the water and air fraction in the vadose zone soil and floor cracks.

Groundwater Transport Modeling Parameters

Parameter		Default Value	Required
K	hydraulic conductivity	16060 cm/year	site-specific
i	groundwater head gradient	0.01 cm/cm	site-specific
S_w	width of the source	use procedure specified in 135.10(2)	site-specific
S_d	vertical thickness of the source	3 m	default
αx	dispersivity in the x direction	0.1x	default
αy	dispersivity in the y direction	0.33αx	default
αz	dispersivity in the z direction	0.05αx	default
θe	effective porosity	0.1	default

where u=Ki/θe

First-order Decay Coefficients

Chemical	Default Valueλ (d-1)	Required
Benzene	0.000127441	default
Toluene	0.0000208066	default
Ethylbenzene	0.0	default
Xylenes	0.0005	default
Naphthalene	0.00013	default
TEH-Diesel	0.0000554955	default
TEH-Waste Oil	0.0000554955	default

Other Parameters for Groundwater Vapor to Enclosed Space

Parameter		Default Value	Required
Lgw	depth to groundwater from the enclosed space foundation	1 cm	option
L_B	enclosed space volume/infiltration area ratio	200 cm	option
ER (s-1)	enclosed space air exchange rate	0.00014	default
Lcrack	enclosed space foundation or wall thickness	15 cm	default
η	areal fraction of cracks in foundation/wall	0.01	default

Other Parameters for Soil Vapor to Enclosed Space

Parameter		Default Value	Required
L_s	depth to subsurface soil sources from the enclosed space foundation	1 cm	option
L_B	enclosed space volume/infiltration area ratio	250 cm *	option
ER (s-1)	enclosed space air exchange rate	0.000185 *	default
Lcrack	enclosed space foundation or wall thickness	15 cm	default
η	areal fraction of cracks in foundation/wall	0.01	default

*These values are an average of residential and nonresidential factors.

Soil Leaching to Groundwater

Parameter		Default Value	Required
δ	groundwater mixing zone	2 m	default

Building Parameters for Iowa Tier 2

Parameter		Residential	Nonresidential
ER (s-1)	enclosed space air exchange rate	0.00014	0.00023
L_B	enclosed space volume/infiltration area ratio	200 cm	300 cm

Other Parameters

For Tier 2, the following are the same as Tier 1 values (refer to Appendix A): chemical-specific parameters, slope factors and reference doses, and exposure factors (except for those listed below).

Exposure Factors for Tier 2 Groundwater Vapor to Enclosed Space Modeling:

Potential Residential: use residential exposure and residential building parameters.

Potential Nonresidential: use nonresidential exposure and nonresidential building parameters.

Diesel and Waste Oil

Diesel and Waste Oil			Chemical-Specific Values for Tier 1			
Media	Exposure Pathway	Receptor	Naphthalene	Benzo(a) pyrene	Benz(a) anthracene	Chrysene
Groundwater (µg/L)	Groundwater Ingestion	actual	150	0.012	0.12	1.2
		potential	150	1.2	12.0	NA
	Groundwater Vapor to Enclosed Space	all	4,440	NA	NA	NA
	Groundwater to Water Line	all	150	1.2	12.0	NA
	Surface Water	all	150	1.2	12.0	NA
Soil (mg/kg)	Soil Leaching to Groundwater	all	7.6	NA	NA	NA
	Soil Vapor to Enclosed Space	all	95	NA	NA	NA
	Soil to Water Line	all	21	NA	NA	NA

Due to difficulties with analytical methods for the four individual chemicals listed in the above table, Total Extractable Hydrocarbon (TEH) default values were calculated for each chemical, using the assumption that diesel contains 0.2% naphthalene, 0.001% benzo(a)pyrene, 0.001% benz(a)anthracene, and 0.001% chrysene. Resulting TEH Default Values are shown in the following table.

Diesel			TEH Default Values			
Media	Exposure Pathway	Receptor	Naphthalene	Benzo(a) pyrene	Benz(a) anthracene	Chrysene
Groundwater (µg/L)	Groundwater Ingestion	actual	75,000	1,200	12,000	120,000
		potential	75,000	120,000	1,200,000	NA
	Groundwater Vapor to Enclosed Space	all	2,200,000	NA	NA	NA
	Groundwater to Water Line	all	75,000	120,000	1,200,000	NA
	Surface Water	all	75,000	120,000	1,200,000	NA
Soil (mg/kg)	Soil Leaching to Groundwater	all	3,800	NA	NA	NA
	Soil Vapor to Enclosed Space	all	47,500	NA	NA	NA
	Soil to Water Line	all	10,500	NA	NA	NA

The lowest TEH default value for each pathway (shown as a shaded box) was used in the Tier 1 Table.

Due to difficulties with analytical methods for the four individual chemicals, Total Extractable Hydrocarbon (TEH) default values were calculated for each chemical, using the assumption that waste oil contains no naphthalene, 0.003% benzo(a)pyrene, 0.003% benz(a)anthracene, and 0.003% chrysene. Resulting TEH Default Values are shown in the following table.

Waste Oil			TEH Default Values			
Media	Exposure Pathway	Receptor	Naphthalene	Benzo(a) pyrene	Benz(a) anthracene	Chrysene
Groundwater (ug/L)	Groundwater Ingestion	actual	NA	400	4,000	40,000
		potential	NA	40,000	400,000	NA
Groundwater (µg/L)	Groundwater Vapor to Enclosed Space	all	NA	NA	NA	NA
	Groundwater to Water Line	all	NA	40,000	400,000	NA
	Surface Water	all	NA	40,000	400,000	NA
Soil (mg/kg)	Soil Leaching to Groundwater	all	NA	NA	NA	NA
	Soil Vapor to Enclosed Space	all	NA	NA	NA	NA
	Soil to Water Line	all	NA	NA	NA	NA

The lowest TEH default value for each pathway (shown as a shaded box) was used in the Tier 1 Table.

Water Line Calculations

Explanation of Target Levels for
Petroleum Fuel-Derived BTEX Compounds in Groundwater and Soil

GROUNDWATER

PVC or Gasketed Mains

Benzene: 7,500 µg/L

Gasoline-saturated groundwater was considered to be an extreme condition of environmental contamination, and it was considered unacceptable to leave water lines, regardless of material, in contact with this level of benzene contamination. While Ong et al. (2008) showed that gasoline-saturated groundwater would not pose a significant risk of permeation exceeding the 5 µg/L MCL for benzene of gasketed DI or PVC water mains, a safety factor of 1/8th was applied to the level of benzene in premium gasoline-saturated water determined by Ong et al. (2008). A 1/2 safety factor was compounded for each of four potential safety risks: material defects in the pipe (= 1/2), presence of service line taps (= 1/4), stagnation of water (= 1/6), and water line breaks (= 1/8). This was an average of 67.5 mg/L ± 4.9 mg/L for multiple preparations of gasoline-saturated water and was rounded to 60.0 mg/L to conservatively account for the statistical uncertainty. Hence,

$$Target \quad Level = {}^{1}/_{8} \times 60{,}000\,\mu g/L = 7{,}500\,\mu g/L\ benzene$$

Toluene: 6,250 µg/L

The target level for toluene was determined similarly to that for benzene. The level of toluene in premium gasoline-saturated water was determined by Ong et al. (2008) to be 56.2 mg/L ± 4.9 mg/L and conservatively rounded to 50.0 mg/L. Hence,

$$Target \quad Level = {}^{1}/_{8} \times 50{,}000\,\mu g/L = 6{,}250\,\mu g/L\ toluene$$

Ethylbenzene: 40,000 µg/L

The target level was set to be double that for PVC or Gasketed Service Lines (20,000 µg/L – see below).

Total Xylenes: 48,000 µg/L

The target level was set to be double that for PVC or Gasketed Service Lines (24,000 µg/L – see below).

PVC or Gasketed Service Lines

Benzene: 3,750 µg/L

The target level was set to be one-half of that for PVC or Gasketed Mains (7,500 µg/L as above) since service lines tend to be of higher risk than mains owing to their smaller diameter and greater potential for stagnation.

Toluene: 3,120 µg/L

Similar to benzene, the target level was set to be one-half of that for PVC or Gasketed Mains (6,250 µg/L as above) since service lines tend to be of higher risk than mains owing to their smaller diameter and greater potential for stagnation. Odd-even rounding to 3 significant figures was applied.

Ethylbenzene: 20,000 µg/L

The target level was based on two observations by Ong et al. (2008): (1) premium gasoline-saturated water has an average concentration of 3.4 mg/L ethylbenzene and (2) ethylene permeates high density polyethylene 46 times slower than does benzene (presumably, this is reasonably representative of other materials such as rubber gaskets). The 1/8 safety factor was also applied, as above. Odd-even rounding to 2 significant figures was applied. Hence:

$$Target\ \ Level = 3{,}400\,\mu g/L \times 46x \times {}^{1}/_{8} = 19{,}550\,\mu g/L = 20{,}000\,\mu g/L$$

Total Xylenes: 24,000 µg/L

Similar to ethylbenzene, the target level was based on (1) premium gasoline-saturated water has an average concentration of 19 mg/L total xylenes and (2) total xylenes permeate high density polyethylene 10 times slower than does benzene. The 1/8 safety factor was also applied, as above. Odd-even rounding to 2 significant figures was applied. Hence:

$$Target\ \ Level = 19{,}000\,\mu g/L \times 10x \times {}^{1}/_{8} = 23{,}750\,\mu g/L = 24{,}000\,\mu g/L$$

PE/PB/AC

Benzene: 200 µg/L

The target level was set at the concentration of benzene in groundwater surrounding a 1″ HDPE service line (SIDR 9 IPS) that would result in a concentration of 2 µg/L benzene in the service line after a 24 hr stagnation period. This level was chosen because 2 µg/L is generally the minimum reportable concentration of benzene in laboratory reports received by the department.

The permeation rate is a function of the concentration of benzene in the groundwater as described by Ong et al. (2008), equation 3.4a:

$$P_m = 0.0079 C_{bulk}^{1.1323}$$

where P_m is the benzene permeation rate in µg/cm^2/day through the pipe described above (cm^2 refers to the inner surface of the pipe) and C_{bulk} is the concentration of benzene in the groundwater (mg/L).

For any length of exposed 1″ SIDR 9 IPS pipe, l (cm), the concentration in the pipe after 24 hr stagnation, C_{24hr} (µg/L), can be computed from P_m and the ratio of the inner surface of the pipe to the internal volume:

$$C_{24hr} = P_m \times \left(\frac{2\pi r l}{\pi r^2 l/1000}\right) = 0.0079 C_{bulk}^{1.1323} \times \frac{2000}{r}$$

where r is the inside radius of the pipe (cm), l is the length of exposed pipe (cm), and dividing by 1000 converts from cm^3 to liters (and, therefore, 2000/r converts µg/cm^2/day to µg/L/day).

Solving for C_{bulk} (mg/L) with C_{24hr}= 2 µg/L and r = 1.28 cm (per manufacturer's specifications):

$$C_{bulk}^{1.1323} \times \frac{2 \times 1.28}{0.0079 \times 2000}$$

and

$$C_{bulk} = \sqrt[1.1323]{0.162} = 0.200\,mg/L = 200\,\mu g/L$$

While the target level is expressed as 200 µg/L for clarity, the underlying data support only two significant figures. In a stricter treatment of the data, this would be expressed as 20×10^1 µg/L.

Toluene: 3,120 µg/L

The target level was set to be equal to that for PVC or Gasketed Service Lines. Calculations similar to those used above for benzene (Ong et al. (2008), equation 3.4b) indicate that 3,120 µg/L toluene in groundwater would result in 50 µg/L inside a 1" SIDR 9 IPS HDPE pipe after 24 hours of stagnation, which is 1/20th of the 1,000 µg/L MCL for toluene.

Ethylbenzene: 3,400 µg/L

The target level was set to be equal to the concentration of ethylbenzene in premium gasoline-saturated water (see discussion above for PVC or Gasketed Mains/Benzene). Unlike other target levels based on contaminant concentrations in gasoline-saturated water, the 1/8th safety factor was not applied because of the very low permeation rate of ethylbenzene through HDPE, the relatively low solubility of ethylbenzene in water, and the relatively high MCL (700 µg/L). Ong et al. (2008) found that permeation of HDPE by aqueous ethylbenzene was minimal and of no consequence for public health.

Total Xylenes: 19,000 µg/L

The target level was set to be equal to the concentration of ethylbenzene in premium gasoline-saturated water following the same reasoning for ethylbenzene (above). The permeation rate and water solubility are also very low, and the MCL is 10,000 µg/L. Ong et al. (2008) found that permeation of HDPE by aqueous xylenes was minimal and of no consequence for public health.

SOIL

Target levels for soil were set to be the same for mains and service lines of any material discussed above under "Groundwater." The underlying data support two significant figures for target levels in soil. Odd-even rounding was applied where appropriate.

Benzene: 2.0 mg/Kg

The target level was derived from the concentration of benzene (mg/Kg) that would result if soil that was 10% moisture and 1% organic matter was equilibrated with premium gasoline-saturated water (60 mg/L benzene – as per discussion of PVC or Gasketed Mains/Benzene above). The equilibrium concentration in soil was calculated using the approach of Chiou et al. (1983). The 1/8th safety factor discussed previously for groundwater was applied. Accordingly:

$$C_T = C_w K_d + C_w{}^{\theta}$$

where C_T is the total concentration of benzene in soil (mg/Kg), θ is the fraction of moisture in the soil (Kg/Kg), and Kd is the partition coefficient from water to soil (L/Kg). Further:

$$K_d = K_{om} f_{om}$$

where K_{om} is the partition coefficient from water to organic matter in the soil, which is 16.8 L/Kg for benzene in soils with naturally occurring organic matter (Chiou et al. (1983)), and f_{om} is the fraction of organic matter in the dry soil (Kg/Kg).

For soil containing 1% naturally occurring organic matter and 10% moisture, the total concentration of benzene upon exposure to premium gasoline-saturated groundwater (60 mg/L benzene, as per above discussion of PVC or Gasketed Mains) would be:

$$C_T = \left(\frac{60mg}{L} \times \left(\frac{16.8L}{Kg} \times \frac{0.01Kg}{Kg}\right)\right) + \left(\frac{60mg}{L} \times \frac{0.1Kg}{Kg}\right) = \frac{16mg}{Kg}$$

Applying the 1/8th safety factor:

$$Target\ Level = \frac{1}{8} \times \frac{16mg}{Kg} = \frac{2.0mg}{Kg}$$

Toluene: 3.2 mg/Kg

The target level was derived in the same manner as for benzene except that the concentration of toluene in premium gasoline-saturated water is 50 mg/L and K_{om} is 42 L/Kg. Accordingly:

$$C_T = \left(\frac{50mg}{L} \times \left(\frac{42L}{Kg} \times \frac{0.01Kg}{Kg}\right)\right) + \left(\frac{50mg}{L} \times \frac{0.1Kg}{Kg}\right) = \frac{26mg}{Kg}$$

and

$$Target\ Level = \frac{1}{8} \times \frac{26mg}{Kg} = \frac{3.2mg}{Kg}$$

Ethylbenzene: 45 mg/Kg

The target level was based on the target level set for Groundwater/PVC or Gasketed Mains (40,000 µg/L, rounded from 39,100 µg/L, or 39.1 mg/L) and the principles of Chiou et al. (1983) discussed above. In a manner similar to that for benzene in soil, C_W was 3.4 mg/L, K_d was 0.106 L/Kg, and C_T was calculated to be 3.9 mg/Kg. The target level for soil that is equivalent to the target level set for groundwater was calculated as follows:

$$Target\ Level\ mg/Kg = 39.1\ mg/L \times \frac{3.9\ mg/Kg}{3.4\ mg/L} = 45\ mg/Kg$$

Total Xylenes: 52 mg/Kg

The target level was set in the same manner as for ethylbenzene (above), based on the groundwater target level of 48,000 µg/L (rounded from 47.5 mg/L). C_W was 19 mg/L, K_d was 1.001 L/Kg (assuming a mixture of m-, o-, and p-xylenes which is 60%, 20%, and 20%, respectively, which is typical of xylenes derived from petroleum), and C_T was calculated to be 21 mg/Kg. Hence:

$$Target\ Level\ mg/Kg = 47.5\ mg/L \times \frac{21\ mg/Kg}{19\ mg/L} = 52\ mg/Kg$$

NOTE: The 1/8th safety factor was applied above to the target levels for ethylbenzene and total xylenes for Groundwater, PVC or Gasketed Service Lines, thence the target levels for Groundwater, PVC or Gasketed Mains, were derived. Consequently, the 1/8th safety factor has also been applied to the target levels for both ethylbenzene and total xylenes in soil.

REFERENCES

Chiou, C. T., P. E. Porter and D. W. Schmedding. 1983. Partition equilibria of nonionic organic compounds between soil organic matter and water. Environ. Sci. Technol., 17(4)227-231.

Ong, S. K., J. A. Gaunt, F. Mao, C. L. Cheng, L. Esteve-Agelet, and C. R. Hurburgh. 2008. Impact of hydrocarbons on PE/PVC pipes and pipe gaskets, Publication 91204. Awwa Research Foundation (presently Water Research Foundation), Denver, CO.

Appendix B-1 – Tier 2 Equations and Parameter Values (Old Model)

All Tier 1 equations and parameters apply at Tier 2 except as specified below.

Equation for Tier 2 Groundwater Contaminant Transport Model

$$C(x) = C_s \exp\left(\frac{X}{2a_x}\left[1 - \sqrt{1 + \frac{4\lambda a_x}{u}}\right]\right) \operatorname{erf}\left(\frac{S_w}{4\sqrt{a_y x}}\right) erf\left(\frac{S_d}{4\sqrt{a_z x}}\right)$$

Variable definitions

x: distance in the x direction downgradient from the source

erf( ): the error function

C(x): chemical concentration in groundwater at x

C_s: Source concentration in groundwater (groundwater concentration at x=0)

S_w: width of the source (perpendicular to x)

S_d: vertical thickness of the source

u: groundwater velocity (pore water velocity); u=Ki/θe

K: hydraulic conductivity

i: groundwater head gradient

θe: effective porosity

λ: first-order decay coefficient, chemical specific

αx, αy, αz: dispersivities in the x, y and z directions, respectively

For the following lists of parameters, one of three is required: site-specific measurements, defaults or the option of either (which means the default may be used or replaced with a site-specific measurement).

Soil parameters

Parameter		Default Value	Required
ρ_s	soil bulk density	1.86 g/cm^3	option
f_{oc}	fraction organic carbon in the soil	0.01 kg-C/kg-soil	option
θ_T	total soil porosity	0.3cm^3-voids/cm^3-soil	option
θ_{as}	volumetric air content in vadose zone	0.2cm^3-air/cm^3-soil	default
θ_{ws}	volumetric water content in vadose zone	0.1cm^3-H_2O/cm^3-soil	default
θ_{acrack}	volumetric air content in foundation/wall cracks	0.2cm^3-air/cm^3-soil	default
θ_{wcrack}	volumetric water content in foundation/wall cracks	0.1cm^3-H_2O/cm^3-soil	default
I	infiltration rate of water through soil	7 cm/year	default

If the total porosity is measured, assume 1/3 is air filled and 2/3 is water filled for determining the water and air fraction in the vadose zone soil and floor cracks.

Groundwater Transport Modeling Parameters

Parameter		Default Value	Required
K	hydraulic conductivity	16060 cm/year	site-specific
i	groundwater head gradient	0.01 cm/cm	site-specific
S_w	width of the source	use procedure specified in 135.10(2)	site-specific

Parameter		Default Value	Required
S_d	vertical thickness of the source	3 m	default
αx	dispersivity in the x direction	0.1x	default
αy	dispersivity in the y direction	0.33αx	default
αz	dispersivity in the z direction	0.05αx	default
θe	effective porosity	0.1	default

where u=Ki/θe

First-order Decay Coefficients

Chemical	Default Valueλ (d-1)	Required
Benzene	0.0005	default
Toluene	0.0007	default
Ethylbenzene	0.00013	default
Xylenes	0.0005	default
Naphthalene	0.00013	default
Benzo(a)pyrene	0	default
Benz(a)anthracene	0	default
Chrysene	0	default

Other Parameters for Groundwater Vapor to Enclosed Space

Parameter		Default Value	Required
Lgw	depth to groundwater from the enclosed space foundation	1 cm	option
L_B	enclosed space volume/infiltration area ratio	200 cm	option
ER (s-1)	enclosed space air exchange rate	0.00014	default
Lcrack	enclosed space foundation or wall thickness	15 cm	default
η	areal fraction of cracks in foundation/wall	0.01	default

Other Parameters for Soil Vapor to Enclosed Space

Parameter		Default Value	Required
L_s	depth to subsurface soil sources from the enclosed space foundation	1 cm	option
L_B	enclosed space volume/infiltration area ratio	250 cm *	option
ER (s-1)	enclosed space air exchange rate	0.000185 *	default
Lcrack	enclosed space foundation or wall thickness	15 cm	default
η	areal fraction of cracks in foundation/wall	0.01	default

*These values are an average of residential and nonresidential factors.

Soil Leaching to Groundwater

Parameter		Default Value	Required
δ	groundwater mixing zone	2 m	default

Building Parameters for Iowa Tier 2

Parameter		Residential	Nonresidential
ER (s-1)	enclosed space air exchange rate	0.00014	0.00023
L_B	enclosed space volume/infiltration area ratio	200 cm	300 cm

Other Parameters

For Tier 2, the following are the same as Tier 1 values (refer to Appendix A): chemical-specific parameters, slope factors and reference doses, and exposure factors (except for those listed below).

Exposure Factors for Tier 2 Groundwater Vapor to Enclosed Space Modeling:

Potential Residential: use residential exposure and residential building parameters.

Potential Nonresidential: use nonresidential exposure and nonresidential building parameters.

Diesel and Waste Oil

Diesel and Waste Oil			Chemical-Specific Values for Tier 1			
Media	Exposure Pathway	Receptor	Naphthalene	Benzo(a) pyrene	Benz(a) anthracene	Chrysene
Groundwater (ug/L)	Groundwater Ingestion	actual	150	0.012	0.12	1.2
		potential	150	1.2	12.0	NA
	Groundwater Vapor to Enclosed Space	all	4,440	NA	NA	NA
	Groundwater to Plastic Water Line	all	150	1.2	12.0	NA
	Surface Water	all	150	1.2	12.0	NA
Soil (mg/kg)	Soil Leaching to Groundwater	all	7.6	NA	NA	NA
	Soil Vapor to Enclosed Space	all	95	NA	NA	NA
	Soil to Plastic Water Line	all	21	NA	NA	NA

Due to difficulties with analytical methods for the four individual chemicals listed in the above table, Total Extractable Hydrocarbon (TEH) default values were calculated for each chemical, using the assumption that diesel contains 0.2% naphthalene, 0.001% benzo(a)pyrene, 0.001% benz(a)anthracene, and 0.001% chrysene. Resulting TEH Default Values are shown in the following table.

Diesel			TEH Default Values			
Media	Exposure Pathway	Receptor	Naphthalene	Benzo(a) pyrene	Benz(a) anthracene	Chrysene
Groundwater (ug/L)	Groundwater Ingestion	actual	75,000	1,200	12,000	120,000
		potential	75,000	120,000	1,200,000	NA
	Groundwater Vapor to Enclosed Space	all	2,200,000	NA	NA	NA
	Groundwater to Plastic Water Line	all	75,000	120,000	1,200,000	NA
	Surface Water	all	75,000	120,000	1,200,000	NA
Soil (mg/kg)	Soil Leaching to Groundwater	all	3,800	NA	NA	NA
	Soil Vapor to Enclosed Space	all	47,500	NA	NA	NA
	Soil to Plastic Water Line	all	10,500	NA	NA	NA

The lowest TEH default value for each pathway (shown as a shaded box) was used in the Tier 1 Table.

Due to difficulties with analytical methods for the four individual chemicals, Total Extractable Hydrocarbon (TEH) default values were calculated for each chemical, using the assumption that waste oil contains no naphthalene, 0.003% benzo(a)pyrene, 0.003% benz(a)anthracene, and 0.003% chrysene. Resulting TEH Default Values are shown in the following table.

Waste Oil			TEH Default Values			
Media	Exposure Pathway	Receptor	Naphthalene	Benzo(a) pyrene	Benz(a) anthracene	Chrysene
Groundwater (ug/L)	Groundwater Ingestion	actual	NA	400	4,000	40,000
		potential	NA	40,000	400,000	NA
Groundwater (ug/L)	Groundwater Vapor to Enclosed Space	all	NA	NA	NA	NA
	Groundwater to Plastic Water Line	all	NA	40,000	400,000	NA
	Surface Water	all	NA	40,000	400,000	NA
Soil (mg/kg)	Soil Leaching to Groundwater	all	NA	NA	NA	NA
	Soil Vapor to Enclosed Space	all	NA	NA	NA	NA
	Soil to Plastic Water Line	all	NA	NA	NA	NA

The lowest TEH default value for each pathway (shown as a shaded box) was used in the Tier 1 Table.

Regulatory Analysis

Notice of Intended Action to be published: 567—Chapter 136
"Financial Responsibility for Underground Storage Tanks"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 455B.474

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 455B, subchapter IV, part 8, and 40 CFR Parts 280 and 281

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows. Persons who wish to attend the conference call should contact Keith Wilken via email. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to Keith Wilken prior to the hearing to facilitate an orderly hearing.

September 24, 2025	6200 Park Avenue, Suite 200
9 to 10 a.m.	Des Moines, Iowa
	also via videoconference call

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at USTEO10@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.360.1671 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al USTEO10@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515. 360.1671 al menos siete días antes del evento.

Public Comment

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

Keith Wilken
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.681.0794
Email: USTEO10@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at USTEO10@dnr.iowa.gov.

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al USTEO10@dnr.iowa.gov.

Purpose and Summary

Proposed Chapter 136 establishes financial responsibility requirements for owners and operators of petroleum underground storage tanks (USTs).

The purpose of these rules is to ensure that owners and operators of petroleum USTs can demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from operation of petroleum USTs.

Iowa's UST rules have been approved by the U.S. Environmental Protection Agency (EPA) into Iowa's required State Program Approval (SPA).

Analysis of Impact

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

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

Owners and operators of petroleum USTs will bear the costs of the proposed rulemaking. These costs are unchanged from the existing financial responsibility rules in Chapter 136.

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

Citizens of Iowa, owners and operators of USTs, and related businesses and industries in Iowa will benefit from the proposed rulemaking.

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

- **Quantitative description of impact:**

The impact will be neutral relative to the costs of implementing the existing UST rules in 567—Chapter 135.

- **Qualitative description of impact:**

Owners and operators of petroleum USTs must comply with the financial responsibility requirements outlined in this chapter. The costs of complying with these requirements vary by the size of the facility, the age of the facility, the tank system construction materials, the type and quantity of substance stored, the location, the compliance status of the facility, desired coverage limits and deductibles, past claims history, and the private insurance company through which an insurance premium is purchased. Regardless, the impact will be neutral relative to the costs of implementing the existing UST rules in 567—Chapter 135.

3. **Costs to the State:**

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

Costs to the Department are within the confines of current funding sources and are attributed to staff time in administering and enforcing the financial responsibility requirements of this chapter.

- **Anticipated effect on State revenues:**

The proposed chapter will have a neutral impact on State revenues because the UST rules were already being implemented.

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

The comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction is neutral since the financial responsibility requirements of this chapter were already being implemented. Moreover, financial responsibility rules are required by State and federal law.

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

There are no less costly or intrusive methods to accomplish the benefit. UST financial responsibility regulations are required by Iowa Code section 455B.474 and the Code of Federal Regulations Parts 280 and 281.

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

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

No alternative methods were considered by the agency.

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

UST tank financial responsibility regulations are required by State and federal law.

Small Business Impact

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

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

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

Based on the federal and State regulations, all financial responsibility for petroleum USTs must be regulated in a similar fashion regardless of ownership entity.

Text of Proposed Rulemaking

ITEM 1. Rescind 567—Chapter 136 and adopt the following **new** chapter in lieu thereof:

CHAPTER 136
FINANCIAL RESPONSIBILITY FOR UNDERGROUND STORAGE TANKS

567—136.1(455B) Applicability.

136.1(1) This chapter applies to owners and operators of all petroleum underground storage tank (UST) systems, except as otherwise provided in this rule.

136.1(2) State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States are exempt from the requirements of this chapter.

136.1(3) The requirements of this chapter do not apply to owners and operators of farm or residential tanks of 1,100 gallons or less capacity installed prior to July 1, 1987, or any UST system described in 567—paragraph 135.1(3)*"b"* or 567—subparagraph 135.1(3)*"c"*(1), *"c"*(3) or *"c"*(4).

567—136.2(455B) Policy; adoption by reference.

136.2(1) It is the policy of the commission to ensure consistency, equity, and efficiency in providing financial responsibility for Iowans and the businesses providing services to Iowans that owners and operators of UST systems in this state must comply with the provisions of the federal rules requiring and regulating the financial assurance of UST systems. This rule shall be interpreted in a manner consistent with this policy.

136.2(2) The commission hereby adopts by reference 40 CFR Chapter I, Subchapter I, Part 280, Subpart H (2015), subject to the following conditions:

a. All uses of "Agency," "Environmental Protection Agency," "EPA," and "implementing agency," and any reference to the regional offices of the Environmental Protection Agency, shall be replaced with "Department of Natural Resources," except where the context of the rule requires notice or submission to both federal and state entities, in which case the replacement language shall be in addition to the original language.

b. All uses of "Administrator" and "regional administrator," and any reference to the designee of either, are replaced with "the director of the Department of Natural Resources or their designee," except where the context of the rule requires notice or submission to both federal and state entities, in which case the replacement language shall be in addition to the original language.

c. 40 CFR 280.100 is not adopted by reference.

d. 40 CFR 280.101 is not adopted by reference.

These rules are intended to implement Iowa Code sections 455B.424 and 455B.474.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Regulatory Analysis

Notice of Intended Action to be published: 605—Chapter 1
"Organization"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 29C
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2370

Public Hearing

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

September 23, 2025 9:15 a.m.	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa Via videoconference meet.google.com/oqm-wujn-dif Phone: 475.277.0077 PIN: 619 998 977#

Public Comment

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

Blake DeRouchey
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Purpose and Summary

Pursuant to Executive Order 10, the Department proposes to rescind Chapter 7 and adopt a new chapter in lieu thereof. The chapter describes the structure and guidelines in which local emergency management is administered throughout the State.

The new chapter eliminates language that is overly restrictive or obsolete and shortens the chapter.

Analysis of Impact

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

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

There is no direct cost associated with the proposed rulemaking.

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

All individuals within the State benefit from a well-run and organized emergency management program.

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

- **Quantitative description of impact:**

There is no quantitative impact; this chapter simply provides organizational structure for the Department.

- **Qualitative description of impact:**

There is no qualitative impact; this chapter simply provides organizational structure for the Department.

3. **Costs to the State:**

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

There are no costs to the State or the Department associated with this rulemaking.

- **Anticipated effect on State revenues:**

There are no anticipated effects on State revenues.

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

This rulemaking ensures the Department has a basic structure and has no costs associated with it.

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

The Department seeks to implement these rules in a minimally intrusive and minimally prescriptive manner while still maintaining the responsibilities of maintaining a well-run emergency management program throughout the State.

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

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

None were considered.

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

Not applicable.

Small Business Impact

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

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

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

The rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 605—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
ORGANIZATION

605—1.1(29C) Description. The department of homeland security and emergency management is created in Iowa Code chapter 29C. The department of homeland security and emergency management shall be under the management of a director appointed by the governor subject to senate approval. The director shall be vested with the authority to administer homeland security and emergency

management affairs in this state and is responsible for preparing and executing the homeland security and emergency management programs of this state subject to the direction of the governor. The director, upon the direction of the governor, shall carry out the duties and responsibilities detailed in applicable Iowa Code provisions, including chapters 29C, 29D, 30, 34A, and 418. The director shall also carry out duties and responsibilities of applicable federal code and regulations. The director, with the approval of the governor, may employ a deputy administrator and such technical, clerical, and other personnel and make such expenditures within the appropriation or from other funds made available to the department for purposes of homeland security and emergency management, as may be necessary to administer the purposes of Iowa Code chapters 29C, 29D, 30, 34A, and 418.

605—1.2(29C) Definitions. The following definitions are applicable to the homeland security and emergency management department:

"Comprehensive countywide emergency operations plan" means documents that describe the actions to be taken to lessen the effects of, prepare for, respond to and recover from a disaster by county and city governments, quasi-government agencies, and private organizations that have emergency operations responsibility. The plan is multihazard in scope (covers all hazards for the county) and provides for a coordinated effort. It references authority, assigns functional responsibilities, provides for direction and control, and ensures the effective use of resources.

"Department" means the same as defined in Iowa Code chapter 29C.

"Director" means the same as defined in Iowa Code chapter 29C.

"Disaster" means the same as defined in Iowa Code chapter 29C.

"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action to protect life or property. Such actions are normally handled in a routine manner by law enforcement, fire protection, public works, utilities, and emergency medical services.

"Emergency management" means lessening the effects of, preparations for, operations during, and recovery from natural, technological or human-caused disasters. These actions are broad in scope and include but are not limited to disaster plans, mitigation, preparedness, response, warning, emergency operations, training, exercising, research, rehabilitation, and recovery activities.

"Emergency management performance grant program" means a program by which federal funds are utilized to pay no more than 50 percent of the salaries, benefits, travel, and office expenses incurred in the administration of the state and local emergency management program.

"Homeland security" means the detection, prevention, preemption, and deterrence of and protection from attacks targeted at state territory, population, and infrastructure.

"Joint commissions" means two or more local emergency management commissions acting as a joint commission for the coordination and administration of emergency management as described in Iowa Code section 29C.9.

"Local commission" means the local emergency management commission as defined in Iowa Code section 29C.9.

"Mitigation" means any action taken to reduce or eliminate the long-term risk to human life and property from hazards. Examples of mitigation activities include building codes, land use management, floodplain management, building of protective structures such as flood walls, public education, research, risk mapping, safety codes, and statutes and ordinances.

"Preparedness" means any activity taken in advance of an emergency or disaster that improves emergency readiness posture and develops or expands operational capabilities. Examples of preparedness activities include but are not limited to continuity of government, emergency alert and warning systems, emergency communications, emergency operations centers, comprehensive countywide emergency operations plans, emergency public information materials, exercise of plans and systems, hazard analysis, mutual aid agreements, resource management, and the training and equipping of personnel.

"Recovery" means short-term activity to return vital life support systems to minimum operating standards and long-term activity designed to return the affected people and areas to their predisaster

conditions. Examples of recovery activities are crisis counseling, damage assessment, debris clearance, decontamination, disaster insurance payments, disaster loans and grants, disaster unemployment assistance, public information, community outreach, temporary housing, and reconstruction.

"Response" means any action taken immediately before, during, or directly after an emergency or disaster occurs, which is intended to save lives, minimize injuries, lessen property and environmental damage and enhance the effectiveness of recovery. Examples of response activity include rendering of assistance by emergency responders, activation of the emergency operations center, emergency alert system activation, emergency instructions to the public, emergency plan implementation, public official alerting, evacuation, sheltering of victims, search and rescue, resource mobilization, and warning system activation.

605—1.3(29C) Facilitating business rapid response to state-declared disasters. The implementation of business rapid response to state-declared disasters is addressed in the rules of the secretary of state in 721—Chapter 12 and the department of revenue in 701—Chapter 242.

These rules are intended to implement Iowa Code chapters 29C, 29D, 30, 34A and 418.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Regulatory Analysis

Notice of Intended Action to be published: 605—Chapters 2 through 6
"Uniform Rules on Agency Procedure"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A and 29C
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2370

Public Hearing

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

September 23, 2025 9:30 a.m.	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa Via videoconference meet.google.com/oqm-wujn-dif Phone: 475.277.0077 PIN: 619 998 977#

Public Comment

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

Blake DeRouchey
7900 Hickman Road, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Purpose and Summary

Pursuant to Executive Order 10, the Department proposes to rescind Chapter 2 and adopt a new chapter in lieu thereof. The chapter describes the structure and guidelines in which local emergency management is administered throughout the State.

The new chapter eliminates language that is overly restrictive or obsolete and shortens the chapter. This rulemaking also proposes to rescind Chapters 3 through 6.

Analysis of Impact

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

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

There is no direct cost associated with the proposed rulemaking.

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

All individuals within the State benefit from a well-run and organized emergency management program.

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

- **Quantitative description of impact:**

There is no quantitative description; this chapter simply provides organizational structure for the Department, including universal rules for agencies.

- **Qualitative description of impact:**

There is no qualitative impact; this chapter simply provides organizational structure for the Department, including universal rules for agencies.

3. **Costs to the State:**

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

There are no costs to the State or the Department associated with this rulemaking.

- **Anticipated effect on State revenues:**

There are no anticipated effects on State revenues.

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

This rulemaking ensures the Department has basic structure and has no costs associated with it.

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

The Department seeks to implement these rules as minimally intrusively and prescriptively as possible while still maintaining the responsibilities of maintaining a well-run emergency management program throughout the State.

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

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

None were considered.

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

Not applicable.

Small Business Impact

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

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

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

The rulemaking has little to no impact on small businesses other than on their ability to bid on projects funded through the available grants.

Text of Proposed Rulemaking

ITEM 1. Rescind 605—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
UNIFORM RULES ON AGENCY PROCEDURE

The department hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedures, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website.

605—2.1(17A,29C) Petitions for rulemaking. The Iowa department of homeland security and emergency management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website. For purposes of this rule, the following designations are made:

2.1(1) In lieu of the words "(agency name)", insert "Iowa department of homeland security and emergency management".

2.1(2) In lieu of the words "(designate office)", insert "Iowa Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324".

2.1(3) In lieu of the words "(designate official by full title and address)", insert "Director, Iowa Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324".

605—2.2(17A,29C) Declaratory orders. The Iowa department of homeland security and emergency management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to declaratory orders, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website. For purposes of this rule, the following designations are made:

2.2(1) In lieu of the words "(agency name)" or "(designate agency)", insert "Iowa Department of Homeland Security and Emergency Management".

2.2(2) In lieu of the words "(designate office)", insert "Iowa Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324".

2.2(3) In lieu of the words "(designate official by full title and address)", insert "Director, Iowa Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324".

2.2(4) In lieu of the words "Within ____ days (15 or less)" found in rule X.2, insert "Within 15 days".

2.2(5) In lieu of the words "within ____ days of the filing of a petition" in rule X.3(1), insert "within 20 days of the filing of a petition".

605—2.3(17A,29C) Agency procedure for rulemaking. The Iowa department of homeland security and emergency management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to agency procedure for rulemaking, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website. For purposes of this rule, the following designations are made:

2.3(1) In lieu of the words "(commission, board, council, director)", insert "director".

2.3(2) In lieu of the words "(specify time period)", insert "one year".

2.3(3) In lieu of the words "(identify office and address)", insert "Director, Iowa Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324".

2.3(4) In lieu of the words "(designate office and telephone number)", insert "the director at 515.725.3231".

2.3(5) In lieu of the words "(designate office)", insert "Iowa Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324".

2.3(6) In lieu of the words "(specify the office and address)", insert "Iowa Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324".

2.3(7) In lieu of the words "(agency head)", insert "director".

605—2.4(17A,29C) Fair information practices. The Iowa department of homeland security and emergency management with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to fair information practices, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website. For purposes of this rule, the following designations are made:

2.4(1) In lieu of the words "(official or body issuing these rules)", insert "Iowa Department of Homeland Security and Emergency Management".

2.4(2) In lieu of the words "(insert agency head)", insert "director".

2.4(3) In lieu of the words "(insert agency name and address)", insert "Iowa Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324".

2.4(4) In lieu of the words "(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert the words "at any time from 9 a.m. to 12 noon and from 1 to 4 p.m., Monday through Friday, excluding legal holidays, unless the person exercising such right and the lawful custodian agree on a different time".

2.4(5) In lieu of the words "(specify time period)", insert the words "30 minutes".

2.4(6) In lieu of the words "(designate office)", insert the words "Iowa Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324".

2.4(7) Delete the words "(and, where applicable, the time period during which the record may be disclosed)".

2.4(8) Delete the words "(Additional requirements may be necessary for special classes of records.)."

2.4(9) Delete the words "(Each agency should revise its forms to provide this information.)".

2.4(10) Federal records.

a. For federal records maintained by the department, a subject will provide a Privacy Act release in accordance with the requirements of Title 5 United States Code, Section 552, in writing, and signed by the subject of the record.

b. For federal records and forms, the United States government's determination of routine use and the consequences of failure to provide required or optional information as requested shall be provided to the supplier of the information.

c. Pursuant to Iowa Code section 22.9, the department finds that maintenance, use, or disclosure of federal records described in this rule, except as allowed by federal law and regulation, would result in denial of United States government funds, services and essential information that would otherwise definitely be available and that have been available to the department in the past. The department has authority to enter into agreements and contracts to obtain funds pursuant to Iowa Code chapter 29C. The department makes such agreements and contracts with the Federal Emergency Management Agency (FEMA) under the authority of Public Law 93-288 (The Robert T. Stafford Disaster Relief and Emergency Assistance Act) and an Emergency Management Performance Grant Agreement that specify categories of records and information that must be kept confidential. In addition, 44 CFR 5.71 specifies categories of records that are exempt from disclosure under 5 U.S.C. 552. These records include those containing personally identifiable information concerning applicants to individual assistance and mitigation assistance programs that are administered by the state under a presidentially declared disaster. Nuclear Regulatory Commission Title 10 CFR 73.21 relates to the physical protection of nuclear power plants and materials. This regulation requires that certain information contained in plans and documents on file with the department be kept confidential and include information concerning the physical protection at fixed sites; physical protection in transit; inspections, audits and evaluations; and correspondence insofar as it contains safeguards information.

605—2.5(17A,29C) Contested cases. The Iowa department of homeland security and emergency management hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to contested cases, which are published at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf on the general assembly's website. For purposes of this rule, the following designations are made:

2.5(1) In lieu of the words "(agency name)" or "agency", insert "the Iowa department of homeland security and emergency management".

2.5(2) In lieu of the words "(designate official)", insert "director".

2.5(3) In lieu of the words "(specify rule number)", insert "rule".

2.5(4) In lieu of the words "(agency to designate person to whom violations should be reported)", insert "director".

2.5(5) In lieu of the words "(board, commission, director, as appropriate)", insert "the director".

These rules are intended to implement Iowa Code chapters 17A and 29C.

ITEM 2. Rescind and reserve **605—Chapter 3**.

ITEM 3. Rescind and reserve **605—Chapter 4**.

ITEM 4. Rescind and reserve **605—Chapter 5**.

ITEM 5. Rescind and reserve **605—Chapter 6**.

Regulatory Analysis

Notice of Intended Action to be published: 501—Chapter 3
"Certification of Law Enforcement Officers"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 80B.11(1)"a" and 80B.11H(5)
State or federal law(s) implemented by the rulemaking: 2025 Iowa Acts, House File 901

Public Hearing

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

September 24, 2025 9 to 10 a.m.	7105 NW 70th Avenue Burma Road, Building 4640 Johnston, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Iowa Law Enforcement Academy no later than 4:30 p.m. on September 24, 2025. Comments should be directed to:

Kristi Traynor
Iowa Law Enforcement Academy
P.O. Box 130
Johnston, Iowa 50131
Email: kristi.traynor@iowa.gov

Purpose and Summary

Pursuant to newly enacted 2025 Iowa Acts, House File 901, the Academy Council proposes to amend Chapter 3. The chapter describes the policies and procedures applicable to certification of law enforcement officers. The amendments adopt the procedures and guidelines for reciprocity applications and changes to eligibility for attendance at level II academies.

Analysis of Impact

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

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

Individuals applying for certification through reciprocity, or their hiring authorities, will incur the costs of the certification path as set forth in Iowa Code section 80B.11B.

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

Individuals who apply for certification through reciprocity, their hiring authorities, and the general public will benefit from reduced certification time frames and costs.

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

- **Quantitative description of impact:**

Veterans and federal law enforcement officers will have increased incentive to seek law enforcement reciprocity in Iowa due to reduced certification times and costs. Local hiring authorities and the general public will benefit from reduced certification times and costs. The amount of cost savings will vary and depend on the specific training and experience of the individual applying for reciprocity.

- **Qualitative description of impact:**

Individuals who apply for reciprocity will benefit from clarity and understanding of the equivalency evaluation process.

3. **Costs to the State:**

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

The Academy's costs related to implementation of Iowa Code section 80B.11H may result in some revenue loss to the Academy as veterans and individuals with federal police experience may not need to attend a level I academy. Additionally, implementation will include the costs of personnel to communicate with applicants to answer any questions about the process, to follow up on any missing or incomplete information, and to review and draft the training equivalency forms for Council's review and consideration.

- **Anticipated effect on State revenues:**

This rulemaking may have some impact on State revenues depending on the agencies hiring the reciprocity candidates and the reciprocity pathway approved. The Academy has staff who already engage in similar activities for officers seeking certification through examination, a similar process for law enforcement officers certified by another state.

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

Iowa Code section 80B.11H requires the Academy to implement a reciprocity program for military veterans and federal police officers and to develop procedures and guidelines to evaluate training and equivalency standards; thus, inaction is not an option. Additionally, the clarity provided by the rules for military veterans and federal personnel seeking reciprocity in Iowa may aid in law enforcement recruitment efforts. The modest costs incurred by the State are insignificant compared to the costs of inaction, which would result in an unfair and undefined process for military and federal reciprocity.

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

Iowa Code section 80B.11H(5) requires the Academy to develop procedures and guidelines for evaluating police training and equivalency standards. It is the opinion of the Council that these rules reasonably establish a fair and objective process for evaluating police training and equivalency standards. Making the process less restrictive would negatively impact the health, safety, and welfare of Iowans (and non-Iowans). These rules have been streamlined, clarified, and made less restrictive where possible in accordance with the goals and directives of Executive Order 10.

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

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

Please see the response in section 5.

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

Please see the response in section 5.

Small Business Impact

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

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

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

The proposed rulemaking does not have a substantial impact on small business. This rulemaking does not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Amend rule 501—3.3(80B) as follows:

501—3.3(80B) Standard certifying courses for approved law enforcement facilities. The academy courses of study and training programs must meet the requirements of nondegree programs under the Post-9/11 Veterans Educational Assistance Act of 2008. The standard certifying courses of study at an approved law enforcement training facility are:

1. The ~~long course~~ level I academy, consisting of at least 620 hours to be completed within a 25-week period; and
2. The ~~short course~~ level II academy, consisting of at least 400 hours to be completed within a 20-week period.

ITEM 2. Amend rule 501—3.4(80B) as follows:

501—3.4(80B) Qualifications for attendance at a ~~short course~~ level II academy. ~~In order to be eligible for enrollment in a short course, the individual officer must possess at least one of the following qualifications:~~ Individuals meeting the requirements of Iowa Code section 80B.11D(3) may apply for attendance at a level II academy. Approval will be granted when at least 20 credit hours dedicated to police science or criminal justice coursework in which a grade no lower than C- is reflected on the submitted transcript or when approved by council after consideration of a reciprocity application.

~~**3.4(1)** Have satisfactorily completed a two-year or four-year police science or criminal justice program that includes at least 20 credit hours dedicated to police science or criminal justice coursework at an accredited educational institution and documentation furnished to the academy.~~

~~**3.4(2)** Have satisfactorily completed law enforcement training in another state commensurate with basic training required in Iowa, and be able to provide verification of the same.~~

~~**3.4(3)** Have satisfactorily completed military police training and furnished documentation to the academy.~~

~~**3.4(4)** Have satisfactorily completed the Federal Bureau of Investigation new agent training course, or similar course of instruction, and be able to provide verification of the same.~~

This rule is intended to implement Iowa Code ~~section 80B.11~~ sections 80B.11(1)*"a,"* 80B.11D, and 80B.11H.

ITEM 3. Amend rule 501—3.5(80B), catchwords, as follows:

501—3.5(80B) Curriculum for ~~long course~~ level I academy.

ITEM 4. Amend rule 501—3.6(80B), catchwords, as follows:

501—3.6(80B) Curriculum for ~~short course~~ level II academy.

ITEM 5. Adopt the following **new** rule 501—3.9(80B):

501—3.9(80B) Evaluation of applications for reciprocity. Council will evaluate an applicant's accredited police training by comparing training hours for each functional area of the academy's approved curriculum to that completed by the applicant via a training equivalency form. Course

descriptions, lesson plans, curriculum overview, or any combination will be used to determine the equivalency comparison.

3.9(1) An applicant's failure to provide the necessary information for the council to determine equivalency for any training may result in credit being denied for that training.

3.9(2) An applicant approved for reciprocity will successfully complete the certification through examination process in rule 501—3.8(80B) and by successfully completing:

a. The course identified in subrule 3.8(2);

b. An in-person skills week at the academy; and

c. Any necessary retesting or training identified in subrule 3.8(6).

3.9(3) If an applicant is not approved for entry into the reciprocity program, the council will evaluate an applicant for entry into a level II academy based upon completed training and relevant experience to Iowa law enforcement practice.

This rule is intended to implement Iowa Code section 80B.11H.

ITEM 6. Amend subrule 3.12(3) as follows:

3.12(3) Application for a ~~short course of study~~ level II academy at an approved law enforcement training program. An individual applying for attendance at a ~~short course of study~~ level II academy at an approved law enforcement training program shall submit proof of successful completion of a two-year or four-year police science or criminal justice program at an accredited educational institution ~~in this state as~~ approved by the academy. The proof must include a letter from the registrar certifying the person's graduation and a certified transcript of courses taken and grades received. The proof must be submitted 30 days in advance of the course of study that the person wants to attend.

ITEM 7. Strike "short course of study" wherever it appears in rule **501—3.12(80B)** and insert "level II academy" in lieu thereof:

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 2
"Public Records and Fair Information Practices"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A and 22.11
State or federal law(s) implemented by the rulemaking: Executive Order 10 (2023)

Public Hearing

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

September 24, 2025 1 to 2 p.m.	Yellow River Conference Room Iowa Department of Natural Resources 6200 Park Avenue, Suite 200 Des Moines, Iowa

Free language access: If you speak a non-English language, the Department of Natural Resources (Department) offers you language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

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

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on September 24, 2025. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.210.3408
Email: kelli.book@dnr.iowa.gov

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.210.3408 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.210.3408 al menos siete días antes del evento.

Purpose and Summary

561—Chapter 2 establishes the Department's policies and procedures for the maintenance of records. It facilitates public access to open records and provides the procedures for identifying and protecting confidential records. The chapter implements provisions of the Fair Information Practices Act. The Natural Resource Commission proposed to adopt 561—Chapter 2 by reference. Accordingly, the following Regulatory Analysis contains the substance for the underlying 561—Chapter 2.

Analysis of Impact

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

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

There are no costs to the general public; this chapter is mostly procedural and descriptive in nature. Those requesting a public record may incur a cost associated with fees prescribed by law and rule.

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

This rulemaking provides procedural structure of public and confidential records for the general public and regulated entities. Those parties will benefit from clear and concise rules as to how records will be maintained by the Department.

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

- **Quantitative description of impact:**

There are no costs associated with this proposed rulemaking.

- **Qualitative description of impact:**

There are no costs associated with this proposed rulemaking. This rulemaking provides the procedural structure of public and confidential records for the general public and regulated entities. Those parties will benefit from clear and concise rules as to how records will be maintained by the Department.

3. **Costs to the State:**

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

There are no costs associated with this proposed rulemaking.

- **Anticipated effect on State revenues:**

There will be no impact on State revenues associated with this proposed rulemaking.

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

Not applicable.

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

Not applicable.

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

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

None were considered.

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

The rulemaking is consistent with the provisions of Iowa Code chapter 22.

Small Business Impact

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

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

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

This rulemaking has no impact on small business. The rulemaking will benefit small businesses by providing clear and concise rules as to how records will be maintained by the Department.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

571—2.1(17A,22) Adoption by reference. The commission adopts by reference 561—Chapter 2.

This rule is intended to implement Iowa Code section 22.11.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 3
"Submission of Information and Complaints—Investigations"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.3
State or federal law(s) implemented by the rulemaking: Executive Order 10 (2023)

Public Hearing

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

September 24, 2025 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

Free language access: If you speak a non-English language, the Department of Natural Resources (Department) offers you language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

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

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on September 24, 2025. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.210.3408
Email: kelli.book@dnr.iowa.gov

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.210.3408 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.210.3408 al menos siete días antes del evento.

Purpose and Summary

Chapter 3 adopts 561—Chapter 3 by reference. 561—Chapter 3 provides general guidance concerning the submission of information, supplies special telephone numbers for reporting certain types of information, and sets forth specific procedures for the submission and investigation of complaints.

The statutory authority requiring 561—Chapter 3 was removed by 2024 Iowa Acts, Senate File 2370 (striking Iowa Code section 17A.3(1)"a" and "b"), making 561—Chapter 3 unnecessary. Pursuant to Executive Order 10, that chapter was rescinded effective August 27, 2025 (**ARC 9432C**). With the statutory and rule authority removed for the adoption by reference, Chapter 3 is no longer

authorized or necessary. Accordingly, this chapter is proposed for rescission consistent with Executive Order 10.

Analysis of Impact

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

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

This chapter is being rescinded; there are no costs associated with this rulemaking.

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

This chapter is being rescinded.

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

- **Quantitative description of impact:**

There are no costs associated with this rulemaking.

- **Qualitative description of impact:**

There are no costs associated with this rulemaking.

3. **Costs to the State:**

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

There are no costs associated with this rulemaking.

- **Anticipated effect on State revenues:**

There will be no impact on State revenues associated with this rulemaking.

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

Not applicable.

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

Not applicable.

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

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

None were considered.

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

Not applicable.

Small Business Impact

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

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

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

This rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **571—Chapter 3**.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 4
"Agency Procedure for Rule Making"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.4, 17A.4A, 17A.4B and 455A
State or federal law(s) implemented by the rulemaking: Executive Order 10 (2023)

Public Hearing

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

September 24, 2025 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

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

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on September 24, 2025. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.210.3408
Email: kelli.book@dnr.iowa.gov

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Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.210.3408 al menos siete días antes del evento.

Purpose and Summary

The existing rules provide the procedure for rulemaking; however, the rules are unnecessary and redundant to the provisions for rulemaking codified in Iowa Code sections 17A.4, 17A.4A, and 17A.4B. Because the rules simply duplicate the process provided by the Iowa Code, this proposed rulemaking rescinds them consistent with Executive Order 10's mandate to remove redundant and unnecessary provisions.

Analysis of Impact

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

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

There are no costs associated with this proposed rulemaking.

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

There are no persons impacted by this rulemaking. The procedure for rulemaking will remain in the Iowa Code.

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

- **Quantitative description of impact:**

There are no costs associated with this proposed rulemaking.

- **Qualitative description of impact:**

There are no costs associated with this proposed rulemaking.

3. **Costs to the State:**

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

There are no costs associated with this proposed rulemaking.

- **Anticipated effect on State revenues:**

There will be no impact on State revenues associated with this proposed rulemaking.

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

Not applicable.

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

Not applicable.

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

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

None were considered.

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

The rules are being rescinded because they are duplicative of the Iowa Code.

Small Business Impact

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

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

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

The proposed rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **571—Chapter 4**.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 5
"Petitions for Rulemaking"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.7 and 455A
State or federal law(s) implemented by the rulemaking: Executive Order 10 (2023)

Public Hearing

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

September 24, 2025 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

Free language access: If you speak a non-English language, the Department of Natural Resources (Department) offers you language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

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Public Comment

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Iowa Department of Natural Resources
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Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.210.3408 al menos siete días antes del evento.

Purpose and Summary

The Iowa Administrative Procedure Act requires an agency to adopt rules describing how it will receive and review rulemaking petitions. 561—Chapter 5 governs the Department's process for receiving and reviewing rulemaking petitions. 561—Chapter 5 adopts the Uniform Rules on Agency Procedures contained in the first volume of the Iowa Administrative Code along with Department-specific provisions.

The Natural Resource Commission proposes to adopt 561—Chapter 5 by reference. Accordingly, this Regulatory Analysis contains the substance applicable to underlying 561—Chapter 5.

Analysis of Impact

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

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

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

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

Persons who file rulemaking petitions with the Department will benefit from this proposed rulemaking as it provides a clear and concise process for submitting a rulemaking petition.

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

- **Quantitative description of impact:**

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

- **Qualitative description of impact:**

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

3. **Costs to the State:**

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

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

- **Anticipated effect on State revenues:**

There will be no impact on State revenues associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

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

Not applicable; the proposed rulemaking is required by law.

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

Not applicable; the proposed rulemaking is procedural in nature and is required by law.

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

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

None were considered.

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

The proposed rulemaking is required by law.

Small Business Impact

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

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

- Exempt small business from any or all requirements of the rulemaking.

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

The proposed rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
PETITIONS FOR RULEMAKING

571—5.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 5.

This rule is intended to implement Iowa Code section 17A.7.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 6
"Declaratory Orders"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.9(2) and 455A
State or federal law(s) implemented by the rulemaking: Executive Order 10 (2023)

Public Hearing

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

September 24, 2025 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

Free language access: If you speak a non-English language, the Department of Natural Resources (Department) offers you language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

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

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on September 24, 2025. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.210.3408
Email: kelli.book@dnr.iowa.gov

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.210.3408 at least seven days before the event.

Asistencia linguistica gratuita: Si necesita ayuda en un idioma que no sea ingles, comuniquese con el Departamento at kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por telefono a 515.210.3408 el menos siete dias antes del evento.

Purpose and Summary

The Iowa Administrative Procedure Act requires agencies to adopt rules describing how it will receive and process declaratory orders. 561—Chapter 6 governs the Department's process for receiving and reviewing declaratory orders. 561—Chapter 6 adopts the Uniform Rules on Agency Procedures contained in the first volume of the Iowa Administrative Code along with Department-specific provisions.

The Natural Resource Commission proposes to adopt 561—Chapter 6 by reference. Accordingly, this Regulatory Analysis contains substance relevant to this underlying chapter.

Analysis of Impact

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

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

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

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

Persons who seek a declaratory order from the Department will benefit from this proposed rulemaking as it provides a clear and concise process for seeking a declaratory order.

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

- **Quantitative description of impact:**

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

- **Qualitative description of impact:**

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

3. **Costs to the State:**

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

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

- **Anticipated effect on State revenues:**

There will be no impact on State revenue associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

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

Not applicable; the proposed rulemaking is required by law.

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

Not applicable; the proposed rulemaking is procedural in nature and is required by law.

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

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

None were considered.

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

The proposed rulemaking is required by law.

Small Business Impact

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

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

- Exempt small business from any or all requirements of the rulemaking.

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

The proposed rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
DECLARATORY ORDERS

571—6.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 6.

This rule is intended to implement Iowa Code section 17A.9.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 76
"Unprotected Nongame"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481A.38, 481A.39, and 481A.42

State or federal law(s) implemented by the rulemaking: Iowa Code sections 481A.38, 481A.39, and 481A.42

Public Hearing

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

September 23, 2025	6200 Park Avenue, Second Floor
12 noon to 1 p.m.	Des Moines, Iowa

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at chris.ensminger@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.250.6886 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al chris.ensminger@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.250.6886 al menos siete días antes del evento.

Public Comment

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

Karen Kinkead
Iowa Department of Natural Resources
Wallace State Office Building
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 712.330.8461
Email: karen.kinkead@dnr.iowa.gov

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

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

Purpose and Summary

Chapter 76 lists the nongame species allowed to be killed without a permit. Under Iowa Code section 481A.38, it is unlawful for any person to take, pursue, kill, trap, or conduct other listed activities against nongame animals except upon terms, conditions, limitations, and restrictions set forth in the Iowa Code or by administrative rule. The Natural Resource Commission has authority under Iowa Code section 481A.42 to designate species of nongame that shall not be protected due to their abundance or habits.

Analysis of Impact

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

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

No class of persons will bear the costs of the rule besides the Department itself.

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

Homeowners with potential nuisance issues from the listed nongame species will benefit.

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

- **Quantitative description of impact:**

This rulemaking does not have an economic impact or cost.

- **Qualitative description of impact:**

This rulemaking does not impose a burden on the public.

3. **Costs to the State:**

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

The Department responds to phone calls and inquiries about birds and snakes each spring and fall and answers questions related to species identification, risks to humans, and life history characteristics. These costs are minimal. All such staff have other assigned duties.

- **Anticipated effect on State revenues:**

The proposed rulemaking does not have any effect on State revenue.

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

The public does not have any costs to comply with the process and requirements set forth in this rulemaking.

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

There are no costs associated with this proposed rulemaking.

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

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

No alternative methods were considered.

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

Not applicable.

Small Business Impact

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

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

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

This proposed rule does not have any impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 76 and adopt the following **new** chapter in lieu thereof:

SEASONS, LIMITS, METHODS OF TAKE

TITLE VIII

CHAPTER 76

UNPROTECTED NONGAME

571—76.1(481A) Species. Certain species of nongame shall not be protected.

76.1(1) *Birds.* The European starling (*Sturnus vulgaris*) and the house sparrow (*Passer domesticus*) shall not be protected.

76.1(2) *Reptiles.*

a. Common garter snake (*Thamnophis sirtalis*).

b. Timber rattlesnake (*Crotalus horridus*) within 50 yards of houses actively occupied by humans.

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.42.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 77
"Endangered and Threatened Plant and Animal Species"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481B.3
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 481B

Public Hearing

A public hearing at which persons may present their views orally will be held as follows. Persons who wish to attend the conference call should contact Kelly Poole via email. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to Kelly Poole prior to the hearing to facilitate an orderly hearing.

September 24, 2025 10 a.m.	Virtual

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

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelly.poole@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.702.0358 al menos siete días antes del evento.

Public Comment

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

Kelly Poole or John Pearson
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: kelly.poole@dnr.iowa.gov (animals)
john.pearson@dnr.iowa.gov (plants)

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

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

Purpose and Summary

Chapter 77 implements Iowa Code chapter 481B, "Endangered and Threatened Plants and Animal Species." The rules identify those plant and animal species that are protected due to being endangered or threatened in Iowa and provides for limited, regulated exceptions to those provisions.

Analysis of Impact

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

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

There are no costs directly attributable to this rulemaking.

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

Iowa citizens benefit through the protection and preservation of Iowa's biodiversity. Developers and other regulated entities benefit through regulatory clarity and limited exceptions to those regulations.

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

- **Quantitative description of impact:**

There are no costs directly attributable to this rulemaking. None of the changes to the list are anticipated to cause economic impact or increase the costs of avoiding take of protected species. Moreover, these rules are required by State law, so any economic impacts originate with the underlying statutory requirements.

- **Qualitative description of impact:**

No changes from the current chapter are expected.

3. **Costs to the State:**

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

There is no cost to implement this chapter beyond staff time. Staff members who oversee the program all have other assigned duties.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

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

This rulemaking updates the list of threatened and endangered species as required by the Iowa Code. There is no direct cost to updating the list; indirect costs originate with the underlying statutory obligation to protect endangered and threatened species in the State. The benefit of updating the list is that it will more accurately reflect the current status of Iowa plants and animals. Species no longer warranting threatened or endangered status shall be removed, and those needing such a status will be added.

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

No alternatives are available. The Iowa Code requires rulemaking to create and maintain an updated list of threatened and endangered species.

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

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

Not applicable.

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

No alternatives are available. The Iowa Code requires this rulemaking.

Small Business Impact

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

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

- Exempt small business from any or all requirements of the rulemaking.

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

This chapter does not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 77 and adopt the following **new** chapter in lieu thereof:

CHAPTER 77
ENDANGERED AND THREATENED PLANT AND ANIMAL SPECIES

571—77.1(481B) Definitions. As used in this rule:

"Endangered species" means any species of fish, plant life, or wildlife that is in danger of extinction throughout all or a significant part of its range.

"Threatened species" means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

571—77.2(481B) Endangered and threatened animals. The natural resource commission, in consultation with scientists with specialized knowledge and experience, has determined the following animal species to be endangered or threatened in Iowa:

77.2(1) Endangered animal species:

Common Name	Scientific Name
Mammals	
Red-backed Vole	*Clethrionomys gapperi*
Southern Bog Lemming	*Synaptomys cooperi*
Eastern Spotted Skunk	*Spilogale interrupta*
Northern Long-eared Bat	*Myotis septentrionalis*
Indiana Bat	*Myotis sodalis*
Birds	
Piping Plover	*Charadrius melodus*
Fish	
Lake Sturgeon	*Acipenser fulvescens*
Pallid Sturgeon	*Scaphirhynchus albus*
Western Silvery Minnow	*Hybognathus argyritis*
Sturgeon Chub	*Macrhybopsis gelida*
Sicklefin Chub	*Macrhybopsis meeki*
Northern Pearl Dace	*Margariscus nachtriebi*
Pugnose Shiner	*Miniellus anogenus*
Ghost Shiner	*Paranotropis buchanani*
Blacknose Shiner	*Notropis heterolepis*
Starhead Topminnow	*Fundulus dispar*
Plains Topminnow	*Fundulus sciadicus*
Crystal Darter	*Crystallaria asprella*
Bluntnose Darter	*Etheostoma chlorosoma*
Least Darter	*Etheostoma microperca*
Reptiles	

Wood Turtle	*Glyptemis insculpta*
Yellow Mud Turtle	*Kinosternon flavescens*
Great Plains Skink	*Plestiodon obsoletus*
Prairie Hognose Snake	*Heterodon nasicus*
Eastern Copperhead	*Agkistrodon contortrix*
Prairie Rattlesnake	*Crotalus viridis*
Eastern Massasauga Rattlesnake	*Sistrurus catenatus*
Prairie Massasauga Rattlesnake	*Sistrurus tergeminus*
Amphibians	
Blue-spotted Salamander	*Ambystoma laterale*
Bumble Bees	
Rusty Patched Bumble Bee	*Bombus affinis*
Butterflies	
Arogos Skipper	*Atrytone arogos*
Dusted Skipper	*Atrytonopsis hianna*
Mottled Duskywing	*Gesta martialis*
Ottoe Skipper	*Hesperia ottoe*
Dakota Skipper	*Hesperia dacotae*
Poweshiek Skipperling	*Oarisma poweshiek*
Mulberry Wing	*Poanes massasoit*
Damselflies and Dragonflies	
Prairie Bluet	*Coenagrion angulatum*
Land Snails	
Frigid Ambersnail	*Catinella gelida*
Iowa Pleistocene Snail	*Discus macclintocki*
Bluff Vertigo	*Vertigo meramecensis*
Fresh Water Mussels	
Spectaclecase	*Cumberlandia monodonta*
Purple Wartyback	*Cyclonaias tuberculata*
Spike	*Elliptio dilatata*
Sheepnose	*Plethobasus cyphyus*
Round Pigtoe	*Pleurobema sintoxia*
Slippershell	*Alasmidonta viridis*
Salamander Mussel	*Simpsonaias ambigua*

77.2(2) Threatened animal species:

Common Name	**Scientific Name**
Mammals	
Plains Pocket Mouse	*Perognathus flavescens*
Plains Pocket Gopher	*Geomys bursarius*
White-tailed Jackrabbit	*Lepus townsendii*
North American Least Shrew	*Cryptotis parva*
Little Brown Bat	*Myotis lucifugus*

Tri-colored Bat	*Perimyotis subflavus*
Birds	
Chuck's-will's-widow	*Caprimulgus carolinensis*
Black Tern	*Chlidonias niger*
Least Tern	*Sterna antillarum*
Forster's Tern	*Sterna forsteri*
King Rail	*Rallus elegans*
Yellow Rail	*Coturnicops noveboracensis*
Sanderling	*Calidris alba*
Short-eared Owl	*Asio flammeus*
Long-eared Owl	*Asio otus*
Fish	
American Eel	*Anguilla rostrata*
Pirate Perch	*Aphredoderus sayanus*
Skipjack Herring	*Alosa chrysochloris*
Mottled Sculpin	*Cottus bairdii*
Redfin Shiner	*Lythrurus umbratilis*
Topeka Shiner	*Miniellus topeka*
Pugnose Minnow	*Opsopoeodus emiliae*
Grass Pickerel	*Esox americanus*
Banded Killifish	*Fundulus diaphanus*
Freckled Madtom	*Noturus nocturnus*
Weed Shiner	*Miniellus texanus*
Burbot	*Lota lota*
Western Sand Darter	*Ammocrypta clara*
Trout-perch	*Percopsis omiscomaycus*
Chestnut Lamprey	*Ichthyomyzon castaneus*
Reptiles	
Blanding's Turtle	*Emydoidea blandingii*
Ornate Box Turtle	*Terrapene ornata*
Stinkpot	*Sternotherus odoratus*
Slender Glass Lizard	*Ophisaurus attenuatus*
Bullsnake	*Pituophis catenifer*
Plain-bellied Watersnake	*Nerodia erythrogaster*
Diamondback Watersnake	*Nerodia rhombifera*
Graham's Crayfish Snake	*Regina grahami*
Speckled Kingsnake	*Lampropeltis holbrooki*
Western Worm Snake	*Carphophis vermis*
Amphibians	
Mudpuppy	*Necturus maculosus*
Central Newt	*Notophthalmus viridescens*
Butterflies	
Two-spotted Skipper	*Euphyes bimacula*
Leonard's Skipper	*Hesperia leonardus*

Crossline Skipper	*Limochores origenes*
Regal Fritillary	*Argynnis idalia*
Baltimore Checkerspot	*Euphydryas phaeton*
Olympia Marble	*Euchloe olympia*
Damselflies and Dragonflies	
Taiga Bluet	*Coenagrion resolutum*
Plains Emerald	*Somatochlora ensigera*
Sioux Snaketail	*Ophiogomphus smithi*
Westfall's Snaketail	*Ophiogomphus westfalli*
Land Snails	
Midwest Pleistocene Vertigo	*Vertigo arthuri*
Fresh Water Mussels	
Monkeyface	*Theliderma metanevra*
Pistolgrip	*Tritogonia verrucosa*
Higgin's-eye Pearly Mussel	*Lampsilis higginsi*
Yellow Sandshell	*Lampsilis teres*
Mucket	*Ortmanniana ligamentina*
Ellipse	*Venustaconcha ellipsiformis*

571—77.3(481B) Endangered and threatened plants. The natural resource commission, in consultation with scientists with special knowledge and experience, determined the following plant species to be endangered or threatened in Iowa.

77.3(1) Endangered plant species:

Common Name	**Scientific Name**
Pale false foxglove	*Agalinis skinneriana*
Roundleaf serviceberry	*Amelanchier sanguinea*
Raccoon grape	*Ampelopsis cordata*
Pearly everlasting	*Anaphalis margaritacea*
Sand bluestem	*Andropogon hallii*
Round-lobed hepatica	*Anemone americana*
Carolina anemone	*Anemone caroliniana*
Bearberry	*Arctostaphylos uva-ursi*
Virginia snakeroot	*Aristolochia serpentaria*
Black chokeberry	*Aronia melanocarpa*
Fringed sagewort	*Artemisia frigida*
Mead's milkweed	*Asclepias meadii*
Showy milkweed	*Asclepias speciosa*
Green antelopehorn	*Asclepias viridis*
Wall-rue	*Asplenium ruta-muraria*
Field milkvetch	*Astragalus agrestis*
Prairie milkvetch	*Astragalus laxmannii*
Fern-leaved false foxglove	*Aureolaria pedicularia*
Water marigold	*Bidens beckii*
Matricary grape fern	*Botrychium matricariifolium*
Little grapefern	*Botrychium simplex*

Swamp moonwort	*Botrychium tenebrosum*
White-tinged sedge	*Carex albicans*
Back's sedge	*Carex backii*
Cordroot sedge	*Carex chordorrhiza*
Fringed sedge	*Carex crinita*
Raven's-foot sedge	*Carex crus-corvi*
Star sedge	*Carex echinata*
Shoreline sedge	*Carex hyalenolepis*
Hoplike sedge	*Carex lupuliformis*
Intermediate sedge	*Carex media*
Plantain-leaved sedge	*Carex plantaginea*
Drooping sedge	*Carex prasina*
Cyperus-like sedge	*Carex pseudocyperus*
Reflexed sedge	*Carex retroflexa*
Rocky Mountain sedge	*Carex saximontana*
Fireweed	*Chamaenerion angustifolium*
Pipsissewa	*Chimaphila umbellata*
Drooping woodreed	*Cinna latifolia*
Purple clematis	*Clematis occidentalis*
Blue-eyed mary	*Collinsia verna*
Spotted coralroot	*Corallorhiza maculata*
Golden corydalis	*Corydalis aurea*
Large-bracted corydalis	*Corydalis curvisiliqua*
Pale corydalis	*Corydalis flavula*
Pink corydalis	*Corydalis sempervirens*
Silky prairie-clover	*Dalea villosa*
Tree clubmoss	*Dendrolycopodium dendroideum*
Sessile-leaved tick trefoil	*Desmodium sessilifolium*
Roundleaved sundew	*Drosera rotundifolia*
Marginal shield fern	*Dryopteris marginalis*
Purple coneflower	*Echinacea purpurea*
Elliptic spikerush	*Eleocharis elliptica*
Few-flowered spikerush	*Eleocharis quinqueflora*
Wolf's spikerush	*Eleocharis wolfii*
Wiegand's wildrye	*Elymus wiegandii*
Downy willowherb	*Epilobium strictum*
Slender cottongrass	*Eriophorum gracile*
Tawny cottongrass	*Eriophorum virginicum*
Wood spurge	*Euphorbia commutata*
Forked aster	*Eurybia furcata*
Large-leaved aster	*Eurybia macrophylla*
Schreber's aster	*Eurybia schreberi*
Queen of the prairie	*Filipendula rubra*
False mermaid	*Floerkea proserpinacoides*
Rough bedstraw	*Galium asprellum*
Black Huckleberry	*Gaylussacia baccata*

Hairy goldenaster	*Heterotheca villosa*
Povertygrass	*Hudsonia tomentosa*
Rock clubmoss	*Huperzia porophila*
Canadian St. Johnswort	*Hypericum canadense*
Pineweed	*Hypericum gentianoides*
Flax-leaved aster	*Ionactis linariifolia*
White morning-glory	*Ipomoea lacunosa*
Black-based quillwort	*Isoetes melanopoda*
Alpine rush	*Juncus alpinoarticulatus*
Edged rush	*Juncus marginatus*
Vasey's rush	*Juncus vaseyi*
Creeping juniper	*Juniperus horizontalis*
Intermediate pinweed	*Lechea intermedia*
Hairy pinweed	*Lechea mucronata*
Wild lupine	*Lupinus perennis*
Bog clubmoss	*Lycopodiella inundata*
Hairy waterclover	*Marsilea vestita*
Millet grass	*Milium effusum*
Sensitive briar	*Mimosa nuttallii*
Partridge berry	*Mitchella repens*
Naked miterwort	*Mitella nuda*
Mat muhly	*Muhlenbergia richardsonis*
Small sundrops	*Oenothera perennis*
Fragile prickly-pear	*Opuntia fragilis*
Frenchgrass	*Orbexilum onobrychis*
Clustered broomrape	*Orobanche fasciculata*
One-sided shinleaf	*Orthilia secunda*
Rough-leaved ricegrass	*Oryzopsis asperifolia*
Cinnamon fern	*Osmundastrum cinnamomeum*
Philadelphia panic grass	*Panicum philadelphicum*
Arrow arum	*Peltandra virginica*
Cobaea beardtongue	*Penstemon cobaea*
Slender beardtongue	*Penstemon gracilis*
Tube beardtongue	*Penstemon tubaeflorus*
Wild dill	*Perideridia americana*
Long beechfern	*Phegopteris connectilis*
Fameflower	*Phemeranthus parviflorus*
Rough-seeded fameflower	*Phemeranthus rugospermus*
Mountain ricegrass	*Piptatherum pungens*
Wood orchid	*Platanthera clavellata*
Hooker's orchid	*Platanthera hookeri*
Green fringed orchid	*Platanthera lacera*
Eastern prairie fringed orchid	*Platanthera leucophaea*
Woodland Bluegrass	*Poa saltuensis*
Clammyweed	*Polansia jamesii*
Crossleaf milkwort	*Polygala cruciata*

Pink milkwort	*Polygala incarnata*
Purple milkwort	*Polygala polygama*
Hairy Solomon's-seal	*Polygonatum pubescens*
Jointweed	*Polygonella articulata*
White-stemmed pondweed	*Potamogeton praelongus*
Silverweed	*Potentilla anserina*
Pennsylvania cinquefoil	*Potentilla pensylvanica*
Stem flower dewberry	*Rubus caulifloris*
Washington dewberry	*Rubus celer*
Swamp dewberry	*Rubus hispidus*
Recurved blackberry	*Rubus recurvans*
New England blackberry	*Rubus semisetosus*
Bottomland dewberry	*Rubus serratus*
Uniform bristleberry	*Rubus uniformis*
Shining willow	*Salix lucida*
Smith's bulrush	*Schoenoplectiella smithii*
Downy skullcap	*Scutellaria incana*
Veined skullcap	*Scutellaria nervosa*
Wild stonecrop	*Sedum ternatum*
Meadow spikemoss	*Selaginella eclipes*
Knotweed bristlegrass	*Setaria parviflora*
Annual skeletonweed	*Shinneroseris rostata*
Three-toothed cinquefoil	*Sibbaldiopsis tridentata*
Needle-pointed blue-eyed grass	*Sisyrinchium mucronatum*
Rough-leaved goldenrod	*Solidago patula*
Bog goldenrod	*Solidago uliginosa*
Yellow-lipped ladies-tresses	*Spiranthes lucida*
Hooded ladies-tresses	*Spiranthes romanzoffiana*
Little ladies-tresses	*Spiranthes tuberosa*
Spring ladies-tresses	*Spiranthes vernalis*
Rough-leaved hedge-nettle	*Stachys aspera*
Pickering morning-glory	*Stylisma pickeringii*
Snowberry	*Symphoricarpos albus*
Waxy meadowrue	*Thalictrum amphibolum*
Western spiderwort	*Tradescantia occidentalis*
Small bladderwort	*Utricularia minor*
Sessile-leaf bellwort	*Uvularia sessilifolia*
Low sweet blueberry	*Vaccinium angustifolium*
Velvetleaf blueberry	*Vaccinium myrtilloides*
American brookline	*Veronica americana*
Maple-leaved arrowwood	*Viburnum acerifolium*
Spurred violet	*Viola adunca*
Large-leaved violet	*Viola blanda*
Frost grape	*Vitis vulpina*
Rusty woodsia	*Woodsia ilvensis*
Oregon woodsia	*Woodsia oregana*

77.3(2) Threatened plant species:

Common Name	Scientific Name
Slender three-seeded mercury	*Acalypha gracilens*
Northern wild monkshood	*Aconitum noveboracense*
Round-stemmed false foxglove	*Agalinis gattingeri*
Inland serviceberry	*Amelanchier interior*
Fragrant false indigo	*Amorpha nana*
Woolly milkweed	*Asclepias lanuginosa*
Oval-leaved milkweed	*Asclepias ovalifolia*
Narrow-leaved milkweed	*Asclepias stenophylla*
Pawpaw	*Asimina triloba*
Water parsnip	*Berula erecta*
Watershield	*Brasenia schreberi*
Poppy mallow	*Callirhoe triangulata*
Water-starwort	*Callitriche heterophylla*
Low bindweed	*Calystegia spithamaea*
Assiniboine sedge	*Carex assininboinensis*
Carey's sedge	*Carex careyana*
Fibrous-root sedge	*Carex communis*
Spreading sedge	*Carex laxiculmis*
Delicate sedge	*Carex leptalea*
Yellow sedge	*Carex lurida*
Sterile sedge	*Carex sterilis*
Quill sedge	*Carex tenera*
Shaved sedge	*Carex tonsa*
Wood's sedge	*Carex woodii*
Pink turtlehead	*Chelone obliqua*
Marsh cinquefoil	*Comarum palustre*
Dayflower	*Commelina erecta*
Bunchberry	*Cornus canadensis*
Fireberry hawthorn	*Crataegus chrysocarpa*
Waxy-fruited hawthorn	*Crataegus pruinosa*
Showy lady's slipper	*Cypripedium reginae*
Shrubby cinquefoil	*Dasiphora fruticosa*
Silvery spleenwort	*Deparia acrostichoides*
Northern panic-grass	*Dichanthelium boreale*
Slim-leaved panic-grass	*Dichanthelium linearifolium*
Narrow-leaved spleenwort	*Diplazium pynocarpon*
Glandular wood fern	*Dryopteris intermedia*
Oval spikerush	*Eleocharis ovata*
Woodland horsetail	*Equisetum sylvaticum*
Yellow trout lily	*Erythronium americanum*
Upland boneset	*Eupatorium sessilifolium*
Slender fimbry	*Fimbristylis autumnalis*
Blue ash	*Fraxinus quadrangulata*

Bog bedstraw	*Galium labradoricum*
Oak fern	*Gymnocarpium dryopteris*
Needle-and-thread grass	*Hesperostipa comata*
Green violet	*Hybanthus concolor*
Winterberry	*Ilex verticillata*
Twinleaf	*Jeffersonia diphylla*
Green rush	*Juncus greenii*
Dwarf dandelion	*Krigia virginica*
Prairie bush clover	*Lespedeza leptostachya*
Cleft conobea	*Leucospora multifida*
Twinflower	*Linnaea borealis*
Whiskbroom parsley	*Lomatium foeniculaceum*
Western parsley	*Lomatium orientale*
Running clubmoss	*Lycopodium clavatum*
Bunchflower	*Melanthium virginicum*
Ten-petaled blazingstar	*Mentzelia decapetala*
Bog buckbean	*Menyanthes trifoliata*
Northern lungwort	*Mertensia paniculata*
Rock sandwort	*Minuartia michauxii*
Pinesap	*Monotropa hypopithys*
Southern adder's-tongue	*Ophioglossum vulgatum*
Royal fern	*Osmunda regalis*
Purple cliffbrake	*Pellaea atropurpurea*
White beardtongue	*Penstemon albidus*
Broad beech fern	*Phegopteris hexagonoptera*
Northern bog orchid	*Platanthera aquilonis*
Western prairie fringed orchid	*Platanthera praeclara*
Purple fringed orchid	*Platanthera psycodes*
Bog bluegrass	*Poa paludigena*
Nodding rattlesnake-root	*Prenanthes crepidinea*
Canada plum	*Prunus nigra*
Sand cherry	*Prunus pumila*
Pink shinleaf	*Pyrola asarifolia*
Meadow beauty	*Rhexia virginica*
Northern currant	*Ribes hudsonianum*
Wood's rose	*Rosa woodsii*
Garden dewberry	*Rubus aboriginum*
Short-stalked dewberry	*Rubus curtipes*
Southern dewberry	*Rubus enslenii*
Iron River dewberry	*Rubus ferrofluvius*
Common dewberry	*Rubus flagellaris*
Fuller's bristly dewberry	*Rubus fulleri*
Downy dewberry	*Rubus satis*
Widgeon grass	*Ruppia cirrhosa*
Bog willow	*Salix pedicellaris*
Leathery grapefern	*Sceptridium multifidum*

Low nutrush	*Scleria verticillata*
Buffaloberry	*Sheperdia argentea*
Scarlet globemallow	*Sphaeralcea coccinea*
Rush aster	*Symphyotrichum boreale*
Large arrowgrass	*Triglochin maritima*
Small arrowgrass	*Triglochin palustris*
Black arrowwood	*Viburnum molle*
Lance-leaved violet	*Viola lanceolata*
Macloskey's violet	*Viola macloskeyi*
Kidney-leaved violet	*Viola renifolia*
Summer grape	*Vitis aestivalis*
Yellow-eyed grass	*Xyris torta*

571—77.4(481B) Exemptions. Notwithstanding the foregoing list and the prohibitions in Iowa Code chapter 481B, a person may import, export, possess, transport, purchase, barter, buy, sell, offer to sell, hold for processing or process a species of animal or plant that is listed as endangered or threatened on the state list or as listed in the Code of Federal Regulations, Title 50, part 17, as amended to December 30, 1991, according to the following rules:

77.4(1) Trophies lawfully taken by persons licensed to hunt or fish (not including trapping or commercial harvest licenses) in another state, country or territory may be brought into this state and possessed, held for processing and processed but may not be sold or offered for sale.

77.4(2) Furs or skins of wildlife species appearing on the state list of endangered and threatened species that were lawfully taken or purchased in another state, country or territory may be imported, exported, purchased, possessed, bartered, offered for sale, sold, held for processing, or processed in this state if they are tagged or permanently marked by the state, country, or territory of origin.

77.4(3) Species of live animals appearing on the state list of endangered and threatened species may be imported, exported, possessed, purchased, bartered, offered for sale, or sold under the terms of a scientific collecting permit or educational project permit issued pursuant to Iowa Code section 481A.6 and administrative rules adopted by the department.

77.4(4) Plants, seeds, roots, and other parts of plants that appear on the state list of endangered and threatened plants that were lawfully taken or purchased in another state, country or territory may be imported, exported, purchased, possessed, offered for sale or sold in this state.

77.4(5) A part or product of a species of fish or wildlife appearing on the state list of endangered or threatened species that enters the state from another state or from a point outside the territorial limits of the United States may enter, be transported, exported, possessed, sold, offered for sale, held for processing or processed in accordance with the terms of a permit issued by the agency of jurisdiction in the state of origin or, if entering from outside the United States, a federal permit issued by the United States government. If proper documentation is available, a person may buy or offer to buy a part or product of a species of fish or wildlife appearing on the state or federal lists as long as it is imported from a legal source outside this state and proper documentation is provided.

77.4(6) If a person possesses a species of fish or wildlife or a part, product or offspring of such a species, proper documentation such as receipt of purchase and the permit from the state of origin or the U.S. government must be presented upon request of any conservation officer. Failure to produce such documentation is a violation of this chapter and will constitute grounds for forfeiture to the Iowa DNR.

77.4(7) A species of plant, fish or wildlife appearing on the state list of endangered and threatened species may be collected, held, salvaged and possessed under the terms of a scientific collecting permit issued pursuant to Iowa Code section 481A.6 and administrative rules adopted by the department.

77.4(8) Drainage district repairs and improvements to existing open ditch facilities are excluded from the department's protection efforts for the Topeka shiner. This includes facilities of levee and drainage districts established and maintained under Iowa Code chapter 468. This exclusion does not apply to new channelization, deepening, or leveeing of existing streams and rivers with permanent flow or existing streams with off-channel water areas capable of supporting fish.

77.4(9) The department may enter into an agreement with a private landowner for habitat improvements that benefit endangered and threatened species while limiting the potential impacts to the landowner arising when a covered species becomes more numerous due to the voluntary improvements to the habitat. If any covered species becomes more numerous as a result of the landowner's voluntary actions, a private landowner who commits to implement voluntary conservation measures for a listed species will not be required to implement additional measures, and additional land, water, or resource use restrictions will not be imposed.

a. The department will provide participating landowners with technical assistance to develop landowner habitat improvement agreements. Each agreement shall include the following:

(1) Landowner's name.

(2) Legal description of the property covered by the agreement.

(3) Length of agreement period.

(4) Species covered by the agreement.

(5) Baseline conditions: the estimated number of listed species and the size and condition of habitat for each species covered.

(6) Conservation measures to be implemented and implementation schedule.

(7) Financial commitment of the department and the landowner.

(8) Measures to determine if the agreement has been fulfilled.

(9) Any property use restrictions.

(10) Terms for the termination of the agreement prior to its scheduled expiration.

b. The landowner, through normal lawful activities, may return the property to the baseline or a mutually agreed-upon condition above the baseline at any time after expiration of the landowner habitat improvement agreement.

These rules are intended to implement Iowa Code chapter 481B.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 78
"Ginseng Harvesting and Sale"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 456A.24
State or federal law(s) implemented by the rulemaking: 50 CFR Parts 13 and 23

Public Hearing

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

September 23, 2025	6200 Park Avenue, Suite 200
1 to 2 p.m.	Des Moines, Iowa

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at karmin.klingenberg@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.326.0430 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al karmin.klingenberg@dnr.iowa.gov or civilrights@dnr.iowa.gov o por teléfono a 515.326.0430 al menos siete días antes del evento.

Public Comment

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

Karmin Klingenberg
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.326.0430
Email: karmin.klingenberg@dnr.iowa.gov

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

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

Purpose and Summary

Proposed Chapter 78 contains rules related to ginseng propagation, harvest, and sale of root to allow and maintain the lawful take of American Ginseng. Pursuant to Iowa Code section 456A.24(11), the Department is charged with establishing rules to govern its ginseng program in a manner that is compliant with federal law. This is because American Ginseng is a federally regulated species subject to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

This chapter has been reviewed and edited consistent with Executive Order 10 (2023). In an attempt to reduce and simplify regulatory burdens, the new chapter defines, clarifies, and minimizes the redundancies found in the previous version.

Analysis of Impact

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

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

Persons who propagate, harvest, or sell American Ginseng as a CITES-protected species will bear the costs.

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

Persons who propagate, harvest, or sell American Ginseng as a CITES-protected species will benefit.

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

- **Quantitative description of impact:**

Those who propagate, harvest, or sell ginseng other than "wild" ginseng will have a clear outline of ginseng root classifications and the rules that apply to each.

- **Qualitative description of impact:**

This rulemaking provides clearer rules for propagation and harvest of ginseng and makes the program more efficient and easier to enforce.

3. **Costs to the State:**

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

Department staff will continue to administer this program without bearing additional costs.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

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

There should be no changes to costs to outweigh the improved clarity provided.

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

No less costly or less intrusive methods are possible. Much of this chapter ensures compliance with federal law.

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

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

No alternative methods were considered.

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

Not applicable.

Small Business Impact

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

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

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

This chapter is being revised to clarify and simplify the regulations in order to reduce the burden on the public, including small businesses involved with the ginseng trade.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 78 and adopt the following **new** chapter in lieu thereof:

CHAPTER 78
GINSENG HARVESTING AND SALE

571—78.1(456A) Definitions. All words and phrases used in these rules shall have their ordinary and customary meaning, except that the following words and phrases shall be defined as follows:

"Controlled conditions" means an environment that is manipulated by human intervention for the purpose of plant production. Characteristics of controlled conditions include but are not limited to tillage, fertilization, weed and pest control, irrigation, or artificial shade or light or nursery operations such as potting, bedding, or protection from weather.

"Cultivated or artificially propagated ginseng" means ginseng that is nurtured, propagated or maintained under controlled conditions from a seed, cutting, division, callus tissue, root, rhizome, other plant tissue, spore, or other propagule that has been derived from cultivated parental stock.

"Cultivated parental stock" means plants grown under controlled conditions that are used for reproduction and must be maintained in sufficient quantities for propagation.

"Cutting" or *"division"* means a plant grown from the root, rhizome, stem, or leaf of another plant and is considered to be artificially propagated if the specimen comes from cultivated parental stock.

"Dealer" means any person who deals in ginseng, which includes without limitation buying, selling, purchasing, holding, brokering, billing for, bartering, trading or otherwise receiving payment for wild or cultivated ginseng in Iowa for the purpose of selling or otherwise transacting wild or cultivated ginseng. "Dealer" includes any person, including without limitation a harvester, who sells ginseng to any person other than a dealer licensed pursuant to these rules or lawfully licensed in another state.

"Dealer's permit" means a permit issued to a dealer by the department under these rules.

"Department" means the Iowa department of natural resources.

"Director" means the director of the Iowa department of natural resources or a designee.

"Ginseng" means all parts of the American Ginseng (*Panax quinquefolius*) plant, including without limitation roots, rhizomes, leaves and seeds, which may be cultivated or wild. "Ginseng," for purposes of these rules, does not mean those parts of the American Ginseng plant that have been processed.

"Green ginseng" means a root of ginseng from which the moisture has not been removed by drying. For the purposes of these rules, the amount of dried ginseng rhizome that can be derived from green ginseng rhizome shall be calculated using a ratio of three and three-tenths to one (3.3:1) by weight.

"Grower" means a person who grows cultivated ginseng for the purpose of selling the ginseng.

"Grower's permit" means a permit issued under these rules to a grower.

"Harvester" means any person who harvests, possesses, transports, cuts, gathers, destroys, digs or uproots wild ginseng for the purpose of selling the ginseng or for personal use.

"Harvester's permit" means a permit issued under these rules to a harvester.

"Nonresident" means a person other than a resident as defined by Iowa Code section 483A.1A.

"Permits" means dealer's permits, grower's permits and harvester's permits issued under these rules.

"Resident" means a resident as defined by Iowa Code section 483A.1A.

"Root" means the ginseng rhizome and its roots.

"True leaves" or *"prongs"* means compound leaves that include five leaflets consisting of three large leaflets and two small leaflets.

"Wild ginseng" means an unprocessed plant, dry or green root, rhizome, seed or other part of ginseng, which is growing in or has been collected from its native habitat, including wild ginseng plants that have arisen from a wild seed that is planted in the wild or that have been transplanted into native habitat. Wild ginseng is ginseng that has not been grown or nurtured by a person beyond planting of seeds or plant.

"Wild simulated" ginseng means an unprocessed plant, dry or green root, rhizome, seed or other part of ginseng that is propagated, planted or collected in an environment with some level of human intervention for the purpose of plant production. All "wild ginseng" rules shall apply to this classification.

571—78.2(456A) Season for legal harvest. The season for legally harvesting ginseng is September 1 through October 31.

571—78.3(456A) General prohibitions.

78.3(1) *Harvest.* From November 1 through the following August 31, no person shall harvest, dig, cut, uproot, gather, intentionally disturb, or destroy ginseng, whether the ginseng is wild, wild simulated, or cultivated ginseng. This prohibition shall not apply to the transplantation or intentional disturbance of cultivated ginseng when such activities are incidental to the cultivation and growing of cultivated ginseng in a nursery business.

78.3(2) *Sale.* A person, other than a dealer licensed pursuant to these rules, shall not sell ginseng from March 16 through August 31.

78.3(3) *Sale and possession of green ginseng.* A person shall not possess or transact business in green ginseng from November 21 through August 31 unless otherwise provided for by these rules.

78.3(4) *State-owned and state-managed lands.* In an effort to conserve and protect native stands of wild ginseng, the introduction of nonnative ginseng stock on state-owned or state-managed lands under the jurisdiction of the commission is prohibited, except in narrow circumstances as described in these rules. As such, a person shall not, at any time, possess, harvest, dig, cut, uproot, gather, plant, propagate, intentionally disturb or destroy ginseng or ginseng seed on state-owned or state-managed lands under the jurisdiction of the commission. Nothing in this chapter shall prohibit the department from taking measures on state-owned or state-managed lands under the jurisdiction of the commission to conserve and protect native wild ginseng, which may include without limitation planting and possessing seeds, or from carrying out other land management practices in areas where ginseng may be present.

571—78.4(456A) Ginseng permits. The department shall issue a dealer's permit upon receipt of a signed and complete application. An application shall be submitted on the form provided by the department, and payment of the appropriate fee shall be included with the application. Grower's and harvester's permits are available for sale through the department's electronic licensing system. The department shall not issue a permit if the department determines that the permit will be detrimental to the survival of ginseng or will otherwise be in contravention of the laws of this state or applicable federal laws. A person shall not carry, possess or use any other person's permit issued pursuant to these rules, except as specifically provided by these rules.

78.4(1) *Duplicate permits.* A duplicate grower's permit, harvester's permit or dealer's permit may be issued upon application to the department and the payment of a $4.50 fee plus any charges associated with the department's electronic licensing system.

78.4(2) *Grower's permits.*

a. A person must obtain a permit from the department to legally grow cultivated ginseng and make the permit available upon request by any peace officer. There is no fee for the permit, except for the charge associated with the department's electronic licensing system.

b. A grower's permit shall be valid for five years from the date of issuance.

78.4(3) *Harvester's permits.*

a. Any person who harvests wild ginseng must have a valid harvester's permit issued by the department and shall produce such permit upon request to any peace officer or the owner or person in lawful control of the land upon which the permittee may be harvesting wild ginseng while the person is engaged in harvesting activities, including the person's moving to or from the harvest site, transporting ginseng and selling of the harvested ginseng.

b. A harvester's permit may be obtained through the department's electronic licensing system for a fee of $35 for residents and $65 for nonresidents plus any charges associated with the department's electronic licensing system.

c. A harvester's permit shall be valid from September 1 through March 15 of the following year.

d. A harvester who has a valid harvester's permit may sell wild ginseng from September 1 through March 15 of the following year.

e. A harvester with a valid harvester's permit may retain no more than four ounces of dry wild ginseng for personal consumption for one year beyond the expiration date of the permit. All wild or wild simulated ginseng possessed pursuant to this paragraph shall be for the harvester's personal use only and cannot be lawfully sold.

f. No person may sell, barter or otherwise offer for sale any ginseng that has been unlawfully collected, obtained or possessed in violation of this chapter, the Iowa Code, or the Code of Federal Regulations.

78.4(4) *Dealer's permits.*

a. A dealer in Iowa must have a valid dealer's permit issued by the department and make the permit available upon request by any peace officer. A dealer's paid employees and family members who work at a dealer's primary place of business as identified on the dealer's permit may operate legally under the dealer's permit. For purposes of this subrule, family members include a dealer's spouse, domestic partner, parents, siblings, and children.

b. In order to be considered, an application for a dealer's permit shall be made on the form provided by the department, be complete, and be executed by the person seeking the dealer's permit.

c. Dealer's permits shall be issued that authorize a person to deal in any amount of ginseng in a license year. The permit application shall be accompanied by a $250 permit fee for Iowa residents and a $500 permit fee for nonresidents plus any charges associated with the department's electronic licensing system.

d. A dealer's permit shall be valid for a license year, from April 1 until March 31 of the following year.

e. A dealer's permit must be shown to the department when the department is certifying ginseng and must be shown to harvesters or other dealers when the dealer is buying ginseng.

571—78.5(456A) Dealers—prohibitions. A dealer shall not buy, deal, purchase, sell, or otherwise transact business of ginseng, its seeds, or its parts:

1. If the dealer knows or should have known that the ginseng was harvested illegally.
2. Without inspecting the permit of the harvester or dealer.
3. If the dealer knows or should have known that the harvester or dealer has violated this chapter.

571—78.6(456A) Dealers—recordkeeping.

78.6(1) *Contents of records.* Each permitted ginseng dealer shall keep individual, accurate, legible and complete records of each ginseng transaction. The records shall be on forms prescribed by the department and completed in their entirety by the ginseng dealer or a representative of the department. The department will provide a reasonable number of these forms at no cost to the dealer. The dealer's record of each ginseng transaction shall include:

a. The date of transaction;

b. The name and address of the buyer or seller, whichever is applicable for the transaction;

c. The harvester's permit number or dealer's permit number if a dealer is buying ginseng in the transaction;

d. A description of the ginseng transacted, including the actual weight of the ginseng transacted and whether the ginseng is dried or green. If the ginseng is green ginseng, the weight shall also be converted to the dried weight of ginseng according to the ratio in 571—78.3(456A);

e. The name of the county or counties where the ginseng was harvested if the ginseng is purchased from a harvester;

f. A copy of the ginseng's certificate of origin, signed by the seller, if applicable;

g. The year of harvest for the ginseng bought or sold; and

h. Any additional information as requested by the department and included on the department's form.

78.6(2) *Monthly reporting.* Each dealer shall submit to the department copies of all records required by 78.7(1) on a monthly basis, no later than the fifteenth day of each month.

78.6(3) *Carryover report.* The dealer must complete an inventory of any roots remaining in the dealer's possession in Iowa as of April 1, including the roots' certified weight and designation as either wild, wild simulated, or cultivated ginseng, or a statement that the dealer has no roots remaining in the dealer's possession. Any certification regarding a root's weight as required by this subrule shall be completed through the department's agent upon appointment. Any roots carried over from one license year to the next shall be documented on the following license year's reports.

571—78.7(456A) Dealer locations.

78.7(1) *Transact business.* Ginseng dealers shall transact business only at the location specified on the dealer's permit or at the place of business specified on the permit of any other dealer who holds a dealer's permit in Iowa and is involved in the transaction.

78.7(2) *Location permits.*

a. A dealer who wishes to transact business at a location other than the locations provided for in 78.8(1) may obtain a location permit from the department. Each location permit shall be valid only for the location specified, on the dates and times listed on the location permit, and shall entitle the dealer to operate at that location in addition to the location specified on the corresponding dealer's permit.

b. The department shall, upon application and payment of the applicable location permit fee, furnish a location permit to the dealer. The location permit fee shall be $5 for residents and $50 for nonresidents plus any charge associated with the department's electronic licensing system.

78.7(3) *Duplicate location permits.* A duplicate location permit may be issued upon application to the department and the payment of a $4.50 fee plus any charge associated with the department's electronic licensing system.

571—78.8(456A) Certificates of origin.

78.8(1) *Shipments.* Every shipment of ginseng to a location outside the state of Iowa by a grower, harvester or dealer shall be accompanied by a certificate of origin, or shipping certificate, that certifies that the ginseng was lawfully harvested.

a. The department will issue a certificate of origin for cultivated ginseng to a grower or dealer on a form provided by the department based upon the permit holder's compliance with the requirements of this chapter.

b. The department will issue a certificate of origin for wild or wild simulated ginseng to a harvester on a form provided by the department based upon the permit holder's compliance with the requirements of this chapter.

c. The certificate of origin for cultivated, wild simulated, and wild ginseng will be issued by the department's agent after the roots have been weighed and certified upon appointment.

78.8(2) *Wild ginseng originating in another state.*

a. No person may ship in or out of this state to or from another state or foreign country any ginseng that originates in another state or foreign country without a valid certificate of origin issued by that other state or foreign country.

b. If a resident dealer receives wild ginseng that originated in another state and if a certificate of origin issued by that state does not accompany the wild ginseng, the dealer shall return the wild ginseng to the sender immediately upon its receipt.

c. A dealer shall maintain a copy of the certificate of origin with the record of the transaction.

d. It shall be lawful for any person to have in possession any ginseng lawfully harvested or purchased outside Iowa and lawfully brought into the state so long as the person possesses a valid certificate of origin for the ginseng.

571—78.9(456A) Records retention. Any records required by this chapter to be maintained or submitted shall be produced for inspection upon request by the department, director, officer appointed by the department, or peace officer. All records under this chapter must be retained for a period of three years after the expiration of the grower's, harvester's, or dealer's permit. Failure to maintain records or to submit reports as required by these rules is a violation of these rules.

571—78.10(456A) Restrictions and prohibitions for harvesting wild ginseng.

78.10(1) No person shall harvest a plant unless the plant possesses three or more true leaves or prongs and a flowering or fruiting stalk with red berries. If, after a person removes a plant from the soil with the requisite leaves or prongs, it is determined the root has less than five stem scars, the person shall return the plant to the soil at the same location and make best efforts to return the plant and the surrounding area to their condition prior to harvest of the plant. In no event shall a person harvest or possess a wild ginseng root unless the root has at least five stem scars.

78.10(2) When a person harvests ginseng, the entire plant, except the fruit and seeds, shall be retained until the plant is taken to the harvester's residence or place of business, as identified in the harvester's permit.

571—78.11(456A) Additional restrictions and prohibitions for ginseng.

78.11(1) All persons harvesting wild or wild simulated ginseng shall plant all seeds collected from such plants within 100 feet of the parent plant. Seeds collected for planting pursuant to this subrule should be collected from the fruit by gently pressing the fruit of the ginseng.

78.11(2) A person shall use no tool other than the person's finger to plant ginseng seeds and shall not push seeds to a depth greater than one inch into the soil.

78.11(3) A person shall not possess or transport seeds of wild or wild simulated ginseng more than 100 feet from the site of the parent plant.

571—78.12(456A) Compliance with laws. A person shall not violate any state, federal or local laws in harvesting, dealing or shipping ginseng.

571—78.13(456A) Violations of this chapter.

78.13(1) A person violating this chapter shall be subject to a scheduled fine pursuant to Iowa Code section 805.8B(4) and permit suspension, modification and revocation pursuant to 571—78.17(456A).

78.13(2) Each ginseng plant or part thereof, including any ginseng, unlawfully harvested, dealt, or shipped shall be a separate offense. More than one person per plant may be guilty of violating this chapter.

78.13(3) Materials determined by the department's law enforcement personnel to be contraband or to have been taken in violation of this chapter may be seized and disposed of in conformance with Iowa Code chapter 809.

571—78.14(456A) Possession.

78.14(1) When a person is in possession of ginseng, including the shipping or transporting of ginseng, if one or more parts of ginseng are deemed unlawful, the entire contents of possession shall be deemed unlawful.

78.14(2) Any person or dealer who has in possession any ginseng or parts thereof shall upon request by the department, director, any officer appointed by the department, or peace officer show the ginseng to the department, director, or officer; a refusal to do so is a violation of this chapter.

571—78.15(456A) Valuation. The value of seized ginseng that was harvested or possessed in violation of these rules shall be based on the current market value, as determined by the department.

571—78.16(456A) Revocation of permits. Any permit issued pursuant to this chapter may be revoked, in whole or in part, by written notice if the department determines that the permit holder has violated any provision of this chapter and determines that continuation of the permit is not in the public interest. Such revocation shall become effective upon a date specified in the notice. The notice shall state the extent of the revocation and the reasons for the action. Within 30 days following receipt of the notice of a revocation, the permit holder may file a notice of appeal, requesting a contested case pursuant to 561—Chapter 7. The notice of appeal shall specify the basis for requesting that the permit be reinstated.

571—78.17(456A) Reciprocity. Nonresident harvesters, growers and dealers from states that regulate American Ginseng by allowing the harvesting, cultivating and dealing in American Ginseng but that prohibit Iowa harvesters, growers and dealers to lawfully operate in those states are not eligible for permits issued by the department.

These rules are intended to implement Iowa Code section 456A.24(11).

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 79
"Fish Stocking Procedures and Fees for Private Waters"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 456A.24 and 481A.78
State or federal law(s) implemented by the rulemaking: Iowa Code sections 456A.24 and 481A.78

Public Hearing

A public hearing at which persons may present their views orally will be held via virtual meeting as follows. Persons who wish to attend the virtual meeting should contact Randall Schultz via email. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

September 24, 2025 12 noon to 1 p.m.	Virtual

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at randy.schultz@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 319.217.9317 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al randy.schultz@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 319.217.9317 al menos siete días antes del evento.

Public Comment

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

Randall Schultz
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: randy.schultz@dnr.iowa.gov

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

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

Purpose and Summary

Chapter 79 contains procedures and fees for the stocking of fish into private waters. This chapter is antiquated and unnecessary. The Department no longer produces nor provides fish for private waters. Consistent with Executive Order 10 (2023), this chapter is proposed for rescission.

Analysis of Impact

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

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

There are no costs associated with the proposed rulemaking.

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

Not applicable.

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

- **Quantitative description of impact:**

There is no impact from rescinding the existing chapter.

- **Qualitative description of impact:**

There is no impact from rescinding the existing chapter.

3. **Costs to the State:**

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

There are no costs associated with this rulemaking.

- **Anticipated effect on State revenues:**

There will be no effect on State revenues.

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

Not applicable. This rulemaking will rescind a chapter that is no longer needed.

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

The purpose of this chapter is no longer needed, and the chapter will be rescinded.

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

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

No alternative methods were considered.

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

The chapter is being rescinded since it is no longer needed.

Small Business Impact

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

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

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

Rescission of this chapter may benefit small business by allowing private aquaculture producers to fulfill the role of providing fish for private water bodies in Iowa.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **571—Chapter 79**.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 80
"Salvage of Fish and Game"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481A.11, 481A.38, and 481A.39

State or federal law(s) implemented by the rulemaking: Iowa Code sections 481A.11, 481A.38, and 481A.39

Public Hearing

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Matt Bruner via email. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Matt Bruner prior to the hearing to facilitate an orderly hearing.

September 23, 2025 9 a.m.	Via Google Meet

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at matt.bruner@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.336.5456 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al matt.bruner@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.336.5456 al menos siete días antes del evento.

Public Comment

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

Captain Matt Bruner
Iowa DNR Law Enforcement Bureau
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.336.5456
Email: matt.bruner@dnr.iowa.gov

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

Asistencia lingüística gratuita: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita, comuníquese con el Departamento al matt.bruner@dnr.iowa.gov.

Purpose and Summary

Proposed Chapter 80 establishes rules for the lawful salvage, distribution, and possession of fish and game that are either accidentally killed by motor vehicles, confiscated by authorities, or found dead. The proposed chapter ensures that salvaged resources are used appropriately (primarily for human consumption or animal feed) and not exploited for commercial gain or illegal poaching. The chapter also outlines procedures for collecting shed antlers and found-dead deer ("deadheads") during different times of the year.

Analysis of Impact

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

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

Individuals who seek to salvage game or fish will have minimal to no costs to comply with the tagging and authorization process. Self-paced 24/7 online digital reporting requirements (e.g., electronic deadhead reporting) during certain times of the year will decrease wait times and streamline the collection and authorization process.

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

Hunters and wildlife enthusiasts benefit from clearer, simplified rules and expanded, flexible options for collecting deadheads and shed antlers. Public institutions and nonprofits retain prioritized access to salvaged or confiscated fish and game. The general public benefits from improved regulatory transparency and consistent application of salvage processes.

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

- **Quantitative description of impact:**

Minimal to no direct economic cost is expected. Updates to the chapter primarily involve improving clarity, reducing redundancy, and increasing administrative efficiency. No new fees are introduced. Existing salvage tag protocols remain in place and are shifted to electronic reporting for deadheads during parts of the year.

- **Qualitative description of impact:**

The rules encourage lawful collection and use of salvageable game, antlers, and fish and increase clarity of authorized activities. The rules increase efficiency for the public by allowing digital submission options.

3. **Costs to the State:**

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

Minor administrative updates to digital platforms, such as online reporting for deadheads, will be required. Overall enforcement cost is expected to decrease due to improved clarity, reporting structure, and digital deadhead reporting parts of the year versus the current exclusively in-person reporting and tagging system.

- **Anticipated effect on State revenues:**

No significant impact is anticipated. There are no new permits or fees, and salvage is still not a revenue-generating activity.

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

Costs of inaction include continued public confusion, inconsistent enforcement, and potential underutilization of salvageable resources. Benefits of action include regulatory clarity, improved compliance, and administrative efficiency without imposing new costs.

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

No less costly or intrusive methods were identified. The proposed rulemaking reflects the least burdensome, most efficient method to achieve the goals of Chapter 80 and the requirements of Executive Order 10.

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

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

Eliminating Chapter 80, including salvage and deadhead provisions, and retaining the original chapter without edits were considered.

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

Eliminating salvage rules would reduce public access to usable game and fish and diminish wildlife resource utilization, which is contrary to public and conservation interests.

Small Business Impact

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

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

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

This rulemaking does not have a substantial impact on small business. If any businesses (e.g., venison processors or taxidermists) interact with salvaged game, existing prohibitions on commercial use remain unchanged. There are no additional compliance or reporting requirements imposed on small business. The chapter is already written in a performance-based, flexible manner (e.g., offering electronic or verbal authorization). Small businesses are not subject to design or operational standards under this chapter. No small business exemptions are necessary since none are burdened.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 80 and adopt the following **new** chapter in lieu thereof:

CHAPTER 80
SALVAGE OF FISH AND GAME

571—80.1(481A) Salvage. Salvage authorizes the possession of confiscated fish or game or game accidentally killed by a motor vehicle on a public highway for the purpose of human consumption or the feeding of domestic animals. Any other benefits derived from the possession of legally salvaged game (such as legal sale of hides, plumage, or antlers) is a secondary benefit only. Peace officers are not to salvage game solely for the purpose of financial gain or commercial taxidermy.

80.1(1) The following game when accidentally killed by a motor vehicle shall not be considered salvageable: spotted fawn deer and hen pheasants.

80.1(2) All salvaged game or fish shall be accompanied with a salvage tag signed by the holder and a peace officer or designee of the director of the department of natural resources and shall be valid for the time period assigned on the tag. The salvage tag shall remain with the game or fish until the game or fish is consumed. All salvage tags referred to in this chapter are not transferable.

571—80.2(481A) Game killed by motor vehicle.

80.2(1) Any person wanting to possess game accidentally killed by a motor vehicle on a highway shall immediately contact the nearest conservation officer, Iowa state trooper, sheriff's department, or police department to request and receive a salvage tag prior to taking possession of said game. The whole carcass of the game animal must be removed from the scene.

80.2(2) When a request is made for game accidentally killed by a motor vehicle, the game shall, when salvageable, be disposed of in accordance with the following priorities:

a. Individuals involved in the accident;

b. Public institutions;
c. Nonprofit organizations;
d. Others.

571—80.3(481A) Confiscated fish or game.

80.3(1) The following conditions shall apply to a person being allowed to take possession of fish or game confiscated by the department of natural resources or a court.

80.3(2) Confiscated fish or game, when salvageable, shall be disposed of in accordance with the following priorities:

a. Public institutions.
b. Nonprofit organizations.
c. Others.

571—80.4(481A) Deadheads and shed-antlers.

80.4(1) Naturally shed deer antlers may be collected and possessed at any time of year.

80.4(2) Found-dead deer heads with attached antlers, also known as deadheads, may be collected and possessed by individuals who possess a valid hunting license and have paid the habitat fee pursuant to Iowa Code section 483A.1 unless exempt under Iowa Code section 483A.24(1) or 483A.24(8). Collection is permitted during the following time periods under the following conditions:

a. February 1 through July 31: an individual must electronically complete and submit a deadhead report and possession authorization through the department's website prior to collecting and possessing each deadhead.

b. August 1 through January 31: an individual must contact the local conservation officer and request a physical deadhead tag prior to taking possession. Verbal or electronic authorization from a conservation officer is sufficient for temporary possession until a physical tag can be issued and affixed by a conservation officer.

80.4(3) This rule does not apply to deer that have been shot or killed by unlawful methods or means.

These rules are intended to implement Iowa Code sections 481A.11, 481A.38, and 481A.39.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 81
"Fishing Regulations"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481A.38, 481A.39, 481A.67 and 481A.76

State or federal law(s) implemented by the rulemaking: Iowa Code sections 481A.38, 481A.39, 481A.67 and 481A.76

Public Hearing

A public hearing at which persons may present their views orally will be held via virtual meeting as follows:

September 24, 2025 12 noon to 1 p.m.	Via videoconference

Persons who wish to attend the virtual meeting should contact Randall Schultz via email. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at randy.schultz@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 319.217.9317 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al randy.schultz@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 319.217.9317 al menos siete días antes del evento.

Public Comment

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

Randall Schultz
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: randy.schultz@dnr.iowa.gov

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Purpose and Summary

Proposed Chapter 81 establishes seasons, territories, daily bag limits, possession limits, and length limits for Iowa sport fishing. The regulation of fisheries ensures sustainable populations and recreational opportunities for Iowans into the future.

Analysis of Impact

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

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

There are no costs associated with this rulemaking.

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

This chapter benefits recreational water body users by updating, clarifying, and reducing content of Iowa fishing regulations.

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

- **Quantitative description of impact:**

Fishing regulations ensure sustainable fishing practices, prevent overfishing, and maintain healthy fish stocks for future generations. Fishing contributes to the economy through angler license, gear, and bait purchases and travel.

- **Qualitative description of impact:**

Fishing provides relaxation, recreation, social bonding, and outdoor recreation opportunities, improving the general quality of life for Iowans.

3. **Costs to the State:**

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

There are no new costs associated with this rulemaking. The cost of implementation and enforcement of these rules falls within the existing duties and budgets of the Department law enforcement and fisheries bureaus.

- **Anticipated effect on State revenues:**

No effect on State revenues is anticipated.

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

This chapter implements fair chase practices and restrictions on overharvest of fishes in public waters in order to ensure the sustainability of this resource as mandated by the Iowa Code.

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

There are no less costly or less intrusive methods. The Department's duty to manage and regulate fish in public waters is mandated by the Iowa Code. The specific details of these regulations could be formulated in many other ways; however, the proposed rules have been carefully drafted to ensure protection of public natural resources while maximizing opportunities for public recreation.

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

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

No alternative methods were considered. This is a regulatory chapter covering restrictions for overharvest of fishes in public waters. Variations in the details of fishing regulations are regularly reviewed and adjusted based on scientific data collected by the Department.

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

There is no fundamentally different way of regulating fisheries. Iowa's regulations are substantially the same as other states in regulating methods of take, seasons, and bag/possession limits.

Small Business Impact

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

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

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

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

This chapter does not have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 81 and adopt the following **new** chapter in lieu thereof:

CHAPTER 81
FISHING REGULATIONS

571—81.1(481A) Seasons, territories, daily bag limits, possession limits, and length limits.

	INLAND WATERS				BOUNDARY RIVERS
Lake Sturgeon	Closed	0	0	0	Same as inland waters
Shovelnose Sturgeon	Continuous	None	None	None	Same as inland waters except no harvest allowed in the Big Sioux River and aggregate daily bag limit 10, aggregate possession limit 20, in the Missouri River
Paddlefish*	Continuous	2	4	None	Mississippi River— Same as inland waters except for an open season and length limit; see below* Missouri and Big Sioux Rivers—Special regulations; see below*
Yellow Perch	Continuous	25	50	None	Same as inland waters except no bag or possession limit in the Missouri River
Trout	Continuous	5	10	None*	Same as inland waters
Catfish*	Continuous	8 Lakes 15 Streams	30	None	Same as inland waters except no bag or possession limit in the Mississippi River
Black Bass (Largemouth Bass) (Smallmouth Bass) (Spotted Bass)	Continuous	3 In Aggregate	6	See below*	Continuous open season; aggregate daily bag limit 5, aggregate possession limit 10 See below*
Combined Walleye, Sauger and Saugeye	Continuous*	5*	10*	None*	Continuous open season; aggregate daily bag limit 6, aggregate possession limit 12; except aggregate daily bag limit 4, aggregate possession limit 8, in the Big Sioux and Missouri rivers See below*

	INLAND WATERS				BOUNDARY RIVERS
Northern Pike	Continuous*	3	6	None	Continuous open season; daily bag limit 5, possession limit 10; except daily bag limit 6, possession limit 12, in the Big Sioux River
Muskellunge or Hybrid Muskellunge	Continuous*	1	1	40″	Same as inland waters
Crappie	Continuous	25*	None	None	Same as inland waters except 50 in possession
Bluegill	Continuous	25*	None	None	Same as inland waters except in aggregate with pumpkinseed on the Mississippi River
All other fish species*	Continuous	None	None	None	See below*
Frogs (except Bullfrogs)	Continuous	48	96	None	Same as inland waters
Bullfrogs (Lithobates catesbeiana)	Continuous	12	12	None	Same as inland waters

*Exceptions noted in 571—81.2(481A).

571—81.2(481A) Exceptions to seasons and limits, set in 571—81.1(481A).

81.2(1) Exception closed season. In lakes West Okoboji, East Okoboji and Spirit, there shall be a closed season on walleye beginning February 15 each year through the first Saturday in May. Open season for muskellunge and tiger muskie shall be from May 21 through November 30.

81.2(2) Black bass. The department may post season, bag or possession limits, length limits, and catch and release regulations specific to a body of water at that body of water. For bodies of water without posted regulations, the following regulations apply to black bass:

a. A 15-inch minimum length limit shall apply in all public lakes.

b. A 12-inch minimum length limit shall apply in all interior streams, river impoundments, and the Missouri River including chutes and backwaters.

c. A 14-inch minimum length limit shall apply to the Mississippi River including chutes and backwaters.

81.2(3) Walleye.

a. West Okoboji, East Okoboji, Spirit, Upper Gar, Minnewashta, and Lower Gar lakes in Dickinson County; Storm Lake in Buena Vista County; Clear Lake in Cerro Gordo County; and Big Creek Lake in Polk County. The daily bag limit shall be three, with a possession limit of six.

b. Length limits. Length limits shall apply to walleye in public waters that have length limits posted or published.

81.2(4) Paddlefish snagging is permitted in waters of the state designated in 571—81.1(481A) except as follows:

a. There shall be no open season above the Interstate 29 bridge in the Big Sioux River, nor in any tributary of this stream within 200 yards immediately upstream of a tributary confluence.

b. Snagging for paddlefish on the Missouri and Big Sioux Rivers is limited to Iowa waters only, beginning in the Big Sioux River below the Interstate 29 bridge to the Big Sioux River's confluence with the Missouri River and in the Missouri River, including all backwaters and sloughs and any tributary of the Missouri River, beginning at the Big Sioux River confluence and extending to the Hamburg Landing boat ramp.

(1) There shall be an open season from February 1 through April 30.

(2) Snagging hours are from sunrise to sunset.

(3) Bag limit is one paddlefish per paddlefish fishing license.

(4) Paddlefish fishing license quota is 950 for resident anglers and 50 for nonresident anglers. Anglers may purchase one paddlefish license from December 15 through December 31 and either a first or second license between January 1 and January 7.

(5) Each angler fishing for paddlefish and any species listed in 81.2(11) on the Missouri and Big Sioux Rivers shall have a valid paddlefish license and unused tag.

(6) Immediately upon an angler's taking into possession a legal paddlefish, a valid transportation tag issued with the license shall be visibly attached to the fish's lower jaw. The transportation tag shall remain affixed to the paddlefish until the paddlefish is processed for consumption. The transportation tag shall be proof of possession of the carcass by the above-mentioned licensee. During the closed season, the possession of paddlefish on the Missouri and Big Sioux Rivers is prohibited unless the paddlefish are legally taken in Nebraska or South Dakota.

(7) A gaffe hook or other penetrating device cannot be used as an aid in the landing of a snagged fish.

c. Snagging for paddlefish on the Mississippi River is restricted to the area within 500 yards below the navigation dams and their spillways. The open season on the Mississippi River is the period from March 1 through April 15.

d. On the Mississippi River, a 33-inch maximum length limit shall apply; any paddlefish measuring 33 inches or more when measured from the front of the eye to the natural unaltered fork of the tail must immediately be released alive. On the Missouri and Big Sioux Rivers and on each Missouri River tributary from its confluence and extending to below its Interstate 29 bridge, a 35-inch to 45-inch protected-slot limit shall apply; a paddlefish measuring 35 inches to 45 inches when measured from the front of the eye to the natural unaltered fork of the tail shall immediately be released alive. To measure a paddlefish, the angler shall use a flexible tape and measure along and over the center line contour of the fish while it is lying flat.

81.2(5) Trout regulations. The department may post season, bag or possession limits, length limits, catch and release regulations, and tackle restrictions specific to a body of water at that body of water. On bodies of water posted as artificial lure only, "artificial lure" means a lure that does not contain or have applied to it any natural or synthetic substances designed to attract fish by the sense of taste or smell. For bodies of water without posted regulations, the following regulations apply to trout:

a. Open season is continuous.

b. A five-fish daily bag limit and ten-fish possession limit shall apply to any combination of brown trout, brook trout, rainbow trout, and their hybrids.

c. A trout fee is required to fish for and possess trout.

81.2(6) Exception border lakes. In Little Spirit Lake, Dickinson County; Iowa and Tuttle (Okamanpedan) lakes, Emmet County; Burt (Swag) Lake, Kossuth County; and Iowa Lake, Osceola County, the following species have a continuous open season and daily bag and possession limits as set forth below:

a. Walleye—daily bag and possession limit 3;

b. Northern pike—daily bag and possession limit 3;

c. Largemouth and smallmouth bass—daily bag and possession limit 3;

d. Channel catfish—daily bag and possession limit 8;

e. Yellow perch—daily bag and possession limit 25;

f. Crappie species—combined daily bag and possession limit 25;

g. Sunfish (bluegill, pumpkinseed, green sunfish, orangespotted sunfish, longear sunfish, warmouth, and hybrids)—combined daily bag and possession limit 25;

h. Muskellunge—daily bag and possession limit one. Open season shall be May 21 through November 30. A 40-inch minimum length limit shall apply on all border lakes;

i. Spears and bow and arrow may be used to take carp, buffalo, bowfin, gar, freshwater drum, and quillback with a continuous open season;

j. All species not listed above are subject to the inland regulations of the state and have a continuous open season.

81.2(7) DeSoto Bend Lake. All fishers shall conform with federal refuge regulations as posted under the authority of 50 CFR Section 32.34(a) effective as of [effective date of this rulemaking]. The text of the rules will be contained on the signs as posted.

81.2(8) General restriction. Anglers must comply with the most restrictive set of regulations applicable to the water on which they are fishing. Where length limits apply, fish less than the legal length must be immediately released into the water from which they were caught.

81.2(9) Catfish. For the purpose of this rule, stream catfish bag and possession limits apply at the federal flood control impoundments of Rathbun Lake, Red Rock Lake, Saylorville Lake, and Coralville Lake.

81.2(10) Identification of catch. No person shall transport or possess on any waters of the state any fish unless (a) the species of any such fish can be readily identified and a portion of the skin (at least 1 square inch) including scales is left on all fish or fillets and (b) the length of fish can be determined when length limits apply. "On any waters of the state" includes from the bank or shoreline in addition to wading and by boat.

81.2(11) Method of take. Artificial light may be used in the taking of any fish. The following species of fish may be taken by snagging, spearing, and bow and arrow: common carp, bighead carp, grass carp, silver carp, black carp, bigmouth buffalo, smallmouth buffalo, black buffalo, quillback, highfin carpsucker, river carpsucker, spotted sucker, white sucker, shorthead redhorse, golden redhorse, silver redhorse, freshwater drum, shortnose gar, longnose gar, dogfish, gizzard shad, and goldfish. All other species of fish not hooked in the mouth, except paddlefish legally taken by snagging, must be returned to the water immediately with as little injury as possible. Snagging is defined as the practice of jerking any type of hook or lure, baited or unbaited, through the water with the intention of hooking fish in an area other than the mouth. No hook larger than a 5/0 treble hook or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging. Exceptions to snagging as a method of take are as follows:

a. No snagging is permitted in the following areas:

(1) Des Moines River from directly below Saylorville Dam to the Southeast 14th Street bridge in Des Moines.

(2) Cedar River in Cedar Rapids from directly below the 5 in 1 Dam under Interstate 380 to the 1st Avenue bridge.

(3) Cedar River in Cedar Rapids from directly below the "C" Street Roller Dam to 300 yards downstream.

(4) Iowa River from directly below the Coralville Dam to 300 yards downstream.

(5) Chariton River from directly below Lake Rathbun Dam to 300 yards downstream.

(6) Spillway area from directly below the Spirit Lake outlet to the confluence at East Okoboji Lake.

(7) Northeast bank of the Des Moines River from directly below the Ottumwa Dam, including the catwalk, to the Jefferson Street Bridge. Snagging from the South Market Street Bridge is also prohibited.

(8) Missouri River, any Missouri River tributary beginning at its confluence and extending below its Interstate 29 bridge and the Big Sioux River from the Interstate 29 bridge to the confluence with the Missouri River, with the exception of snagging paddlefish or any of the species listed in 81.2(11) during the paddlefish open season.

(9) Des Moines River from directly below the Hydroelectric Dam (Big Dam) to the Hawkeye Avenue Bridge in Fort Dodge.

(10) Des Moines River from directly below the Little Dam to the Union Pacific Railroad Bridge in Fort Dodge.

(11) Skunk River from directly below Oakland Mills Dam to the downstream end of the 253rd Street boat ramp.

b. No snagging, bow and arrow fishing, or spearing of fish is permitted in the following areas:

(1) Clear Lake and Ventura Marsh from the Ventura Grade, Jetties and Bridge.

(2) Lost Island Lake Inlet within 300 feet of the concrete culvert and metal fish barrier.

(3) Lost Island Lake Outlet within 300 feet of the outlet structure and metal fish barrier.

(4) Barringer Slough Outlet within 300 feet of the outlet and metal fish barrier.

(5) The outlet area of Lower Gar Lake beginning at 230th Avenue and extending downstream to the signed Iowa Great Lakes Sanitary District property line.

81.2(12) Panfish. The daily bag limit for crappie and bluegill applies only to public waters of the state. In all waters of the Mississippi River, the daily bag and possession limit applied individually to crappie, yellow perch and rock bass shall be 25 and 50, respectively. In all waters of the Mississippi River, the daily bag and possession limit applied in the aggregate for bluegill and pumpkinseed and for white bass and yellow bass shall be 25 and 50, respectively.

81.2(13) Culling. It is prohibited to sort, cull, high-grade, or replace any fish already in possession. Participants in permitted black bass fishing tournaments are exempted, as are participants in catch and release catfish fishing tournaments if the participants are fishing from a boat with a functioning aerated or water-circulated live well. Any fish taken into possession by holding in a live well, on a stringer, or in other fish-holding devices is part of the daily bag limit. Once the daily bag limit of a particular species is reached, fishing for that species is permitted as long as all fish of that species caught are immediately released.

571—81.3(481A) Trotlines and throw lines.

81.3(1) *Where permitted.* It shall be lawful to use trotlines or throw lines in all rivers and streams of the state, except in Mitchell, Howard, Winneshiek, Allamakee, Fayette, Clayton, Delaware, Dubuque, and Jackson counties. Trotlines or throw lines may be used in the above nine counties in the following stream segments: Mississippi River; Maquoketa River, mouth to Backbone State Park Dam; North Fork Maquoketa River, mouth to Jones-Dubuque County line; Turkey River, mouth to the Elkader Dam; and Upper Iowa River, mouth to the first dam upstream in Winneshiek County.

81.3(2) *Removal of lines.* All trotlines and parts thereof shall be removed from the shore when not being actively fished. A trotline shall be considered actively fished if at least once daily the trotline is left with at least one baited hook in the water.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67 and 481A.76.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 82
"Commercial Fishing"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 482.1

State or federal law(s) implemented by the rulemaking: Iowa Code sections 481A.38, 481A.39, 482.1, 482.3, 482.5, and 482.14

Public Hearing

A public hearing at which persons may present their views orally will be held via virtual meeting as follows:

September 24, 2025 12 noon to 1 p.m.	Via videoconference

Persons who wish to attend the virtual meeting should contact Randall Schultz via email. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

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Public Comment

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Purpose and Summary

Proposed Chapter 82 allows for and regulates the commercial harvest of fishes from public waters. The Department is directed to implement permits and regulate such harvest by the Iowa Code. The rules provide a transparent process for those who wish to bid on the limited commercial harvest opportunities on inland waters. The rules also contain regulations for commercial harvest from the border rivers, including designating those species that may be commercially harvested, size/length limits, open and closed seasons and locations, and gear and licensing requirements. This chapter has been reviewed and edited consistent with Executive Order 10.

Analysis of Impact

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

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

Commercial harvesters may incur costs when participating in the bidding process for inland water commercial contracts. Commercial harvesters may also incur costs related to gear and reporting requirements, none of which are being substantively changed by this rulemaking.

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

Commercial harvesters may benefit from the simplified and clarified bid process that is proposed and through updating of the commercially harvestable species list.

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

- **Quantitative description of impact:**

The contract to commercially fish an inland body of water is awarded through a competitive process to the firm or individual whose bid is believed to be the most advantageous to the State. The winning contractor is allowed to take fish for commercial purposes that the Department is seeking to have removed from a particular body of water. There are currently three parties under contract to commercially fish 15 inland lakes. During FY 2025, these contractors paid an average of just under $5,400 per lake, with revenue to the State totaling $80,896. The Department does not collect information on how much these commercial operators profit when selling these fish on the commercial market.

- **Qualitative description of impact:**

Iowa supports a small number of commercial fishing operations due to the limited opportunities for sustainable and beneficial commercial harvest of certain fish species. These fishers may voluntarily bid on inland contracts and may otherwise fish the Mississippi and Missouri Rivers.

3. **Costs to the State:**

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

The Department incurs costs for staff time. These are costs currently accounted for in the Department's budget.

- **Anticipated effect on State revenues:**

A commercial fishing contract is awarded to the firm or individual whose bid is believed to be the most advantageous to the State for inland waters situations. These contracts bring in a relatively small amount of revenue to the State. The primary purpose is not to generate revenue, but rather to have undesirable fish removed from certain lakes for management purposes in a way that also provides an economic opportunity to commercial fisherman.

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

The only cost related to the proposed rulemaking is staff time. Fisheries and law enforcement staff involved in this program have additional job duties as well. The benefits of this chapter are providing commercial fishing opportunities in situations that are beneficial and sustainable to the resource.

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

There are no less costly or less intrusive methods. Commercial fishing opportunities on Iowa lakes are limited. This chapter provides a simple, clear, and fair way to make these opportunities available to the public. The chapter also provides limited regulation to the extent needed to ensure that fish populations are harvested sustainably.

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

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

No alternative methods were considered. This is a largely nonregulatory chapter that most commonly applies to a voluntary commercial harvest program.

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

Not applicable.

Small Business Impact

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

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

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

The proposed chapter simplifies compliance or reporting requirements, which should be beneficial to small businesses.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 82 and adopt the following **new** chapter in lieu thereof:

CHAPTER 82
COMMERCIAL FISHING

INLAND WATERS

571—82.1(482) Contract policy. All contracts for removal of fish from inland waters shall be awarded on a competitive basis to the maximum practical extent subject to the following provisions. Commercial fishers licensed with the state may enter into contract with owners of private water bodies for the removal of injurious fish provided approval is received from the director or staff of the department prior to any sampling or removal operations. Owners of private water bodies need not comply with 82.1(1) through 82.1(5).

82.1(1) *Invitation for bids.* Sealed bids must be solicited for all fish removal operations under contract. Prospective bidders shall be informed by an advertisement via the state's public solicitation portal in sufficient time to enable prospective bidders to prepare and submit bids. Specifications of the contract shall be provided to all prospective bidders as provided in the invitation for bids.

82.1(2) *Contract award.* The contract shall be awarded to the firm or individual whose bid is believed to be the most advantageous to the state. Bids may be rejected if they do not appear to be reasonable or if there is reason to believe that the firm or individual is not sufficiently qualified to accomplish the desired work.

82.1(3) *Contract approval.* All contracts for fish removal operations shall be approved by the director.

82.1(4) *Failure to receive a bid.* In the event that no sealed bids are received, the fisheries bureau chief or staff at the direction of the fisheries bureau chief may negotiate a contract with a qualified contractor.

82.1(5) *Contract period.* Contracts shall have a maximum duration of 12 months. A contract may be extended, with the mutual consent of both parties, on an annual basis for a period up to and including three years from the time of the original contract. All terms and conditions existing in the original contract will apply during the extended contract period.

MISSISSIPPI AND MISSOURI RIVERS

571—82.2(482) Commercial taking. Fish may be taken for commercial purposes from the Mississippi and Missouri Rivers subject to the following regulations.

82.2(1) *Permissive catch.* Except for channel catfish, flathead catfish, and shovelnose sturgeon, which cannot be taken from the Missouri River, it shall be lawful to take with licensed commercial fishing gear the following species: carp, smallmouth buffalo, largemouth buffalo, black buffalo, channel catfish, flathead catfish, black bullhead, yellow bullhead, brown bullhead, freshwater drum, northern redhorse, silver redhorse, spotted sucker, white sucker, river carpsucker, quillback, highfin carpsucker, grass carp, bighead carp, silver carp, shovelnose sturgeon, longnose gar, shortnose gar, bowfin, gizzard shad, goldeye, and mooneye.

82.2(2) *Size limits.* Fish shorter than a minimum length or longer than the maximum length shall be returned to the water unharmed. The minimum total length for all catfish is 15 inches. The minimum fork length for shovelnose sturgeon, measured from the tip of the snout to the fork of the tail, is 27 inches. No shovelnose sturgeon longer than 34 inches fork length may be harvested from waters of the Mississippi River bordering Wisconsin. No shovelnose sturgeon less than 27 inches fork length may be possessed in Iowa waters.

82.2(3) *Permitted gear.* Hoop nets, trap nets (fyke nets), gill nets, trammel nets, slat nets (basket traps), seines, and trotlines (setlines) may be used by licensed commercial fishers.

82.2(4) *Mesh size restrictions.*

a. *Hoop nets.* An escape hole with a minimum diameter of 1½ inches all directions shall be provided within 12 inches beyond the last hoop to the tail-line.

b. *Trap nets.* An escape hole with a minimum diameter of 1½ inches all directions shall be provided within 12 inches beyond the last hoop to the tail-line.

c. *Gill nets.* The webbing shall have a mesh size not less than 3½ inches square measure.

d. *Trammel nets.* The webbing shall have a mesh size not less than 2 inches square measure.

e. *Seines.* There are no mesh size restrictions.

f. *Slat nets.* An escape hole with a minimum diameter of 1½ inches all directions shall be provided in the end opposite the throat.

82.2(5) *Gear attendance.* All commercial gear shall be lifted and emptied of catch at the following time intervals, except during periods of inclement weather. Inclement weather is defined as that threatening to life, health, or safety.

a. Hoop nets shall be attended at least once every 96 hours and slat nets at least once every 48 hours during open water conditions. Hoop nets shall be attended at least once every 20 days during ice cover conditions.

b. Trap nets and trotlines shall be attended at least once every 24 hours.

c. Gill nets and trammel nets shall be attended at least once every 24 hours during open water conditions and at least once every 96 hours during ice cover conditions.

82.2(6) *Report of catch.* Licensed commercial fishers must comply with the reporting requirements as set forth in Iowa Code section 482.14.

82.2(7) *Duplicate operator's license.* An owner making a request for a duplicate operator's license will be issued one only after records show the owner has purchased a limit of five operator's licenses. The duplicate helper's license will be issued to one individual and is not transferable. The issuing fee is $1.

82.2(8) *Seasons.* There is a continuous open season for commercial fishing of all species listed in 82.2(1), except there is a closed season for shovelnose sturgeon from May 16 through October 14. No shovelnose sturgeon may be harvested from gear set prior to midnight on October 15.

82.2(9) *Special shovelnose and bowfin regulations.* Shovelnose sturgeon and bowfin must remain intact until the fish reach the final processing facility or business. For the purposes of this subrule, a final processing facility does not include vessels or vehicles.

82.2(10) *Closed areas.* The use of entanglement gear, including gill and trammel nets, is prohibited from that area extending 600 feet downstream of the 900 foot existing closed areas (Iowa Code section 482.9(2)) located below each of the locks and dams on the Mississippi River. Shovelnose sturgeon caught in entanglement gear within 600 feet of the mouth of any stream or tributary shall be returned to the water unharmed.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 482.1, 482.3, 482.5, and 482.14.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 83
"Scuba and Skin Spearing of Rough Fish"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481A.38, 481A.39, and 481A.67

State or federal law(s) implemented by the rulemaking: Iowa Code sections 481A.38, 481A.39, and 481A.67

Public Hearing

A public hearing at which persons may present their views orally will be held via virtual meeting as follows:

September 24, 2025 12 noon to 1 p.m.	Virtual hearing

Persons who wish to attend the virtual meeting should contact Randall Schultz via email. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

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Public Comment

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Purpose and Summary

Proposed Chapter 83 authorizes the taking of rough fish by scuba and skin divers. The chapter contains provisions designating off-limits areas, allowable and not-allowable gear and requiring the use of a diver's flag. These requirements are to ensure public and diver safety. The Iowa Code requires that these activities be authorized via rulemaking, so this chapter is necessary for these recreational activities to be lawful in Iowa.

Analysis of Impact

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

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

This rulemaking does not impose any new costs for scuba or skin divers. The diver's flag that the rules require is a standard piece of safety equipment that most persons covered by this rulemaking are likely to already own.

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

Divers who wish to target rough fish benefit from this rulemaking because the Iowa Code gives discretion to the Natural Resource Commission as to what methods of take should be legal, and requires authorizing those methods through rulemaking.

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

- **Quantitative description of impact:**

There are no costs associated with this rulemaking. The chapter allows for, and regulates, voluntary, recreational activities. The regulated activities may have a positive economic impact through travel and equipment purchases by the participants.

- **Qualitative description of impact:**

This rulemaking authorizes a recreational activity that Iowans may enjoy.

3. **Costs to the State:**

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

Implementation and enforcement costs are borne by the Department law enforcement and fisheries bureaus and are part of their existing staff duties and budgets.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

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

This chapter allows for and regulates voluntary, recreational activities in order to protect natural resources and ensure public safety. The only possible cost from this chapter is the requirement to have a diver's flag displayed, which is a necessity for the safety of the participants.

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

These regulations are very permissive, with limited restrictions focused on the safety of the participants and the public. The flag requirement is standard for divers in most states and many foreign jurisdictions.

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

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

None were considered. Variations in specific details or the regulations are possible, but this is in general a very unrestrictive chapter focused on limited rules necessary for human safety.

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

Not applicable.

Small Business Impact

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

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

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

This chapter does not have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 83 and adopt the following **new** chapter in lieu thereof:

CHAPTER 83
SCUBA AND SKIN SPEARING OF ROUGH FISH

571—83.1(481A) When permitted. The spearing of rough fish by scuba and skin divers will be permitted in accordance with the following seasons and rules.

571—83.2(481A) Prohibited areas. Scuba and skin spearing for rough fish shall be lawful in all natural lakes and state-owned meandered streams in Iowa year-round.

83.2(1) Scuba and skin spearing shall be permitted in streams or impoundments on private land where access is permitted by owner or lessee.

83.2(2) Scuba and skin spearing is prohibited in all state-owned artificial lakes.

83.2(3) Scuba and skin spearing is prohibited in all state-owned strip mines, county conservation board areas and fish and game management areas where posted as such.

83.2(4) Scuba and skin spearing is prohibited within 100 feet of any swimming beach area.

83.2(5) A valid fishing license shall be required of all individuals engaged in scuba and skin spearing unless the individual is exempt under the provisions of Iowa Code section 483A.17.

571—83.3(481A) Permitted equipment. Permitted equipment to be used in scuba and skin spearing shall be:

1. Hand and pole spears.
2. Spear guns powered by rubber bands, springs, or pneumatically powered springs.
3. If used on powered spear guns, be attached to the gun by a cord lanyard or other device.

The overall length of spear gun and cord shall not exceed 20 feet.

571—83.4(481A) Prohibited equipment.

1. No power or exploding spear heads will be permitted.
2. No guns powered by gunpowder explosive or explosives or compressed gas will be permitted.

571—83.5(481A) Diver's flag. The "International Diver's Flag" shall be displayed by each diver or group of divers on a buoy, float or boat during any underwater spear fishing activity. The diver or group of divers must stay within a 100-foot circle of the flag.

571—83.6(481A) Employees exempt. Underwater scuba and skin spearing regulations shall not apply to authorized agents of the department of natural resources when engaged in research or management studies or enforcement.

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.67.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 84
"Promiscuous Fishing"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481A.38, 481A.39, and 481A.76
State or federal law(s) implemented by the rulemaking: Iowa Code sections 481A.38 and 481A.76

Public Hearing

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September 24, 2025 12 noon to 1 p.m.	Via videoconference

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Public Comment

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Purpose and Summary

Proposed Chapter 84 regulates the taking of imperiled fish populations by licensed anglers. "Imperiled" refers to situations where there is an imminent danger of fish loss (die off) through natural causes. This chapter allows the Natural Resource Commission (Commission) to issue an order allowing the public to salvage these fish before they die and go to waste by authorizing more permissive methods of take than are generally allowed.

Analysis of Impact

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

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

There are no costs involved. This chapter authorizes a voluntary, noncommercial activity.

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

Anglers who wish to take fish for personal use will benefit.

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

- **Quantitative description of impact:**

There is no quantitative impact of this rulemaking.

- **Qualitative description of impact:**

This chapter allows for the beneficial use of fish that would otherwise die and go to waste. There are no costs involved.

3. **Costs to the State:**

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

This chapter covers a rare situation, and as such, the implementation and enforcement costs to the Department are small and are accounted for by existing law enforcement and fisheries staff and budgets.

- **Anticipated effect on State revenues:**

There are no anticipated effects on State revenues.

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

There are effectively no costs associated with this chapter. The benefit is allowing the public to make use of a perishable natural resource that would otherwise go to waste.

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

No less costly or less intrusive methods exist. This chapter has the effect of waiving certain fishing regulations, with the remaining restrictions being for public safety purposes (i.e. no use of dynamite for fishing).

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

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

Not applicable.

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

Not applicable.

Small Business Impact

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

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

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

This chapter does not have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 84 and adopt the following **new** chapter in lieu thereof:

CHAPTER 84
PROMISCUOUS FISHING

571—84.1(481A) General. The natural resource commission may, after an investigation, when it is found there is imminent danger of loss of fish through natural causes, authorize by public order the taking of fish from any area and by such means as the commission may deem advisable to salvage such imperiled fish populations.

84.1(1) *Method of take.* Fish may be taken by any means except by use of dynamite, poison, electric shocking devices or any stupefying substances.

84.1(2) *Commercial purposes.* This rule shall not authorize the taking of fish for commercial purposes.

This rule is intended to implement Iowa Code chapter 481A.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 86
"Turtles"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481A.38, 481A.39, 481A.67, 482.1, 482.5, and 482.11

State or federal law(s) implemented by the rulemaking: Iowa Code sections 481A.38, 481A.39, 481A.67, 482.1, 482.4, 482.5, and 482.11

Public Hearing

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Public Comment

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Purpose and Summary

Proposed Chapter 86 regulates the taking and possession of turtles from the waters of the State. These regulations ensure a sustainable harvest, which protects turtle populations from overharvest. This is accomplished by providing daily catch and possession limits, providing gear and method of take provisions, and designating open season dates.

Analysis of Impact

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

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

Commercial turtle harvesters may incur costs associated with equipment tagging and recordkeeping requirements.

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

The general public and those who harvest turtles benefit from this proposed chapter because it allows for seasons on certain species while ensuring populations will remain viable into the future.

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

- **Quantitative description of impact:**

Commercial harvesters incur limited costs to comply with gear-labeling requirements and reporting requirements.

- **Qualitative description of impact:**

Turtle regulations ensure sustainable populations, preventing overharvest and maintaining healthy turtle stocks for the enjoyment of future generations. Turtle harvesting for many people is a generational activity that provides relaxation, recreation, social bonding, and outdoor recreation opportunities, improving the general quality of life for Iowans.

3. **Costs to the State:**

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

Implementation and enforcement costs are borne by the Department. These fall within the duties of existing law enforcement and fisheries staff and bureau budgets.

- **Anticipated effect on State revenues:**

Turtle harvesters must have an appropriate license that generates limited revenue for the State.

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

There are no new costs related to the proposed rulemaking. Commercial harvesters incur minor costs due to gear-labeling requirements. The requirements are necessary for enforcement purposes.

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

There are no less costly methods or less intrusive methods for achieving the purpose of this proposed rulemaking. The proposed chapter contains minimal costs and regulation in order to accomplish the purposes of the chapter and Iowa Code.

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

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

There are no alternative methods that were seriously considered by the Department. This is a regulatory chapter covering restrictions for turtle harvest in public waters. The regulations are minimal and necessary.

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

Not applicable.

Small Business Impact

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

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

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

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

This proposed chapter has minimal impact on small business. All reporting and administrative requirements for commercial turtle-related businesses are found in the Iowa Code.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 86 and adopt the following **new** chapter in lieu thereof:

CHAPTER 86
TURTLES

571—86.1(481A,482) Harvesting. Turtles may be harvested from waters of the state subject to the following regulations.

86.1(1) *Species and season.* It shall be lawful to commercially and noncommercially (recreationally) harvest spiny softshell *Apalone spinifera*, smooth softshell *Apalone mutica*, and painted *Chrysemys picta* turtles from July 16 through May 14. Common snapping turtles *Chelydra serpentina* may be harvested commercially from July 16 through May 14 and recreationally year-round. Harvesting turtle eggs from wild nests is prohibited. Turtles shall not be harvested from gear set prior to midnight on July 15.

86.1(2) *Methods.* Harvest of turtles shall only be by hand, turtle hook, turtle trap, licensed commercial fishing gear in the Mississippi and Missouri Rivers only, and hook-and-line. Turtle traps shall be constructed with no more than one throat or funneling device. The last hoop to the tail-line of turtle traps shall have an unobstructed, functional escape hole with a minimum diameter in all directions of 7½ inches to allow passage of fish and small turtles. Barrel- and floating-type turtle traps must also meet the unobstructed, functional escape hole criterion.

86.1(3) *Daily catch and possession limits.*

a. The following daily catch limits apply to commercial and recreational harvesters, while the possession limits apply only to commercial harvesters:

Turtle Species	Daily Catch Limit (commercial and recreational)	Possession Limit (commercial only)
Common snapping turtle	4	20
Spiny softshell and smooth softshell turtle, in aggregate	1	5
Painted turtle	1	5

b. The possession limit for recreational harvesters is a maximum of 100 pounds of live turtles or 50 pounds of dressed turtles pursuant to Iowa Code section 483A.28. A recreational harvester's daily catch limit shall not exceed this possession limit.

86.1(4) *Culling.* It is unlawful to sort, cull, high-grade, or otherwise replace any turtle in possession.

86.1(5) *Tags.* All harvesters shall affix a weather-resistant gear tag above the waterline to each piece of gear. The gear tag must plainly show the name, address, and license number of the licensee.

86.1(6) *Gear attendance.* All turtle traps shall be set with the top of the trap visible above the waterline at all times and shall be checked and completely emptied of catch at least once every 72

hours. When a trap is checked, turtles shall either be taken into possession up to the daily catch limit or immediately released.

86.1(7) *Exclusions.* Iowa Code chapter 482 does not apply to turtles taken and imported from outside the state. The boundary waters are considered to be within the state.

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67, 482.1, 482.4, 482.5, and 482.11.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 87
"Mussel Regulations"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481A.38, 481A.39, 482.1, and 482.3

State or federal law(s) implemented by the rulemaking: Iowa Code sections 481A.38, 481A.39, 482.1, 482.3, and 483A.28

Public Hearing

A public hearing at which persons may present their views orally will be held via virtual meeting as follows. Persons who wish to attend the virtual meeting should contact Randall Schultz via email. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

September 24, 2025 12 noon to 1 p.m.	Via videoconference call

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at randy.schultz@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 319.217.9317 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento de Recursos Naturales (Departamento) al randy.schultz@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 319.217.9317 al menos siete días antes del evento.

Public Comment

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

Randall Schultz
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: randy.schultz@dnr.iowa.gov

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Purpose and Summary

Proposed Chapter 87 regulates the taking and possession of mussels. Methods of take, open and closed locations and hours, possession limits, and licensing requirements are provided to ensure use of the resource in a sustainable manner.

Analysis of Impact

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

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

A license is required to harvest and possess mussels in Iowa. Any person aged 16 or older will bear the cost of license if the person wishes to harvest mussels.

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

The public and those who harvest mussels will benefit through ensuring populations are harvested at a sustainable level.

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

- **Quantitative description of impact:**

Mussel harvest has a small and largely unknown economic impact. Mussel harvest requires a license; however, most participants likely already purchase the required license for fishing purposes.

- **Qualitative description of impact:**

Mussel regulations ensure sustainable populations, preventing overharvest and maintaining healthy mussel stocks for the enjoyment of future generations. Musseling provides relaxation, recreation, social bonding, and outdoor recreation opportunities, improving the general quality of life for Iowans.

3. **Costs to the State:**

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

Implementation and enforcement costs are borne by the Department through staff time of existing law enforcement and fisheries staff.

- **Anticipated effect on State revenues:**

There is very minimal anticipated effect on State revenues. License sales attributable to mussel harvest produce a small amount of revenue.

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

Regulations are required in order to have an open mussel season. The only cost is the cost of a fishing license.

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

There is no less costly method or less intrusive method for achieving the purpose of this proposed rulemaking. This chapter regulates voluntary, recreational activity.

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

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

There is no alternative method that was seriously considered by the Department. This is a regulatory chapter covering restrictions for mussel harvest in a manner typical of how harvest of a public resource is normally managed.

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

Not applicable.

Small Business Impact

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

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

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

This chapter does not have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 87 and adopt the following **new** chapter in lieu thereof:

CHAPTER 87
MUSSEL REGULATIONS

571—87.1(481A) Seasons, areas, methods, species, limits. The taking and possession of mussels from the public waters of the state shall be limited to the following regulations.

87.1(1) *Seasons.* There shall be an open season for taking mussels throughout the year. The taking of mussels is restricted to the hours between sunrise and sunset.

87.1(2) *Species.* Species other than those listed as threatened or endangered may be lawfully taken and possessed. Zebra mussels shall not be taken and possessed.

87.1(3) *Areas.* Live mussels may be harvested only from the Mississippi River and connected backwaters. Dead mussels may be harvested from all waters of the state.

87.1(4) *Limits.* The possession limit is 24 whole mussels or 48 shell halves. The sale of mussels or shells is not permitted. Licensed commercial fishers, licensed sport anglers, and children younger than 16 years of age may take and possess mussels.

87.1(5) *Methods.* Mussels may be taken by hand, pole and line, diving, and crowfoot bar not to exceed 20 feet in length.

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, 482.1, 482.3 and 482.12.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 89
"Aquaculture"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481A.142 and 481A.143

State or federal law(s) implemented by the rulemaking: Iowa Code sections 481A.142 and 481A.143

Public Hearing

A public hearing at which persons may present their views orally will be held via virtual meeting as follows. Persons who wish to attend the virtual meeting should contact Randall Schultz via email. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

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Public Comment

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Purpose and Summary

Proposed Chapter 89 regulates the sale and propagation of fish, reptiles, and amphibians within the aquaculture industry. The rules include a list of species that are approved for use in aquaculture and a list of diseases that require monitoring and reporting. Additional provisions allow for the permitting of species not on the approved list, while prohibiting the possession and importation of certain species. These rules are intended to reduce the risk of invasive species introductions or the spread of disease from captive to wild populations.

Analysis of Impact

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

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

Persons engaged in the aquaculture business may bear costs related to permitting and disease-free certification.

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

The general public benefits from this proposed chapter through the disease monitoring requirements, which guard against the spread of disease to wild fish populations, and the list of approved species, which excludes species that would be invasive if they escaped to the wild.

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

- **Quantitative description of impact:**

Costs are minimal for operators using the approved species list. Additional variable costs are assumed if a person wishes to seek permits to import species not on the approved list.

- **Qualitative description of impact:**

Aquaculture permits ensure disease-free imports of approved aquaculture species. Disease-free propagation and selling of approved aquaculture species protect recreational opportunities for all Iowans.

3. **Costs to the State:**

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

Implementation and enforcement costs are borne by the Department through existing staff time and duties of existing employees.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

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

There are limited costs to aquaculturists for certifying fish and eggs as disease-free when importing stock into Iowa. The benefits of protecting wild fish from introduced diseases outweigh these costs.

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

Iowa's aquaculture rules represent a balance between regulation of business and protection of natural resources.

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

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

There is no alternative method that was seriously considered by the Department. This is a regulatory chapter covering restrictions for importation of approved aquaculture species. Regulating which species may be imported and monitoring for disease are standard strategies for reducing risks posed to natural resources by aquaculture activities.

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

Iowa's rules represent minimal and practical regulation.

Small Business Impact

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

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

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

This chapter has minimal effects on small business and contains the least restrictive requirements needed to meet the purposes of the rules as mandated by the Iowa Code.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 89 and adopt the following **new** chapter in lieu thereof:

CHAPTER 89
AQUACULTURE

571—89.1(481A) Approved aquaculture species. The following approved aquaculture species may be propagated and sold:

FISH

American Eel	*Anguilla rostrata*
Banded Darter	*Etheostoma zonale*
Banded Killifish	*Fundulus diaphanus*
Bigmouth Buffalo	*Ictiobus cyprinellus*
Bigmouth Shiner	*Ericymba dorsalis*
Black Buffalo	*Ictiobus niger*
Black Bullhead	*Ameiurus melas*
Black Crappie	*Pomoxis nigromaculatus*
Blackchin Shiner	*Miniellus heterodon*
Blacknose Dace	*Rhinicthys atratulus*
Blackside Darter	*Percina maculata*
Blackstripe Topminnow	*Fundulus notatus*
Blue Catfish	*Ictalurus furcatus*
Blue Sucker	*Cycleptus elongatus*
Bluegill and Hybrids	*Lepomis macrochirus*
Bluntnose Minnow	*Pimephales notatus*
Bowfin	*Amia calva*
Brassy Minnow	*Hybognathus hankinsoni*
Brook Silverside	*Labidesthes sicculus*
Brook Stickleback	*Culaea inconstans*
Brook Trout	*Salvelinus fontinalis*
Brown Bullhead	*Ameiurus nebulosus*
Brown Trout	*Salmo trutta*
Bullhead Minnow	*Pimephales vigilax*

Central Mudminnow	*Umbra limi*
Central Stoneroller	*Campostoma anomalum*
Channel Catfish	*Ictalurus punctatus*
Common Carp	*Cyprinus carpio*
Common Shiner	*Luxilus cornutus*
Creek Chub	*Semotilus atromaculatus*
Crystal Darter	*Crystallaria asprella*
Emerald Shiner	*Notropis atherinoides*
Fantail Darter	*Etheostoma flabellare*
Fathead Minnow and Hybrids	*Pimephales promelas*
Flathead Catfish	*Pylodictis olivaris*
Flathead Chub	*Platygobio gracilis*
Freshwater Drum	*Aplodinotus grunniens*
Ghost Shiner	*Paranotropis buchanani*
Gilt Darter	*Percina evides*
Gizzard Shad	*Dorosoma cepedianum*
Golden Redhorse	*Moxostoma erythrurum*
Golden Shiner	*Notemigonus crysoleucas*
Goldeye	*Hiodon alosoides*
Goldfish	*Carassius auratus*
Grass Carp	*Ctenopharyngodon idella*
Gravel Chub	*Erimystax x-punctatus*
Greater Redhorse	*Moxostoma valenciennesi*
Green Sunfish	*Lepomis cyanellus*
Highfin Carpsucker	*Carpiodes velifer*
Hornyhead Chub	*Nocomis biguttatus*
Iowa Darter	*Etheostoma exile*
Ironcolor Shiner	*Alburnops chalybaeus*
Johnny Darter	*Etheostoma nigrum*
Lake Chub	*Couesius plumbeus*
Largemouth Bass	*Micropterus salmoides*
Largescale Stoneroller	*Campostoma oligolepis*
Longear Sunfish	*Lepomis megalotis*
Longnose Dace	*Rhinichthys cataractae*
Longnose Gar	*Lepisosteus osseus*
Mimic Shiner	*Paranotropis volucellus*
Mississippi Silvery Minnow	*Hybognathus nuchalis*
Mooneye	*Hiodon tergisus*
Western Mosquitofish	*Gambusia affinis*
Mottled Sculpin	*Cottus bairdii*
Mud Darter	*Etheostoma asprigene*
Muskellunge and Hybrids	*Esox masquinongy*
Northern Hog Sucker	*Hypentelium nigricans*
Logperch	*Percina caprodes*
Northern Pike	*Esox lucius*
Rock Bass	*Ambloplites rupestris*

Orangespotted Sunfish	*Lepomis humilis*
Ozark Minnow	*Miniellus nubilus*
Pallid Shiner	*Hybopsis amnis*
Pirate Perch	*Aphredoderus sayanus*
Plains Minnow	*Hybognathus placitus*
Plains Topminnow	*Fundulus sciadicus*
Pugnose Minnow	*Opsopoeodus emiliae*
Pumpkinseed	*Lepomis gibbosus*
Quillback	*Carpiodes cyprinus*
Rainbow Darter	*Etheostoma caeruleum*
Rainbow Smelt	*Osmerus mordax*
Rainbow Trout	*Oncorhynchus mykiss*
Red Shiner	*Cyprinella lutrensis*
Redear Sunfish and Hybrids	*Lepomis microlophus*
Redfin Shiner	*Lythrurus umbratilis*
Redside Dace	*Clinostomus elongatus*
River Carpsucker	*Carpiodes carpio*
River Darter	*Percina shumardi*
River Redhorse	*Moxostoma carinatum*
River Shiner	*Alburnops blennius*
Rosyface Shiner	*Notropis rubellus*
Sand Shiner	*Miniellus stramineus*
Sauger and Hybrids	*Sander canadensis*
Shorthead Redhorse	*Moxostoma macrolepidotum*
Shortnose Gar	*Lepisosteus platostomus*
Shovelnose Sturgeon	*Scaphirhynchus platorynchus*
Sicklefin Chub	*Macrhybopsis meeki*
Silver Chub	*Macrhybopsis storeriana*
Silver Lamprey	*Ichthyomyzon unicuspis*
Silver Redhorse	*Moxostoma anisurum*
Silverband Shiner	*Paranotropis shumardi*
Skipjack Herring	*Alosa chrysochloris*
Slender Madtom	*Noturus exilis*
Slenderhead Darter	*Percina phoxocephala*
Slimy Sculpin	*Cottus cognatus*
Smallmouth Bass	*Micropterus dolomieu*
Smallmouth Buffalo	*lctiobus bubalus*
Southern Redbelly Dace	*Chrosomus erythrogaster*
Speckled Chub	*Macrhybopsis aestivalis*
Spotfin Shiner	*Cyprinella spiloptera*
Spottail Shiner	*Hudsonius hudsonius*
Spotted Bass	*Micropterus punctulatus*
Spotted Sucker	*Minytrema melanops*
Starhead Topminnow	*Fundulus dispar*
Stonecat	*Noturus flavus*
Striped Bass and Hybrids	*Morone saxatilis*

Sturgeon Chub	*Macrhybopsis gelida*
Suckermouth Minnow	*Phenacobius mirabilis*
Tadpole Madtom	*Noturus gyrinus*
Topeka Shiner	*Miniellus topeka*
Trout-perch	*Percopsis omiscomaycus*
Walleye and Hybrids	*Sander vitreus*
Warmouth	*Lepomis gulosus*
Western Silvery Minnow	*Hybognathus argyritis*
White Bass and Hybrids	*Morone chrysops*
White Crappie	*Pomoxis annularis*
White Sucker	*Catostomus commersonii*
Yellow Bass	*Morone mississippiensis*
Yellow Bullhead	*Ameiurus natalis*
Yellow Perch	*Perca flavescens*
AMPHIBIANS	
Bullfrog	*Lithobates catesbeianus*
Leopard Frog	*Lithobates pipiens*
REPTILES	
Common Snapping Turtle	*Chelydra serpentina serpentina*
Painted Turtle	*Chrysemys picta*
Smooth Softshell	*Apalone mutica*

571—89.2(481A) Importation permit. An importation permit is required to receive, propagate or sell in the state any aquaculture species not listed in 89.1(1). In addition, aquaculture units shall not import live fish, viable eggs, or semen of any species of the salmonid family (trout, salmon or char) and ictalurid family (catfishes and bullheads) unless the owner or operator possesses a fish importation permit. Importation permits may be applied for on forms provided by the department.

571—89.3(481A) Disease-free certification. Importation permits will not be issued for live fish, viable eggs, or semen of any species of the salmonid family (trout, salmon or char) unless the owner or operator of an aquaculture unit provides a statement certifying the fish, eggs or semen to be free of the following diseases:

89.3(1) *Diseases detrimental to the state's fishery resources.*

Viral Hemorrhagic Septicemia (VHS)
Infectious Pancreatic Necrosis (IPN)
Whirling Disease (*Myxosoma cerebralis*)
Infectious Hematopoietic Necrosis (IHN)
Ceratomyxosis (*Ceratomyxa shasta*)
Bacterial Kidney Disease (*R. salmoninarium*)
Proliferative Kidney Disease (PKD)
Enteric Redmouth (*Yersinia ruckeri*)
Vibriosis (*vibrio sp.*)

89.3(2) *Reportable diseases.* Reportable diseases are detrimental to individual aquaculture units and may be detrimental to wild fish populations. Reportable diseases are Enteric Septicemia of Catfish (*Edwardsiella ictaluri*) (ESC), Channel Catfish Virus Disease (CCVD) and Furunculosis (*Aeromonas salmonicida*). Disease certification statements are required for the diseases prior to importation of any live fish, viable eggs, or semen of any species of the Ictalurid (catfishes and bullheads) and Salmonid

(trout, salmon and char) families. Importation permits will be considered on a case-by-case basis for fish with reportable diseases.

89.3(3) *Certified pathologists for inspection.* All disease certification statements must be issued by approved certified pathologists. A list of approved certified pathologists will be made available to the owner or operator of the aquaculture unit requesting a fish importation permit.

These rules are intended to implement Iowa Code sections 481A.142 and 481A.143.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 90
"Aquatic Invasive Species"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 456A.37
State or federal law(s) implemented by the rulemaking: Iowa Code section 456A.37

Public Hearing

A public hearing at which persons may present their views orally will be held via virtual meeting as follows. Persons who wish to attend the virtual meeting should contact Randall Schultz via email. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

September 24, 2025 12 noon to 1 p.m.	Via videoconference call

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at randy.schultz@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 319.217.9317 at least seven days before the event.

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Public Comment

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Purpose and Summary

Proposed Chapter 90 contains restrictions related to aquatic invasive species and provides a list of those species. The purpose of this chapter is to prevent introductions of invasive species and limit the spread of invasive species that have already been detected in Iowa. Aquatic invasive species can negatively impact native species; interfere with recreational activities, such as boating and fishing; and interfere with water supply infrastructure.

Analysis of Impact

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

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

There are no costs associated with this proposed rulemaking.

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

All Iowans benefit through protection of natural resources and recreational activities and avoiding costs associated with mitigating the negative impacts some aquatic invasive species cause.

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

- **Quantitative description of impact:**

There are no quantifiable costs associated with this proposed rulemaking. Regulating aquatic invasive species, and resulting infested water restrictions, help prevent transfer of these species to other water bodies. Invasive fish and plant species can negatively impact fisheries and recreational boating. These impacts can be expensive to mitigate.

- **Qualitative description of impact:**

There are no significant costs associated with this proposed rulemaking. Preventing the establishment of aquatic invasive species protects recreational opportunities for all Iowans.

3. **Costs to the State:**

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

Implementation and enforcement costs are borne by the Department through staff time of existing employees.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

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

There are no significant costs associated with this proposed rulemaking. The benefits are substantial and include avoiding costs involved with attempting to eradicate or mitigate the effects of invasive species once they are established.

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

There are no less costly methods. This proposed chapter restricts only those species that are known to be problematic invasive species.

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

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

There were no alternative methods that were seriously considered by the Department.

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

Not applicable.

Small Business Impact

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

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

- Exempt small business from any or all requirements of the rulemaking.

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

This proposed chapter does not have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 90 and adopt the following **new** chapter in lieu thereof:

CHAPTER 90
AQUATIC INVASIVE SPECIES

571—90.1(456A) Definitions. As used in this chapter:

"Commission" means the natural resource commission.

"Department" means the department of natural resources.

"Director" means the director of the department of natural resources.

"Introduce" means to release a species into waters of the state. "Introduce" does not include the immediate return of a nonnative species to waters of the state from which it was removed.

"Transport" means to move a species into or within the state and includes accepting or receiving the species for transportation or shipment. "Transport" does not include the unintentional transport of a species within a water of the state or to a connected water of the state where the species being transported is already present.

"Watercraft" means a device used or designed for navigation on water.

571—90.2(456A) Aquatic invasive species. For the purposes of this rule, the following species and any hybrids, cultivars, or varieties of the species are designated as aquatic invasive species.

90.2(1) *Aquatic invasive plants.*

Brittle naiad	*Najas minor*
Curlyleaf pondweed	*Potamogeton crispus*
Eurasian watermilfoil	*Myriophyllum spicatum*
Flowering rush	*Butomus umbellatus*
Purple loosestrife	*Lythrum salicaria, Lythrum virgatum*
Salt cedar	*Tamarix spp.*

90.2(2) *Aquatic invasive fish.*

Bighead carp	*Hypophthalmichthys nobilis*
Black carp	*Mylopharyngodon piceus*
Round goby	*Neogobius melanostomus*
Rudd	*Scardinius erythrophthalmus*
Ruffe	*Gymnocephalus cernuus*
Silver carp	*Hypophthalmichthys molitrix*
White perch	*Morone americana*

90.2(3) *Aquatic invasive invertebrates.*

Fishhook waterflea	*Cercopagis pengoi*
New Zealand mudsnail	*Potamopyrgus antipodarum*
Quagga mussel	*Dreissena bugensis*
Rusty crayfish	*Orconectes rusticus*

Spiny waterflea	*Bythotrephes cederstroemi*
Zebra mussel	*Dreissena polymorpha*

90.2(4) *Federal noxious weed list.* For purposes of this rule, the aquatic plants listed in 7 CFR Section 360.200 as amended to [effective date of this rulemaking] are also designated as aquatic invasive species.

90.2(5) *Injurious wildlife species.* For purposes of this rule, aquatic species listed in 50 CFR Sections 16.11 through 16.15 as amended to [effective date of this rulemaking] are also designated as aquatic invasive species.

571—90.3(456A) Restrictions.

90.3(1) A person shall not possess, introduce, import, purchase, sell, barter, propagate, or transport aquatic invasive species in any form in this state, except:

a. By written permission of the director;

b. For disposal as part of a harvest or control activity;

c. When a species is being transported to the department, or to another destination as directed by the department, in a sealed container for purposes of identifying the species or reporting the presence of the species;

d. When the specimen has been lawfully acquired dead and, in the case of plant species, when all seeds are removed or are otherwise secured in a sealed container;

e. In the form of herbaria or other preserved specimens;

f. When a species is being removed from watercraft and equipment or when a species is caught by an angler and immediately returned to the water from which it came; or

g. When an individual angler possesses a species that has been caught and immediately killed.

90.3(2) A conservation officer, other licensed peace officer, or employee of the department may seize or dispose of all specimens of aquatic invasive species unlawfully possessed, introduced, imported, purchased, sold, bartered, propagated, or transported in the state.

571—90.4(456A) Infested waters.

90.4(1) *Designation of infested waters.* The department will designate infested waters of the state and publish the names of infested waters in the fishing regulations brochure and on the department webpage, www.iowadnr.gov/programs-services/aquatic-invasive-species, and will provide notice through other available means where practical. At any time, the department may designate additional waters or remove from designation those waters that are no longer infested.

90.4(2) *Restricted activities on infested waters.* The department may restrict boating, fishing, swimming, and trapping in infested waters of the state. When determining when to restrict activities in infested waters, the department will consider:

a. The extent of a species' distribution within the state;

b. The likely means of spread for a new species; and

c. Whether restrictions specific to infested waters containing a specific species will effectively reduce that species' spread.

These rules are intended to implement Iowa Code section 456A.37.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 93
"Commercial Use of Captive-Reared Waterfowl"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 455A.5(6)"a," 481A.55, 481A.126, and 484B.8

State or federal law(s) implemented by the rulemaking: Iowa Code sections 481A.55, 481A.126, and 484B.8 and 50 CFR 21.63

Public Hearing

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

September 23, 2025	6200 Park Avenue, Second Floor
12 noon to 1 p.m.	Des Moines, Iowa

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at chris.ensminger@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.250.6886 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento de Recursos Naturales (Departamento) al chris.ensminger@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.250.6886 al menos siete días antes del evento.

Public Comment

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

Orrin Jones
Iowa Department of Natural Resources
1203 North Shore Drive
Clear Lake, Iowa 50428
Phone: 641.231.1957
Email: orrin.jones@dnr.iowa.gov

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

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

Purpose and Summary

Proposed Chapter 93 establishes the commercial use of captive-reared waterfowl and the regulations that apply.

Analysis of Impact

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

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

Taxidermists and private citizens utilizing captive-reared waterfowl for commercial purposes will bear the costs.

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

Citizens of Iowa will benefit from ensuring captive-reared waterfowl are marked or otherwise regulated to ensure the native population of waterfowl is not negatively impacted.

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

- **Quantitative description of impact:**

Costs are minimal and are limited to recordkeeping and taxidermist permit requirements for taxidermists and private citizens utilizing captive-reared waterfowl for commercial purposes.

- **Qualitative description of impact:**

This proposed rulemaking does not impose burdens to the public.

3. **Costs to the State:**

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

The Department currently provides management and oversight of captive-reared waterfowl and enforcement of these rules and assistance to users in understanding and complying with the rules. Those services will not change due to this proposed rulemaking.

- **Anticipated effect on State revenues:**

The proposed rulemaking does not have any effect on State revenues.

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

The public does not have any costs to comply with the process and requirements set forth in these proposed rules.

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

The costs are minimal and the methods were the least intrusive to ensure the native population of waterfowl is not negatively impacted by commercial operations.

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

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

There are no alternative methods that were seriously considered by the Department. State and federal laws provide the parameters of these rules.

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

Not applicable.

Small Business Impact

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

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

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

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

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 93 and adopt the following **new** chapter in lieu thereof:

CHAPTER 93
COMMERCIAL USE OF CAPTIVE-REARED WATERFOWL

571—93.1(481A) General. Nothing in this chapter authorizes the taking of live waterfowl or their eggs from the wild.

571—93.2(481A) Required markings. All waterfowl released for shooting purposes or sold by a licensed taxidermist must be captive-reared and marked pursuant to Iowa Code section 481A.22 and these rules.

571—93.3(481A) Definitions.

"Bred in captivity" or *"captive-reared"* means waterfowl, including eggs hatched in captivity from parents that mated or otherwise transferred gametes in captivity.

"Captivity" means that live waterfowl are held in a controlled environment that is intensively manipulated by man for the purpose of producing waterfowl of selected species, and that has boundaries designed to prevent waterfowl, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of captivity may include but are not limited to artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

"Form 3-186" means the U.S. Fish and Wildlife Service form titled "Notice of Transfer or Sale of Migratory Waterfowl."

"Waterfowl" means any goose, brant, or duck.

571—93.4(484B) Marked for shooting. All waterfowl released for shooting purposes shall be physically marked by removal of the hind toe from the right foot at not more than four weeks of age.

571—93.5(481A) Commercial sale of captive-reared waterfowl by a taxidermist.

93.5(1) Taxidermist permit required. No person may perform taxidermy services on migratory birds or their parts, nests, or eggs for any reason other than personal use without a taxidermist permit.

93.5(2) In addition to the records required by Iowa Code section 481A.126, the permittee must maintain files containing the original of federal Form 3-186 as required by 50 CFR 21.63 (as amended through May 6, 2025). Properly marked, captive-reared mallards are exempt from this requirement.

93.5(3) All captive-reared waterfowl being purchased or held by a taxidermist for mounting and resale shall have been physically marked by at least one of the following methods:

a. Removal of the hind toe from the right foot.

b. Pinioning of a wing by the removal of the metacarpal bones of one wing or a portion of the metacarpal bones, which renders the bird permanently incapable of flight.

c. Banding of one metatarsus with a seamless metal band.

d. Tattooing of a readily discernible number or letter or combination thereof on the web of one foot.

93.5(4) When any mounted captive-bred waterfowl (except captive-reared, properly marked mallards) are acquired from a taxidermist, the taxidermist shall furnish a copy of federal Form 3-186, indicating all information required by the form and the method or methods by which individual birds are marked as required in 93.5(3).

93.5(5) The buyer shall retain Form 3-186 on file for the duration of the buyer's possession of such mounted, captive-reared waterfowl.

These rules are intended to implement Iowa Code sections 481A.55, 481A.126, and 484B.8.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 95
"Game Harvest Reporting and Landowner-Tenant Registration"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481A.38, 481A.39, 481A.48, 483A.1, 483A.8, 483A.8A, and 483A.24

State or federal law(s) implemented by the rulemaking: Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.8, 483A.8A, and 483A.24

Public Hearing

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

September 23, 2025	6200 Park Avenue, Second Floor
12 noon to 1 p.m.	Des Moines, Iowa

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at denise.roberg@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.350.8434 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento de Recursos Naturales (Departamento) al denise.roberg@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.350.8434 al menos siete días antes del evento.

Public Comment

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

Denise Roberg
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: denise.roberg@dnr.iowa.gov

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

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

Purpose and Summary

Proposed Chapter 95 establishes the harvest reporting process for deer and turkey hunters and the eligibility verification process for free landowner or tenant licenses.

In accordance with Executive Order 10, the rules have been edited for length and clarity by removing outdated provisions. The proposed rules also include two new additional methods for hunters to report harvests, bringing the total to five methods that are available to hunters. This will increase efficiency and convenience.

Analysis of Impact

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

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

Deer and turkey hunters and landowners and tenants of Iowa land will bear the costs.

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

Deer and turkey hunters, landowners and tenants of Iowa land, and citizens of Iowa will benefit.

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

- **Quantitative description of impact:**

There are no monetary costs to this proposed rulemaking.

- **Qualitative description of impact:**

These proposed rules reduce uncertainty about harvest reporting requirements and landowner and tenant eligibility for free licenses. Failure to have these rules would lead to confusion from customers.

3. **Costs to the State:**

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

Department staff administers the programs, reviews eligibility and answers questions from impacted persons.

- **Anticipated effect on State revenues:**

These proposed rules do not have a direct impact on State revenues.

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

The minimal costs are outweighed by the benefits to collecting information about the deer and wild turkey population in the State and ensuring that free licenses are not obtained fraudulently or by mistake.

Inaction would be contrary to statutory requirements. Inaction would also cause confusion among customers and lead to additional free licenses being issued by mistake with a negative impact on State revenues.

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

The harvest reporting program is required by the Iowa Code and has been tailored to collect the information from hunters in a variety of ways for the convenience of the hunter.

The eligibility verification process is not costly or intrusive and allows a one-time enrollment instead of requiring renewal. The information collected is the minimum possible to help confirm eligibility under the Iowa Code for free licenses.

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

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

No alternative methods were considered.

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

Not applicable.

Small Business Impact

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

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

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

There is no substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 95 and adopt the following **new** chapter in lieu thereof:

CHAPTER 95
GAME HARVEST REPORTING AND LANDOWNER-TENANT REGISTRATION

571—95.1(481A) Harvest reporting system. Deer and turkey hunters must report each deer and wild turkey harvested to the department of natural resources (DNR) harvest reporting system. The hunter whose name is on the transportation tag is responsible for making the report. Hunters who do not bag a deer or wild turkey do not report.

95.1(1) *Reporting deadlines for deer and turkey.* A harvest report must be made by midnight on the day after the animal is tagged or before the animal is taken to a locker or taxidermist, is processed for consumption, or is transported out of state, whichever occurs first.

95.1(2) *Method of reporting.* Hunters may report the harvest in one of five ways:

a. Through the electronic licensing system for Iowa (ELSI) application.

b. By texting the registration number to 1.800.771.4692 and following the prompts.

c. By calling the DNR toll-free harvest reporting telephone number at 1.800.771.4692.

d. By reporting through the Internet using the DNR online harvest reporting system.

e. By visiting an ELSI license agent during the license agent's normal business hours.

95.1(3) *Report confirmation.* The hunter will be given a confirmation number to write on the harvest report tag to verify that the hunter has reported the kill. The harvest report tag and confirmation number must remain attached to the deer or wild turkey until the deer or wild turkey is processed for consumption.

571—95.2(481A) Verifying eligibility for free landowner or tenant licenses. Eligibility for free and reduced-fee deer and wild turkey hunting licenses, hereafter referred to as free licenses, is defined in Iowa Code section 483A.24 and 571—98.6(483A) and 571—106.17(481A). The ELSI will not issue free licenses to persons who have not registered their eligibility with ELSI.

95.2(1) *Farm unit.* As provided in 571—subrule 106.17(6), all the land under the lawful control of the landowner or tenant is considered one farm unit no matter how it is subdivided for business purposes. No one may be registered as eligible for free licenses on more than one farm unit. Registering on one parcel of land within the farm unit will allow the landowner, tenant or family member to hunt on all land in the farm unit.

95.2(2) *Who may obtain free licenses.* One member of the landowner family (the landowner or an eligible family member) may obtain a free any-deer license. Members of the landowner family may divide the free antlerless-deer-only licenses for which the family is eligible among themselves in any way they choose. If there is a tenant on the same property, one member of the tenant family (the tenant or an eligible family member) may also obtain a free any-deer license. Members of the tenant family may divide the free antlerless-deer-only licenses for which they may be eligible among themselves in any way they choose. One member of the landowner family and one member of the tenant family may each obtain one free spring turkey hunting license and one free fall turkey hunting license.

95.2(3) *Method of registration.* A landowner or tenant may register on the Internet through ELSI or by mailing an affidavit obtained from DNR. The online system is available 24 hours a day, seven days a week. An online registrant may obtain a free license once the registration process is complete.

A person who registers through the mail or by fax may have to wait up to ten business days after the form is received by DNR to obtain a free license.

95.2(4) *Information verifying eligibility.* In order to register, a landowner, tenant or qualifying family member must have a customer record in ELSI. When registering, landowners, tenants and family members will be required to provide their ELSI customer number or their Iowa driver's license number or social security number and their date of birth to identify their ELSI customer record.

a. Landowners. A landowner shall provide the parcel identification number (PIN) from the landowner's current property tax statement for one parcel of qualifying land owned by the landowner and the number of the county where the land is located. Qualifying family members shall be registered to the same parcel of qualifying land as the landowner.

b. Partnerships, corporations or other forms of joint land ownership. Each owner of a jointly owned farm unit and the owner's qualifying family members who wish to receive free licenses for that farm unit shall register with the same county number and PIN. Only one joint owner or family member may obtain the one any-deer license available for the farm unit. The other joint owner(s) and family members may divide any other free licenses to which they are entitled among themselves in any way they choose.

c. Tenants. A tenant shall provide an affidavit that contains the name, address, and telephone number of the owner of the qualifying land rented by the tenant; the county number where the land is located; and the landowner's PIN from one parcel of that qualifying land. If a tenant rents land from more than one landowner, the tenant shall provide the required information about only one landowner. The tenant's qualifying family members shall be registered to the same parcel of qualifying land as the tenant.

d. Signature required. Pursuant to Iowa Code section 483A.24(2)*"f,"* all affidavits submitted to register eligibility for free licenses shall bear the signature of the landowner, tenant, or family member attesting that the information contained therein is true.

95.2(5) *Forms.* Instructions and affidavits may be obtained online at www.iowadnr.gov, at DNR offices, or by calling 515.725.8200.

95.2(6) *Registration expiration and renewal.* A registered landowner, tenant, or eligible family member may obtain free licenses as allowed in 95.2(2) provided the registration information and eligibility status remain valid. If the registration information or eligibility status of a registered landowner, tenant, or eligible family member changes, that individual must mail a DNR affidavit form or contact the DNR by telephone. The DNR will periodically review registration information to verify eligibility status and will inactivate registrations when the registration information fails to indicate eligibility.

95.2(7) *Penalties.* Free licenses will not be issued to an applicant until a legible and complete affidavit is received by DNR. An illegible or incomplete affidavit will be returned to the applicant for correction. A person who has made a false attestation in obtaining a license in violation of Iowa Code section 483A.24(2)*"f"* shall be guilty of a simple misdemeanor and subject to license revocation as provided in Iowa Code sections 483A.21 and 483A.24(2)*"f"* and 571—subrule 106.8(3).

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.7, 483A.8, 483A.8A, and 483A.2.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 103
"Mobile Radio Transmitters"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481A.24
State or federal law(s) implemented by the rulemaking: Iowa Code section 481A.24

Public Hearing

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

September 23, 2025 9 a.m.	Google Meet (please email matt.bruner@dnr.iowa.gov for link)

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at matt.bruner@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.336.5456 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento de Recursos Naturales (Departamento) al matt.bruner@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.336.5456 al menos siete días antes del evento.

Public Comment

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

Captain Matt Bruner, Law Enforcement Bureau
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.336.5456
Email: matt.bruner@dnr.iowa.gov

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

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

Purpose and Summary

Chapter 103 defines one-way and two-way mobile radio transmitters and outlines the legal use of these transmitters for falconry and hunting with dogs. This chapter is redundant to Iowa Code section 481A.24, and, consistent with Executive Order 10, the chapter is appropriately proposed to be rescinded.

Analysis of Impact

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

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

This chapter is proposed to be rescinded due to redundancy with statutory language in Iowa Code section 481A.24. The rescission of this chapter does not impose any costs.

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

This chapter is proposed to be rescinded due to redundancy with statutory language in Iowa Code section 481A.24. Rescinding this chapter will reduce unnecessary rules to the benefit of Iowans generally.

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

- **Quantitative description of impact:**

There is no quantitative impact. The proposed rescission of this chapter does not impose any costs.

- **Qualitative description of impact:**

There is no qualitative impact. The proposed rescission of this chapter does not impose any costs.

3. **Costs to the State:**

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

There are no implementation or enforcement costs. The Department will continue to implement and enforce the statute that contains the same language.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues. The proposed rescission of this chapter has no fiscal impact.

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

This chapter is proposed to be rescinded due to redundancy with statutory language in Iowa Code section 481A.24. This rescission does not impose any costs. Rescinding this chapter will reduce unnecessary rules and streamline the Department's ongoing rule review process.

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

Not applicable. This chapter is proposed to be rescinded due to redundancy with statutory language in Iowa Code section 481A.24.

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

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

There were no alternative methods seriously considered by the Department.

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

Not applicable. This chapter is proposed to be rescinded due to redundancy with statutory language in Iowa Code section 481A.24.

Small Business Impact

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

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

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

Not applicable. This chapter is proposed to be rescinded due to redundancy with statutory language in Iowa Code section 481A.24.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **571—Chapter 103**.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapters 104, 112, and 115
"Hunting Preserves"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 484B and 484C

State or federal law(s) implemented by the rulemaking: Iowa Code section 481A.6 and chapters 484B and 484C

Public Hearing

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

September 23, 2025	6200 Park Avenue, Second Floor
12 noon to 1 p.m.	Des Moines, Iowa

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at chris.ensminger@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.250.6886 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento de Recursos Naturales (Departamento) al chris.ensminger@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.250.6886 al menos siete días antes del evento.

Public Comment

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

Chris Ensminger
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.250.6886
Email: chris.ensminger@dnr.iowa.gov

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

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Purpose and Summary

Proposed Chapter 112 consolidates two chapters related to private hunting preserves in the State of Iowa. Specifically, the Iowa Code authorizes private hunting preserves for game birds and whitetails and other ungulates. The Iowa Code further authorizes disease monitoring and management for chronic wasting disease in whitetail. This proposed chapter sets forth general operation, registration, and fees for hunting preserves; signage and fencing; recordkeeping and reporting; tagging and transportation; and health and disease testing requirements, both generally and for whitetails specifically.

This proposed chapter is the consolidation of former Chapters 112 and 115. The substance of these chapters has been revised to eliminate redundancies, improve efficiency, and align with the Iowa Code.

Analysis of Impact

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

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

Hunting preserve owners and operators will bear the costs.

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

Hunting preserve owners and operators, customers of hunting preserves, and citizens of Iowa will benefit.

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

- **Quantitative description of impact:**

These proposed rules do not impose any additional costs beyond what is contemplated by the Iowa Code. Specifically, the Iowa Code sets annual fees for hunting preserve operators; requires fencing and boundary signs; requires recordkeeping; identifies health requirements for game birds and ungulates other than whitetails; and identifies health requirements for whitetails, including herd plans and quarantines.

- **Qualitative description of impact:**

These proposed rules benefit hunting preserve owners and operators by providing clarity on Iowa Code requirements and what activities are authorized. Citizens of Iowa and hunting preserve customers will benefit from ensuring whitetails specifically have clear rules that apply to chronic wasting disease, which is specifically contemplated by the Iowa Code. Citizens of Iowa will benefit from ensuring animals kept on hunting preserves are regulated to maintain the health of the native populations.

3. **Costs to the State:**

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

The Department currently provides management and oversight of hunting preserves and enforcement of these rules and helps users in understanding and complying with the rules. Those services will not change due to the proposed chapter.

- **Anticipated effect on State revenues:**

These proposed rules do not have any effect on State revenues beyond what is contemplated by the Iowa Code.

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

The public does not incur any costs to comply with the process and requirements set forth in these proposed rules. The benefits to ensuring a healthy native population outweigh any minimal costs to the hunting preserve operators.

The cost of inaction (rescinding without replacing Chapters 112 and 115) would result in confusion from hunting preserve owners and operators and risk of unintentional negative impact to the native wildlife populations and be contrary to several sections of the Iowa Code that contemplate the Department promulgating rules.

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

There are no costs associated with this proposed chapter beyond what is contemplated by the Iowa Code. No less intrusive methods exist to meet the benefits of the proposed chapter.

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

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

There were no alternative methods that were seriously considered by the Department.

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

Not applicable.

Small Business Impact

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

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

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

This proposed chapter does not have any impact on small business beyond what is contemplated by the Iowa Code.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **571—Chapter 104**.

ITEM 2. Rescind 571—Chapter 112 and adopt the following **new** chapter in lieu thereof:

CHAPTER 112
HUNTING PRESERVES

571—112.1(484B,484C) Definitions. In addition to the definitions in Iowa Code sections 484B.1 and 484C.1, the following definitions apply:

"Accredited veterinarian" means a Category II-accredited veterinarian as authorized by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) and the state veterinarian in accordance with 9 CFR Part 161 as amended through February 25, 2020, to perform functions required by cooperative state/federal animal disease control and eradication programs.

"Annual activity report" means the Annual Report Form provided by the department.

"Approved laboratory" means an American Association of Veterinary Laboratory Diagnosticians (AAVLD)-accredited laboratory or the National Veterinary Services Laboratories in Ames, Iowa.

"Boundary sign" means a sign prescribed by the department that, when posted, designates the registered hunting preserve's boundaries.

"Cervidae" or *"cervids"* means any member of the Cervidae family, whether free-ranging or captive, except those classified as farm deer by Iowa Code section 481A.1(21)*"h."* "Farm deer" does not include any unmarked free-ranging elk, moose or mule deer.

"CWD" means chronic wasting disease, an infectious prion disease of cervids.

"Department" means the Iowa department of natural resources.

"Hunting preserve operator's registration" means the authority of the holder to establish a hunting preserve for the purpose of holding, propagating, and releasing game birds or privately owned

whitetails or other ungulates for hunting purposes. "Registration" means both the license created in Iowa Code section 484B.4 and the registration created in Iowa Code section 484C.7.

"Lease" means a land-lease document for hunting preserve purposes.

"Privately owned" means the propagation and holding of whitetails whose origins are from privately owned populations.

"Quarantine" means an imposed restriction prohibiting movement of whitetails to any location without specific written permits.

"Registrant" means a person or organization that is registered to possess a hunting preserve operator's registration issued by the department.

"Transportation tag" means a self-adhesive, numbered tag for marking individual game birds and whitetails and other ungulates prior to transportation.

"Tissue sample" refers to the medial retropharyngeal lymph node, which is the preferred tissue type for CWD testing in whitetail deer and mule deer, or the lymph node and obex (caudal brainstem) in other cervid species. When damaged or degraded, the obex can be substituted in deer, though individual deer in early disease can be missed.

DIVISION I
GENERAL HUNTING PRESERVE OPERATIONS

571—112.2(484B,484C) Hunting preserve registration. A hunting preserve operator's registration may, following review and inspection, be issued to a person or organization that, upon application, complies with all requirements established in Iowa Code section 484B.4 or 484C.7, as applicable, and this chapter.

571—112.3(484B,484C) Land leases required. All hunting preserve applications that include leased tract(s) of land shall be accompanied by a legible copy of the land-lease document(s). The lease document(s) shall include but not be limited to the following information: name/address of the lessee and lessor, term of the lease (not less than five years), purpose of the lease, description/location of the leased tract(s) (acreage—section—township—county), one copy of the plat map depicting the location of leased tract(s), and dated signatures by both parties.

571—112.4(484B,484C) Boundary signs required. All registered hunting preserves shall provide, post, and maintain boundary signs that meet the following minimum specifications: 160-square-inch surface area; sign material of wood, steel, aluminum or heavy poly-plastic; and white/red sign color combination with the message "Registered Hunting Preserve." Boundary sign spacing shall be no more than 500 feet apart. Boundary signs shall be posted at each entrance and perimeter gate and at every boundary corner. If the facility operated prior to September 1, 2005, and was signed as a "Licensed Hunting Preserve," those signs will satisfy the signing requirement. However, once existing sign supplies are depleted, new signs must read "Registered Hunting Preserve."

571—112.5(484B,484C) Fencing required. All registered hunting preserves for whitetails or other ungulates shall construct and maintain a "deer-proof" boundary fence. Such fence shall be constructed and maintained with a minimum fence height of eight feet above ground level. Fencing shall be inspected and approved by officers of the department prior to registration. Follow-up fence inspections by the department shall be allowed at any reasonable time by appointment or by providing the landowner or preserve registrant with at least 48 hours' notice. Boundary fence gates shall remain closed at all times except for preserve maintenance activity, at which time no open gate shall be left unattended.

571—112.6(484B,484C) Records and annual report. All registered hunting preserves shall submit to the department a completed annual activity report on forms provided by the department. All

registered hunting preserves shall retain sales/shipping receipts involving the purchase and delivery of any game birds or whitetails or other ungulates to the registrant. All registered hunting preserves shall record any transaction involving the sale of game birds or whitetails or other ungulates by the registrant. All original sales receipts for harvested game birds and whitetails and other ungulates shall remain with the registrant as a part of the permanent record and a copy shall be provided to the purchasing hunter. This record requirement shall also apply to any sale of live birds or whitetails or other ungulates for private or commercial use, and the sale must be recorded immediately following the event.

Any registered hunting preserve having a registration for ungulates shall maintain an inventory record of all ungulates released and being held on the property at any given time.

571—112.7(484B) Game bird transportation tags. Tags shall be placed on a leg of all birds harvested on a registered hunting preserve prior to the bird being transported from the registered area. The tag shall remain attached to the bird until the time it is processed for consumption. Tags are available from the department at a cost of $5 per 100 tags.

571—112.8(484B,484C) Whitetail and other ungulate transportation tags. Tags shall be placed on a leg of each whitetail or other ungulate harvested on a registered hunting preserve prior to moving the carcass in any manner. The hunter shall, upon taking a whitetail or other ungulate, immediately validate the tag by including the following information in the space provided: species and sex of animal taken and the hunter's signature. The hunter shall also notch or punch a hole in the corresponding blocks on the tag designating the year, month and day the animal was taken. The tag shall remain attached to the animal until the animal is processed for consumption. Tags are available from the department at a cost of $1 per tag.

571—112.9(484B) Processed game birds. Registered hunting preserves may prepare game birds for hunters by cleaning, dressing, preserving, and packaging whole birds or bird parts. Packaging material shall be a see-through plastic bag. The plastic bag shall be sealed and the tag placed around the opening of the bag or attached to the bag in such a manner so that the tag number(s) is completely legible. The number of game birds or combination of bird parts shall correspond to the number of tags affixed to the clear plastic bag.

571—112.10(484B,484C) Processed whitetails or other ungulates. Registered hunting preserves may prepare whitetails or other ungulates for hunters by cleaning, dressing, preserving, and packaging the meat. Packaging material shall bear the species name, date the animal was killed, and hunting preserve name in a legible fashion on the outside of the package. The tag shall remain with the meat during processing and shipment.

571—112.11(484B,484C) Health requirements. No game birds or whitetails or other ungulates shipped or transported into Iowa shall be affected with, or recently exposed to, any infectious, contagious, or communicable disease, or originate from a quarantined area.

112.11(1) *Game birds.* All game birds and their hatching eggs shipped or transported into Iowa shall have proof of origination from flocks or hatcheries that have a pullorum-typhoid clean rating given by the official state agency of the National Poultry Improvement Plan or its equivalent and shall be in accordance with the United States Department of Agriculture and the Iowa department of agriculture and land stewardship.

112.11(2) *Whitetails.* All whitetails shipped or transported into or within Iowa for hunting preserve purposes must be in compliance with all movement requirements, including but not limited to health certificate requirements, as prescribed by the department and the department of agriculture and land stewardship as established in 21—65.9(163) and 21—66.14(163). Whitetails are also subject to the rules in Division II of this chapter.

112.11(3) *Other ungulates.* All other ungulates shipped or transported into Iowa for hunting preserve purposes shall be accompanied by an approved Certificate of Veterinary Inspection. All veterinary inspection certificates shall be retained by the registrant for a period of no less than five years.

571—112.12(484B,484C) General conditions for registrants.

112.12(1) Records and facilities shall be available for inspection by officers of the department during reasonable hours. The department may conduct an annual site visit and visual inventory of whitetails or other ungulates observed.

112.12(2) All records and reports must be kept current and reflect a true and accurate account of the registrant's activities.

112.12(3) The department must be notified within 30 days in writing if the registrant ceases operation as a hunting preserve, at which time all unused transportation tags shall be returned to the department.

112.12(4) Whitetail or other ungulate hunting preserves that cease operation shall not remove boundary fencing without approval from the department. Whitetail or other ungulate hunting preserves shall be depopulated prior to any boundary fence removal.

112.12(5) Game bird and ungulates-other-than-whitetail hunting preserves.

a. Registrants must seek to renew their hunting preserve operator's registration within 30 days following the expiration date. Renewal requests received after this period may be considered a new application pursuant to 571—112.2(484B,484C) and 571—112.3(484B,484C).

b. All new hunting preserve operator's applications shall be considered on a first-come, first-served basis following April 30 of each year.

112.12(6) Whitetail preserves.

a. A registrant shall renew the hunting preserve operator's registration and recertify no later than June 30. Registration renewal and recertification requests received by the department after June 30 shall be considered delinquent.

b. The department shall not renew a hunting preserve operator's registration unless a completed annual report, including all documented events for the reporting period, has been received by the department prior to the reporting deadline.

c. For purposes of this chapter, there shall be a continuous open season on whitetails enclosed on registered preserves.

d. Individuals may use centerfire rifles, pistols, crossbows, modern or traditional archery equipment, muzzleloaders, or shotguns to hunt and harvest preserve whitetails.

DIVISION II
WHITETAIL DISEASE MONITORING

571—112.13(481A,484C) CWD in whitetails.

112.13(1) *Testing required.* A person who keeps preserve whitetails in this state shall have CWD tests performed on any preserve whitetail that dies or is killed on the premises. Whenever any person receives a laboratory test result for CWD, that person shall immediately report that result to the department. The person shall report by telephone, fax or other rapid means within one day after receiving the test result and shall report in writing within ten days. The person shall provide a copy of the test result to the owner of the tested whitetail. This reporting requirement applies to any laboratory test result for CWD.

112.13(2) *Collecting tissue samples.* One of the following persons shall collect a tissue sample and submit it for testing:

a. An accredited veterinarian.

b. A trained employee of the department authorized by the department.

112.13(3) *Reporting disease findings.* Accredited veterinarians unaffiliated with the department shall share results of CWD or other disease testing by phone or email as soon as received. Accredited veterinarians unaffiliated with the department shall also provide a copy of the test result to the owner of the tested whitetail.

571—112.14(481A,484C) Official whitetail CWD tests. The following are recognized as official cervid tests for CWD:

1. Immunohistochemistry.
2. Enzyme-linked immunosorbent assay.
3. Any other tests performed by an approved laboratory to confirm a diagnosis of CWD.

571—112.15(481A,484C) Duration of quarantine. A positive test result for CWD will result in a minimum of a five-year quarantine on the preserve and all remaining animals located within the infected preserve. No animal movement in or out of the preserve can occur during the quarantine period.

571—112.16(481A,484C) Herd plan. The registered hunting preserve owner, the owner's veterinarian, if requested, and a designated epidemiologist shall develop a plan for eradicating CWD in affected herds. The plan must be designed to reduce and then eliminate CWD from the herd and prevent spillover into wild cervids. The herd plan must be developed and signed within 60 days after the determination that the herd is affected. The plan must be formalized as a memorandum of agreement between the owner and program officials within the department.

These rules are intended to implement Iowa Code chapters 481A, 484B and 484C.

ITEM 3. Rescind and reserve **571—Chapter 115**.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 111
"Natural Resources Collector Permits: Research, Education, and Wildlife Rehabilitation"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 461A.41, 481A.39, and 481A.65

State or federal law(s) implemented by the rulemaking: Iowa Code sections 461A.41, 481A.39, and 481A.65 and 50 CFR Parts 10, 20, and 21

Public Hearing

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

September 23, 2025	6200 Park Avenue, Suite 200
2 to 3 p.m.	Des Moines, Iowa

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at karmin.klingenberg@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.326.0430 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento de Recursos Naturales (Departamento) al karmin.klingenberg@dnr.iowa.gov or civilrights@dnr.iowa.gov o por teléfono a 515.326.0430 al menos siete días antes del evento.

Public Comment

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

Karmin Klingenberg
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.326.0430
Email: karmin.klingenberg@dnr.iowa.gov

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Purpose and Summary

Proposed Chapter 111 explains the process for members of the public to obtain permits to take, acquire, or possess wildlife or plants for educational projects, scientific collecting, wildlife rehabilitation, and wildlife salvage. The rules clarify compliance with State and federal law and adopt standards as identified by the National Wildlife Rehabilitator's Association, the International Wildlife Rehabilitation Council, the Fish and Wildlife Service, and the United States Department of Agriculture.

This chapter has been reviewed and edited consistent with Executive Order 10. Definitions and rules have been revised to align with State and federal law. Specific publication titles have been added with dates certain to clarify the standards that apply to applicants and permittees.

Analysis of Impact

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

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

Applicants and permittees for the scientific collector, educational project, wildlife salvage, and wildlife rehabilitation permit types will bear the costs.

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

Applicants, permittees, and Iowans will benefit.

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

- **Quantitative description of impact:**

Permittees must pay a permit fee of $5 for one year, $10 for two years, and $15 for three years.

- **Qualitative description of impact:**

Permittees must complete applications and expend time in ensuring compliance with the standards of these proposed rules. The standards are necessary to ensure appropriate treatment and care of animals that continue to be held in trust for the people of Iowa.

3. **Costs to the State:**

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

Department staff will continue to administer this program without bearing costs beyond what is contemplated in statute.

- **Anticipated effect on State revenues:**

No effect on State revenues is anticipated.

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

The benefits of ensuring that wildlife and plants are taken or removed only under specific circumstances in biologically appropriate numbers outweigh the minimal costs to permittees and the Department. Inaction through removal of this chapter would result in no process or clear standards for the public to apply for permits authorized by the Iowa Code.

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

No less costly or less intrusive methods are possible. The proposed rules are the minimal regulation necessary to ensure appropriate oversight of permit issuance and wildlife care.

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

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

There are no alternative methods that were seriously considered by the Department.

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

Not applicable.

Small Business Impact

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

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

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

This proposed rulemaking does not have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 111 and adopt the following **new** chapter in lieu thereof:

CHAPTER 111
NATURAL RESOURCES COLLECTOR PERMITS:
RESEARCH, EDUCATION AND WILDLIFE REHABILITATION

571—111.1(481A) Definitions.

"Department" means the same as defined in Iowa Code section 481A.1.

"Educational project permit" means a permit to take, acquire and possess live wildlife for natural resource-based educational programs and displays.

"Permit" means a license for the purpose of this chapter.

"Permittee" means an organization or person that possesses a valid permit issued by the department under Iowa Code section 481A.65.

"Scientific collector's permit" means a permit to take, for scientific purposes only, any birds, nests, eggs, mammals, amphibians, reptiles, fish, invertebrates, plants or parts thereof that are protected by state regulations.

"Wildlife rehabilitation permit" means a permit to take and temporarily possess injured, sick or orphaned authorized wildlife species with the sole intent to return the animal to its natural habitat as soon as possible.

"Wildlife salvage permit" means a permit to possess, for natural resource education programs or scientific studies, authorized protected wildlife species that have died as the result of natural causes or accidents, were legally taken, or were donated specimens that have been legally obtained.

571—111.2(481A) General conditions for permits.

1. Applications will not be approved for private collections or for commercial use of protected species.
2. Any costs incurred by the permittee for the administration of any permit authorized by this chapter are the responsibility of the permittee.
3. Scientific collecting permits, wildlife salvage permits, and educational project permits unless for migratory birds are generally issued in the name of the institution or organization. The principal collector or permittee will be listed on the permit and be responsible for administering the permit. All persons collecting or working under the authority of the permit shall carry a copy of the permit and a letter of authorization from the principal permittee.
4. Educational project permits for migratory birds and wildlife rehabilitation permits may list an institution or organization but also must list the person or persons with the qualifications for that particular permit. These permits do not necessarily continue with the institution or organization if the person or persons listed on the permits leave. If replacement personnel with the proper qualifications for the permit or permits are found, then the permit or permits may stay in the institution's or organization's name.
5. Specimens collected or possessed under any permit authorized by this chapter remain the property of the state of Iowa. The department reserves the right to determine the disposition of all specimens collected under authority of these permits.

6. Records, facilities and inventories must be made available for inspection by the department's agents during reasonable hours.

7. Records of collections and the manner in which specimens have been acquired and their disposition must be kept current at all times.

8. Authorization to collect or possess endangered or threatened species requires special permission and must comply with provisions established in Iowa Code chapter 481B.

9. A representative of the department must be notified within 72 hours of a permittee taking or holding threatened or endangered species that are found dead and within 24 hours for those that are injured or sick.

10. A permitted rehabilitator or veterinarian must determine if a migratory bird is permanently crippled before it may be held under an educational project permit.

11. Permit fees will be $5 for one year, $10 for two years, and $15 for three years.

12. Applicants for scientific collectors, wildlife rehabilitation, and educational projects must be at least 18 years old or provide written permission from a parent or guardian.

13. No animals being rehabilitated may be used for educational programs.

14. Applicants for scientific collector, wildlife rehabilitation, wildlife salvage, and educational project permits that are requesting permission to collect, possess, or hold wildlife species as listed in 50 CFR Parts 10, 20, and 21 as amended through August 4, 2025, must follow provisions set forth and may be required to obtain a federal permit issued by the U.S. Fish and Wildlife Service.

15. Any native mammals, reptiles, amphibians, or fish that are not state-listed endangered or threatened species and are obtained from legal sources outside the state of Iowa are exempt from these permit requirements. Proof of origin of each animal is the responsibility of the owner.

571—111.3(481A) Scientific collector's permit. A scientific collector's permit may, after investigation, be issued to any business, organization, university, college or person engaged in a scientific project approved by the department.

This permit may be issued for a period of up to three years.

The application narrative shall include the reason for study, expected conservation benefit for Iowa, species, number of specimens to be collected, geographic location, time frame and collection methods subject to department approval.

571—111.4(481A) Wildlife salvage permit. A wildlife salvage permit may be issued to any business, university, college, school, public agency, other organization or person engaged in a natural resource education or research program approved by the department.

This permit may be issued for a period of up to three years.

Special approval is required for the salvage of migratory birds, including nests and eggs.

571—111.5(481A) Educational project permit. The following classes of educational project permits may be issued by the department:

111.5(1) A general educational project permit for protected animal species, other than migratory birds, may be issued to any university, college, school, public agency, other organization or person engaged in a natural resource education program approved by the department. The limitation on the number of animals in possession shall be established by the ability of the applicant to provide adequate facilities and care.

This permit may be issued for a period of up to three years.

111.5(2) A migratory bird apprentice educational project permit may be issued to a person interning to meet the requirements of the federal special purpose possession permit and being sponsored by a person possessing the following: a master wildlife rehabilitation permit and having two years' experience using migratory birds under a state or federal educational project permit, a master class falconry permit or a migratory bird general educational project permit for at least five years. An apprentice will be limited to the possession of one American kestrel and one screech owl

that are permanently crippled or human imprinted. In the case where an apprentice will be in charge of an existing facility with additional birds, the sponsor and the conservation officer must approve the possession of the additional species and individuals.

This permit may be issued for a period of up to two years.

111.5(3) A migratory bird general educational project permit for migratory birds may be issued to a person who has served the appropriate apprenticeship and is recommended by the person's sponsor, has previously held an educational project permit for migratory birds issued by the department or the U.S. Fish and Wildlife Service, or has held a master class state and federal falconry permit within the last five years.

This permit may be issued for a period of up to three years.

571—111.6(481A) Wildlife rehabilitation permit. The following classes of wildlife rehabilitation permits may be issued by the department:

111.6(1) An apprentice wildlife rehabilitation permit may be issued to a person serving a one-year internship with and being sponsored by a person possessing a master wildlife rehabilitation permit or to a person serving a two-year internship with and being sponsored by a person possessing a general wildlife rehabilitation permit.

This permit may be issued for a period of up to two years.

111.6(2) A general wildlife rehabilitation permit may be issued to a person who has served the appropriate apprenticeship; has graduated with a degree in veterinary medicine; or has previously held a rehabilitation permit issued by the department, U.S. Fish and Wildlife Service, or any other state natural resource agency.

A general wildlife rehabilitator may sponsor up to four apprentices at a given time.

This permit may be issued for a period of up to three years.

111.6(3) A master wildlife rehabilitation permit may be issued to a person who has completed five consecutive years of extensive rehabilitation work and has received a recommendation from the local state conservation officer assigned to the person's resident county or who is a licensed veterinarian with specific training and experience in wildlife rehabilitation. The department may issue a master wildlife rehabilitation permit to individuals who have demonstrated special ability, knowledge, training and experience in wildlife rehabilitation.

A master wildlife rehabilitator may sponsor up to six apprentices at a given time.

This permit may be issued for a period of up to three years.

571—111.7(481A) Application qualifications. All applicants for any permit defined herein must possess adequate qualifications and experience and facilities to house and properly confine species held under the permit if applicable. Applicants are subject to the following standards:

Standards/Publications	Association/Society Name
Minimum Standards for Wildlife Rehabilitation, Fourth Edition 2012	International Wildlife Rehabilitation Council (IWRC) National Wildlife Rehabilitators Association (NWRA)
Migratory Bird Permit Memorandum, MBPM-12, December 31, 2024	Fish and Wildlife Service (FWS)
Buhl G. Wildlife in Education: A Guide for the Care and Use of Program Animals. Second. Buhl G, Schlieps J, Smith L, editors. Bloomington, MN: National Wildlife Rehabilitation Association, 2018	NWRA
Animal Welfare Act and Animal Welfare Regulations Blue Book, Animal and Plant Health Inspection Service, July 2023	United States Department of Agriculture (USDA)
Arent, Lori, "Raptors in Captivity: Guidelines for Care and Management," Hancock House, 2007	FWS

For scientific collectors permits, the applicant must certify to following the guidelines set forth by the organization's Institutional Animal Care and Use Committee or the organization overseeing the research.

For education and rehabilitation permits, the applicant and officer will be provided the appropriate Permit Inspection Sheet based on the guidelines set forth by the appropriate governing body and the appropriate governing body's permit resources.

If they are housing animals, wildlife rehabilitation and educational project applicants must provide a completed and signed Consulting Veterinarian Agreement on the form provided by the department from a licensed veterinarian that will provide professional counsel to the applicant. Applicants must list species or groups of species, such as but not limited to rabbits, squirrels, migratory birds, snakes or turtles, for which they will be providing rehabilitation services on the applicants' permit application narrative.

The application narrative for an educational project permit must list the species and number of each species that will be held. Facilities for migratory birds must meet the design and size criteria set forth by the standards listed above.

If an applicant has been found in court to have committed an act of animal cruelty or neglect, the applicant shall not be eligible for a license for at least five years from the date of the conviction or guilty plea.

571—111.8(481A) Evaluation committee. For the purpose of evaluating facilities, standards of care, study design, sample numbers, and impacts to wild populations from applications requested by applicants under this rule, the director may establish an ad hoc committee of persons with expertise in wildlife, rehabilitation, veterinary medicine, research or education. Upon request by the director, the committee shall inspect the facilities, procedures and educational programs and provide the department with appropriate recommendations. The recommendations may be used as a basis for placing certain conditions on a permit or modifying or terminating a permit.

571—111.9(481A) Disposition of animals, parts, eggs or nests. Injured or orphaned animals that cannot be returned to their natural environment shall be transferred to someone with an educational project permit or, after being euthanized by or under the guidance of a licensed veterinarian, handled as follows:

111.9(1) The animals will be transferred to someone with a scientific collector's permit or a wildlife salvage permit after obtaining permission from the department, or

111.9(2) Disposition of carcasses must be in accordance with local ordinances and according to Iowa Code chapter 167.

All threatened and endangered species that have died, that must be euthanized, or that cannot be released shall be referred to the department for further determination of proper disposition.

These rules are intended to implement Iowa Code sections 461A.41, 481A.39, and 481A.65.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 113
"Restitution for Pollution Causing Injury to Wild Animals"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 481A.151

State or federal law(s) implemented by the rulemaking: Iowa Code sections 456A.23, 481A.2, and 481A.151

Public Hearing

A public hearing at which persons may present their views orally will be held via virtual meeting as follows. Persons who wish to attend the virtual meeting should contact Randall Schultz via email. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to Randall Schultz prior to the hearing to facilitate an orderly hearing.

September 24, 2025 12 noon to 1 p.m.	Via videoconference

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at randy.schultz@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 319.217.9317 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento de Recursos Naturales (Departamento) al randy.schultz@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 319.217.9317 al menos siete días antes del evento.

Public Comment

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

Randall Schultz
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Email: randy.schultz@dnr.iowa.gov

Free language access: If you speak a non-English language, the Department offers language assistance services free of charge, contact the Department at randy.schultz@dnr.iowa.gov.

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

Purpose and Summary

The Iowa Code requires the Department to obtain restitution for damages to natural resources caused by water pollution. This restitution serves as funding to remediate the damages and serves as a deterrent to future prohibited activities. Proposed Chapter 113 includes provisions identifying how investigations are to be conducted and how damages are to be assessed, designating restitution amounts for fish and other aquatic life, and providing procedures for how compensation for damages will be obtained.

Analysis of Impact

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

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

Anyone causing water pollution that results in the destruction of or injury to wild animals of the State may incur the cost of restitution and reimbursement of the Department's investigative costs.

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

The public benefits by being compensated when public natural resources are damaged.

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

- **Quantitative description of impact:**

This proposed rulemaking identifies restitution amounts for different species of fish and other aquatic animals. These rules are mandated by the Iowa Code. Each incident that results in resource damage restitution varies in severity and therefore also in cost of restitution.

- **Qualitative description of impact:**

Those who violate Iowa water pollution laws resulting in damage to natural resources will face the cost of compensating the State and people of Iowa for the damage done. These payments can be used to remediate damaged habitat and animal populations.

3. **Costs to the State:**

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

Department staff conduct investigations of water pollution violations. This includes field office staff and fisheries biologists. The costs of these investigations can be recouped under the provisions of this proposed chapter.

- **Anticipated effect on State revenues:**

This chapter is not being substantively changed, so there are no anticipated effects on State revenues.

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

This chapter is mandated by the Iowa Code. Costs are borne solely by those who violate the law, resulting in damage to natural resources. The benefits of deterrence and compensation for damage done are significant.

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

The general restitution scheme included in this proposed chapter is mandated by the Iowa Code. The specific amounts attributed to specific species are objectively calculated and published by the American Fisheries Society, which is the scientific association of professional fisheries biologists and other aquatic resource professionals. Lower restitution amounts are not justifiable.

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

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

There are no alternative methods that were seriously considered by the Department.

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

The methods prescribed in this chapter are largely mandated by the Iowa Code.

Small Business Impact

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

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

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

This proposed chapter is mandated by the Iowa Code. To the extent that this chapter impacts a small business, it would be as a result of the business's violation of Iowa law.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 113 and adopt the following **new** chapter in lieu thereof:

CHAPTER 113
RESTITUTION FOR POLLUTION CAUSING INJURY TO WILD ANIMALS

571—113.1(481A) Applicability. These rules apply to persons who cause, by water pollution, the destruction of or injury to wild animals held in trust by the state for the public. These rules relate to the compensation to the state and public for the natural resource damages and are in addition to any other legal recourse for the event or action that caused the destruction or damage.

571—113.2(481A) Definitions.

"AFS" means the 2017 Special Publication 35, "Investigation and Monetary Values of Fish and Freshwater Mollusk Kills," published by the American Fisheries Society.

"Damages" means the costs of restoration, rehabilitation, and replacement of resources or acquisition of equivalent resources as determined in accordance with this chapter; the reasonable and necessary costs of the assessment, to include the cost of performing the assessment and administrative costs and expenses necessary for, and incidental to, the assessment; lost services to the public; and, in the event the damages claim is not resolved within six months after the incident leading to the damages, interest at the current rate published in the Iowa Administrative Bulletin by the department of revenue pursuant to Iowa Code section 421.7. The interest amount shall be computed from the date the amount of the claim is confirmed by a final ruling of the commission in a contested case decision.

"Priority watershed" means a watershed for which:

1. The department of natural resources, in partnership with other state or federal agencies, the agriculture community or nonprofit organizations, creates and implements plans, programs or projects to sustain and enhance watershed and stream functions; and
2. The principal objective is to manage wild animals and their habitats.

"Surface water resources" means the waters of the state, including the sediments suspended in water or lying on the bank, bed, or shoreline. This term does not include groundwater or water or sediments in ponds, lakes, or reservoirs designed for waste treatment under applicable laws regulating waste treatment.

"Wild animals" means fish, wildlife and other biota belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the state of Iowa, the United States, or local government. Fish and wildlife include freshwater aquatic and terrestrial species; game, nongame, and commercial species; and threatened and endangered species. Other biota encompass shellfish and other living organisms not otherwise listed in this definition.

571—113.3(481A) Liability to the state. Persons who cause by water pollution the destruction of or injury to wild animals of the state shall be liable to the state as provided in Iowa Code section 481A.151. These rules establish the methodologies and criteria for evaluating the extent and value of the destruction or injury and establish the methods of compensation. If the person and the department cannot agree to the proper resolution of a particular case, the issues of liability, damage and compensation will be established through contested case proceedings as provided by 571—Chapter 7.

571—113.4(481A) Assessment. When wild animals are destroyed or injured by an identifiable source of water pollution, the degree and value of the losses shall be assessed by collecting, compiling, and analyzing relevant information, statistics, or data through prescribed methodologies to determine damages, as set forth in this rule.

113.4(1) *General.* For species other than fish, the professional judgment of fish and wildlife staff and available literature and guidance normally relied on in the fish and wildlife professions may be used to assess the injuries.

113.4(2) *Fish loss.* Assessment of damages for fish kills shall be in accordance with the following:

a. Normally investigators will follow the methods prescribed by AFS to determine, by species and size, numbers of fish killed.

b. During periods of ice cover, where local conditions prevent using the methods in 113.4(2)*"a,"* or in other appropriate circumstances; for example, when the resources are known to have been diminished by prior incidents, investigators will utilize the best information available to determine, by species and size, numbers of fish killed. Information may include existing or prior data on population levels in the affected water body or a nearby water body with similar characteristics, including any historical fish kill data.

c. The monetary valuation of fish shall be the replacement values as published in AFS for all fish lost, except the following: channel catfish, flathead catfish, blue catfish, northern pike, muskellunge, northern pike/muskellunge hybrid, rainbow trout, brown trout, brook trout, white bass, yellow bass, white bass/striped bass hybrid, largemouth bass, smallmouth bass, spotted bass, crappie, rock bass, bluegill, redear sunfish, warmouth, pumpkinseed, freshwater drum, yellow perch, walleye, sauger and walleye/sauger hybrid. The value of these fish shall be $15 each unless AFS establishes a higher value. Notwithstanding the above, the value of each fish classified by the department as an endangered or threatened species shall be $1,000.

d. The value of lost services to the public shall be the number of fishing trips lost over the period of the resource loss as determined through local creel survey information or through interpolation from the most recent statewide creel survey. Each trip shall be valued at $30.

e. The cost of the investigation shall include:

(1) Salaries plus overhead of staff, including support staff, involved in investigating the fish kill and performing the assessment.

(2) Any meals and lodging of staff while they are in the field conducting the assessment.

(3) Mileage valued at the current rate established pursuant to Iowa Code section 8A.363.

(4) Costs borne by the department associated with containment or cleanup operations.

(5) Any other costs directly associated with the investigation and assessment.

571—113.5(481A) Compensation. The department will extend to the responsible person the opportunity to reach voluntary agreement as to the amount of damages and the compensation method. The method of compensation shall be solely in the discretion of the department. If the person disputes liability or the damage amount, these issues will be resolved through contested case proceedings.

113.5(1) *Direct monetary payment.* Compensation shall normally be by direct monetary payment to the department for projects in priority watersheds selected by the department. To the extent reasonable and practical, the money received will be used to replace, restore or rehabilitate the lost or injured animals. Resource enhancement projects, support of educational programs relating to resource

protection or enhancement, or resource acquisition of equal or greater value also may be funded. If practical, such alternatives should provide similar services to the public.

113.5(2) *Indirect monetary payment.* In cases where the destruction of or injury to wild animals is in a selected priority watershed, an equal or greater amount of compensation may be made by monetary payment to another government agency or private nonprofit group in the natural resource field for the same purposes as provided in 113.5(1).

113.5(3) *Direct funding of projects.* With the approval and oversight of the department, the person may be allowed to contract directly for the same purposes as provided in 113.5(1).

These rules are intended to implement Iowa Code sections 456A.23, 481A.2 and 481A.151.

Regulatory Analysis

Notice of Intended Action to be published: 571—Chapter 116
"Help Us Stop Hunger Program Administration"

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

Public Hearing

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

September 23, 2025	6200 Park Avenue, Second Floor
12 noon to 1 p.m.	Des Moines, Iowa

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at chris.ensminger@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.250.6886 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento de Recursos Naturales (Departamento) al chris.ensminger@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.250.6886 al menos siete días antes del evento.

Public Comment

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

Chris Ensminger
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.250.6886
Email: chris.ensminger@dnr.iowa.gov

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

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

Purpose and Summary

Proposed Chapter 116 establishes the procedures for the administration of the Help Us Stop Hunger (HUSH) program. The HUSH program is established under the Iowa Code to encourage hunters, especially during periods of excessive deer populations, to harvest more deer than needed for personal consumption and to donate those deer to a program to feed Iowans in need.

Analysis of Impact

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

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

Deer hunters bear the costs of the HUSH program through the $1 fee added to each deer hunting license purchased. The $1 fee is authorized in the Iowa Code.

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

Citizens of Iowa and Iowans in need will benefit.

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

- **Quantitative description of impact:**

Costs associated with implementation of the HUSH program are covered by a $1 fee added to each deer hunting license purchased. Venison is distributed through food pantries to Iowans in need of low-cost protein.

- **Qualitative description of impact:**

The HUSH program is a public benefit paid for by deer hunters.

3. **Costs to the State:**

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

The Department devotes a small amount of staff time overseeing the contracts with meat processors and the venison distributor.

- **Anticipated effect on State revenues:**

This proposed chapter does not have any effect on State revenues.

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

The costs of the proposed chapter are very low (and paid by hunters), while the benefits to hungry Iowans can be significant. Inaction would end the opportunity for Iowans in need to receive low/no cost venison on a broad scale.

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

The Department does not believe the objectives could be accomplished for lower costs ($1) per deer.

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

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

There were no alternative methods that were seriously considered by the Department.

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

Not applicable.

Small Business Impact

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

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

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

This proposed chapter would have a positive impact on small business. These rules allow open contracts for meat processors across the State. The required products produced (packaged ground

venison) do not provide particularly lucrative revenues but do allow small businesses to recoup costs while providing a community benefit.

Text of Proposed Rulemaking

ITEM 1. Rescind 571—Chapter 116 and adopt the following **new** chapter in lieu thereof:

CHAPTER 116
HELP US STOP HUNGER PROGRAM ADMINISTRATION

571—116.1(483A) Purpose. This chapter establishes the procedures for the administration of HUSH.

571—116.2(483A) Definitions.

"Deer" means any wild deer legally taken in Iowa and deer confiscated as legal evidence if the confiscated carcass is considered by a conservation officer to be in good condition for donation.

"Department" means the same as defined in Iowa Code section 483A.1A.

"Distributor" means the Food Bank of Iowa or other venison distribution service provider as shall be designated by future contract with the department.

"Field-dressed" means that the deer has been properly bled and cleaned of its internal organs.

"Food Bank of Iowa" means the private, nonprofit charitable organization incorporated under that name, whose mission is to alleviate hunger and reduce food waste in Iowa.

"HUSH" means the help us stop hunger program.

"Meat processor" means any business that is licensed by the department of agriculture and land stewardship's bureau of meat and poultry inspection, the USDA, or a neighboring state's department that is similar to Iowa's, to process meat for retail customers.

571—116.3(483A) Restrictions. Deer is the only species of wildlife that shall be covered by the HUSH program. The entire deer carcass must be donated, but the hunter may keep the antlers, head and cape.

571—116.4(483A) HUSH council. There is hereby created a HUSH council. Members shall serve without compensation.

116.4(1) *Membership.* The HUSH council shall include the following voting members:

a. The HUSH coordinator, who shall serve as the chairperson;

b. An additional department representative designated by the department's wildlife bureau chief;

c. A representative of the Food Bank of Iowa appointed by its executive director.

116.4(2) *Duties.*

a. To set a fair market price, the council shall consider prices for similar services paid by retail customers in Iowa and nearby states and shall recommend to the department an annual per-deer processing payment to be made to meat processors.

b. The council shall recommend to the department an annual per-deer administrative payment to be made to the Food Bank of Iowa. The Food Bank of Iowa shall provide information to assist in this determination but shall not participate in any vote of the council regarding the recommendation of the annual per-deer administrative payment to the Food Bank of Iowa.

c. The council shall make recommendations to the department to resolve conflicts or disputes in the operation of the HUSH program as brought to it by any person or entity.

d. The council shall adopt standards for participating lockers to meet in terms of their record of violations of rules of the bureau of meat and poultry inspection and the department of natural resources.

e. The council shall advise the department in the administration of HUSH.

116.4(3) *Administration.* The HUSH coordinator shall convene the council as needed to conduct business. A majority vote shall be required for action or decision by the council. The chief of the department's wildlife bureau shall have the right to overrule the council for cause and shall provide

the council with justification for the reasons. A quorum to conduct business shall consist of three council members, one of whom shall be the HUSH coordinator.

571—116.5(483A) Duties of the department. During periods of excessive deer populations, the department shall promote the harvest of deer by hunters and the donation of deer at meat processors participating in HUSH. During periods of nonexcessive deer populations, HUSH may continue with less emphasis on promotion to hunters. The department shall enlist as many meat processors as available to participate in HUSH and shall enter into uniform agreements with them. The department shall contract with the Food Bank of Iowa and pay a per-deer rate for administrative services provided.

571—116.6(483A) Partnerships with other organizations. The department, at its own discretion, may enter into agreements with other organizations for the purpose of expanding the deer donation program. The department may include the offer of matching grants to pay for deer processing to organizations that acquire funding from sources other than the state of Iowa.

These rules are intended to implement Iowa Code chapter 483A.

Regulatory Analysis

Notice of Intended Action to be published: 561—Chapter 2
"Public Records and Fair Information Practices"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A and 22.11
State or federal law(s) implemented by the rulemaking: Executive Order 10 (2023)

Public Hearing

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

September 24, 2025 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

Free language access: If you speak a non-English language, the Department of Natural Resources (Department) offers you language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

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

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on September 24, 2025. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.210.3408
Email: kelli.book@dnr.iowa.gov

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.210.3408 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.210.3408 al menos siete días antes del evento.

Purpose and Summary

Proposed Chapter 2 establishes the Department's policies and procedures for the maintenance of records. This chapter facilitates public access to open records and provides the procedures for identifying and protecting confidential records. The chapter implements provisions of the Fair Information Practices Act. The Environmental Protection Commission and the Natural Resource Commission have adopted 561—Chapter 2 by reference with a single sentence in 567—Chapter 2 and 571—Chapter 2, respectively.

In accordance with Executive Order 10, the rules have been edited for length and clarity by removing outdated provisions and removing those redundant to statute. The definitions noted in

567—Chapter 2 have been moved to 561—Chapter 2, removing redundancy and allowing for all records provisions to be in the same chapter.

Analysis of Impact

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

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

There are no costs to the general public; this chapter is mostly procedural and descriptive in nature. Those requesting a public record may incur a cost associated with fees prescribed by law and rule.

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

This rulemaking provides procedural structure of public and confidential records for the general public and regulated entities. Those parties will benefit from clear and concise rules as to how records will be maintained by the Department.

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

- **Quantitative description of impact:**

There are no costs associated with this proposed rulemaking.

- **Qualitative description of impact:**

This rulemaking provides the procedural structure of public and confidential records for the general public and regulated entities. Those parties will benefit from clear and concise rules as to how records will be maintained by the Department.

3. **Costs to the State:**

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

There are no costs associated with this proposed rulemaking.

- **Anticipated effect on State revenues:**

There will be no impact on State revenues associated with this proposed rulemaking.

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

Not applicable.

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

Not applicable.

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

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

None were considered.

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

The rulemaking is consistent with the provisions of Iowa Code chapter 22.

Small Business Impact

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

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

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

This rulemaking has no impact on small business. The rulemaking will benefit small businesses by providing clear and concise rules as to how records will be maintained by the Department.

Text of Proposed Rulemaking

ITEM 1. Rescind and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

561—2.1(17A,22) Purpose and scope.

2.1(1) This chapter implements Iowa Code section 22.11 by establishing department procedures for the maintenance of records. It also facilitates the department's handling of confidential records and the implementation of the Fair Information Practices Act.

2.1(2) This chapter does not:

a. Require the department to index or retrieve records that contain information about individuals by that person's name or other personal identifier.

b. Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

c. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the department that are governed by the regulations of another agency.

d. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

e. Make available records compiled in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings will be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations.

561—2.2(17A,22) Definitions. As used in this chapter:

"Confidential record" means a record that is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the department is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7 or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

"Custodian" means the department or a person lawfully delegated authority by its director to act for the department in implementing Iowa Code chapter 22.

"Department" means the department of natural resources.

"Open record" means a record other than a confidential record.

"Personally identifiable information" means information about or pertaining to an individual in a record that identifies the individual and that is contained in a record system.

"Record" in these rules means the whole or a part of a "public record" as defined in Iowa Code section 22.1.

"Record system" means any group of records under the control of the department from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol or other unique retriever assigned to an individual.

561—2.3(17A,22) Requests for access to records.

2.3(1) *Location of record.* A request for access to a record should be directed to the custodian or the particular department office where the record is kept. If the location of the record is not known by the requester, the request should be directed to the Director, Department of Natural Resources, 6200 Park Avenue, Suite 200, Des Moines, Iowa 50321. If a request for access to a record is misdirected, department personnel will promptly forward the request to the appropriate person within the department.

2.3(2) *Office hours.* Records are available during all customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

2.3(3) *Request for access.* Requests for access to records may be made in writing or in person. The office may also accommodate telephone requests where appropriate. Requests will identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests will include the name, address and telephone number of the person requesting the information. A person is not required to give a reason for requesting a record.

2.3(4) *Response to requests.* Access to a record will be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to a record requires time for compliance, the custodian will comply with the request as soon as feasible. Access to a record may be delayed for purposes authorized by the Iowa Code. The custodian will promptly give notice to the requester of the reason for any delay in access to a record and an estimate of the length of that delay. The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under the Iowa Code, that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 561—2.5(17A,22) and other applicable provisions of law.

2.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from department files. Examination and copying of department records will be supervised by the custodian or a designee of the custodian. Records will be protected from damage and disorganization.

2.3(6) *Copying.* A reasonable number of copies of a record may be made in the department's office. If photocopy equipment is not available in the department office where the record is kept, the custodian will permit its examination in that office and will arrange to have copies promptly made elsewhere.

2.3(7) *Fees.*

a. When charged. Anyone making a request for reproduction of the department's records will pay for the services. The fee schedule is available on the department's website, iowadnr.gov. To the extent permitted by applicable provisions of law, the payment of fees may be waived in the case of small requests of five or fewer copies, when the imposition of fees is inequitable, or when a waiver is in the public interest. Charges for examination or copies requested in writing by a person in a capacity as representative of another governmental entity or where copies are provided under provisions of a written department contract may be waived.

b. Supervisory fee. An hourly fee may be charged for actual department expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one-half hour. The custodian will prominently post in department offices the hourly fee to be charged for supervision of records during examination and copying. That hourly fee will not be in excess of the hourly wage of a department clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

c. Search fees. If the request requires research or if the record or records cannot reasonably be readily retrieved by the office, the requester will be advised of this fact. Reasonable search fees may be charged where appropriate. In addition, all costs for retrieval and copying of information stored in electronic storage systems may be charged to the requester.

d. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds $25, the custodian may require a requester to make an advance payment to cover all or part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

561—2.4(17A,22) Confidential records. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order. Unless deemed as a confidential record or considered as a confidential record by Iowa Code section 22.7, all records are considered public and routinely disclosed without the consent of the subject.

2.4(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

2.4(2) *Request.* A written request that a record be treated as a confidential record and be withheld from public inspection should be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record. The request should include two copies of the record in question; one copy of the record with all information provided and a second copy of the record with the information being requested confidential deleted from the record.

2.4(3) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

2.4(4) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

2.4(5) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian will notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8 or other applicable provision of law. However, such a record need not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian will notify the requester in writing of the time period allowed to seek injunctive relief or the reason for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, if a court directs the custodian to treat it as a confidential record, to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

2.4(6) *Processing of confidentiality claims.* In order to request a record be held confidential with the department, the party will comply with the following provisions:

a. Applicability/availability. Businesses that provide information to the department in applications, reports or otherwise in recorded form, or from or about which information is obtained and recorded by the department, may request that information not be disclosed to others for reasons of business confidentiality. Until such time as a request for confidentiality is received by the department, all information will be available to the public. If a claim is received after the information itself is received, the department will make such efforts as are administratively practicable to associate the claim with all copies of the previously received information. However, the department cannot ensure that such efforts will be effective in light of the possibility of prior disclosure or dissemination of the information beyond the department's reasonable control.

b. Confidentiality request process. An entity that submits information to the department may assert a confidentiality claim in accordance with the following process:

(1) Attach a cover sheet indicating the entity is seeking the information to be held confidential. The submission will include a letter of substantiation with the information required by paragraph 2.4(6)*"c."*

(2) File two copies of the information: one with all information present and a second copy of the document with the information for which the party wishes to claim confidential treatment deleted from the document.

c. Contents of claim. All claims for confidentiality must be substantiated with the following information in a letter attached to the proposed confidential document:

(1) A statement of all measures the business has taken to protect the confidentiality of the information, and a statement of intent to continue to take such measures;

(2) Practices and policies of other businesses, if known, regarding confidentiality of similar information;

(3) A statement that the information is not, and has not been, reasonably attainable without the consent of the business by other persons other than government bodies by use of legitimate means;

(4) A statement demonstrating that disclosure of the information is likely to cause substantial harm to the business's competitive position;

(5) A reference to any other determinations of confidential status of the information or similar information.

d. Initial action by department. All claims will be reviewed for completeness and applicability of subrule 2.4(8). If the claim does not include the substantiation required by paragraph 2.4(6)*"c,"* or if the claim relates to information within subrule 2.4(8), the business making the claim will be notified by certified mail. If the substantiation or comment regarding the inapplicability of subrule 2.4(8) is not received by the department within ten days of the date on the return receipt, the department will place the information in the public file. Otherwise, all information claimed to be confidential will be treated as such by the department until further notice.

e. Substantive criteria for use in confidentiality determinations. Prior determinations by the courts, the department or other agencies on the information or similar information will be given due consideration and effect. Determinations will hold that business information is entitled to confidential treatment for the benefit of a particular person if:

(1) The business has taken and intends to continue to take reasonable measures to protect the confidentiality of the information;

(2) The information is not readily obtainable by others by legitimate means;

(3) The claim is not unreasonable in view of the nature of the information, the interests and normal practices of the business, and the practices of other businesses;

(4) No statute or rule specifically requires disclosure of the information; and

(5) There is a substantial likelihood that disclosure of the information would cause substantial harm to the competitive position of the business.

f. Determination. The department will transmit its determination regarding a claim for business confidentiality to the claimant by certified mail, notifying the claimant of the opportunity to provide comments within ten days subject to reasonable extension upon written request, and that failure to comment will be construed to indicate agreement with the preliminary determination. If the determination is in response to a request for disclosure, the person requesting the disclosure will be sent a similar notice in the same manner within ten days of the request. If any substantial comments are received, the final decision will be made by the director or designee. If no substantial comments are received, the preliminary determination becomes the final decision.

g. All procedures within this rule will not be considered contested case proceedings as provided in Iowa Code chapter 17A.

2.4(7) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids;

b. Tax records made available to the department;

c. Records that are exempt from disclosure under Iowa Code section 22.7;

d. Minutes of closed meetings of a government body;

e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets;

f. Those portions of the department's staff manuals, instructions or other statements issued that set forth criteria or guidelines to be used by staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the department;

g. Records that constitute attorney work product, attorney-client communications, or are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

h. Any other records made confidential by law.

2.4(8) *Not confidential.* Notwithstanding any other provision, the following information will not be considered confidential by the department:

a. Emission data. For purposes of this subrule, "emission data" means the following, with reference to any source of emission of any substance into the air:

(1) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission that has been emitted by the source (or of any pollutant resulting from any emission by the source) or any combination of the foregoing;

(2) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions that, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source); and

(3) A general description of the location and nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

b. Analytical results of monitoring or public water supply systems;

c. Name and address of any permit applicant; and

d. NPDES permits, applications (including any information required by NPDES application forms) and effluent data. For purposes of this subrule, "effluent data" means the following, with reference to any source of discharge of any pollutant:

(1) Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of any pollutant that has been emitted by the source (or of any pollutant resulting from any discharge from the source) or any combination of the foregoing;

(2) Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of the pollutants that, under an applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source); and

(3) A general description of the location and nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

561—2.5(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 561—2.4(17A,22).

2.5(1) Proof of identity. A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

2.5(2) Requests. The custodian may require that a request to examine and copy a confidential record be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

2.5(3) Notice to subject of record and opportunity to obtain injunction. After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specified period of time during which disclosure will be delayed for that purpose.

2.5(4) Request denied. When the custodian denies a request for access to a confidential record, the custodian will promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian will promptly provide such a notification that is signed by the custodian and that includes:

a. The name and title or position of the custodian responsible for the denial; and

b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

2.5(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian will notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

561—2.6(17A,22) Procedure by which additions, dissents or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to

expand the official record of any department proceeding. Requester will send the request to review such a record or the written statement of additions, dissents or objections to the custodian or to the attorney general. The request to review a written statement must be dated and signed by requester, and should include the current address and telephone number of the requester or the requester's representative.

561—2.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed and, where applicable, the time period during which the record may be disclosed. The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. Additional requirements may be necessary for special classes of records. Appearance of counsel on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the department to disclose records about that person to the person's attorney.

561—2.8(17A,22) Notice to suppliers of information. When a department form requests a person to supply information about that person, the department will notify the person of the use that will be made of the information, which persons outside the department might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally or by other appropriate means. Notice need not be given in connection with discovery requests in litigation or administrative proceedings, subpoenas, investigations of possible violations of law or similar demands for information.

561—2.9(17A,22) Disclosures without the consent of the subject.

2.9(1) Open records are routinely disclosed without the consent of the subject.

2.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. The following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 561—2.10(17A,22) or in any notice for a particular record system.

b. To a recipient who has provided the department with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the department specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

561—2.10(17A,22) Routine use.

2.10(1) Defined. "Routine use" means the disclosure of a record without the consent of the subject or subjects for a purpose that is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

2.10(2) To the extent allowed by law, the following uses are considered routine uses of all department records:

a. Disclosure to those officers, employees and agents of the department who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action or regulatory order.

c. Disclosure to the department or officer that this office is advising or representing in the matter in question or to the department of inspections, appeals, and licensing for matters in which it is performing services or functions on behalf of the agency.

d. Transfer of information within the department, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the department is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

561—2.11(17A,22) Consensual disclosure of confidential records.

2.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to department disclosure of confidential records as provided in rule 561—2.7(17A,22).

2.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the department may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

561—2.12(17A,22) Release to subject.

2.12(1) The subject of a confidential record may file a written request to review confidential records. However, the department need not release the following records to the subject:

a. The identity of a person providing information to the department need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. More information can be found in Iowa Code section 22.7(5).

d. As otherwise authorized by law.

2.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the department may take reasonable steps to protect confidential information relating to another subject.

561—2.13(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the department by personal identifier in record systems. Records maintained by the department of natural resources, the environmental protection commission and the natural resource commission are in accordance with guidelines as set forth by the state records commission's file system. An updated index is maintained

by the department and is available for public inspection. Records are collected pursuant to authorities contained in Iowa Code Title XI. Records are stored on paper, microfilm, microfiche, and, in some cases, automated data processing systems, such as electronic management systems and department web applications. Department records may include but are not limited to the following.

2.13(1) *Department of natural resources.*

a. Administration, organization, and management.

(1) Organization and management.
(2) Planning and programming.
(3) Administrative reports.
(4) Insurance and bonding.
(5) Departmental emergency planning.
(6) Correspondence and reference materials.
(7) Information and public relations.

b. Budgets, accounting and financial analysis.

(1) Budget information.
(2) Accounting.
(3) Cost accounting.

c. Office services and facilities management.

(1) Communications.
(2) Printing and reproduction.
(3) Records management.
(4) Motor pool operations.
(5) Facilities management.
(6) Engineering and construction.

d. Equipment, supplies, and services.

(1) Procurement.
(2) Property accountability.

e. Legislative and legal.

(1) Department legislative liaison.
(2) Bills, joint resolutions, amendments, messages and reports.
(3) Federal government.
(4) Administrative procedures.
(5) Attorney general opinions and research materials.
(6) Claims against the state.
(7) Lawsuits filed by the state.
(8) 28E agreements.

f. Personnel and payroll.

(1) Employee personnel/payroll files.
(2) Merit rules.
(3) Payroll administration.
(4) Position classification.
(5) Preemployment.
(6) Certification and selection.
(7) Scheduling, assignments, working hours.
(8) Grievances.
(9) Training and education.
(10) Employee benefits and welfare.
(11) Employment relations.
(12) Equal employment opportunity.
(13) Management improvement programs.
(14) Delegation of authority and signature authorization.

g. Conservation and environment.
(1) Water conservation.
(2) Land conservation.
(3) Soil conservation.
(4) Forestry management.
(5) Fish and game conservation.
(6) Recreation.
(7) Environmental technology.
(8) Air quality monitoring.
(9) Water quality monitoring.
(10) Land quality monitoring.
(11) Hazardous material planning.
(12) Hazardous waste management.
(13) Underground storage tanks.
(14) Leaking underground storage tanks.
(15) Radioactive materials.
(16) Environmental—interdisciplinary.

2.13(2) *Natural resource commission.*
a. Tort claims investigations.
b. Numerous licensing files.
c. Lifetime licenses.
d. Boat registrations.
e. Docks, mooring, buoys or raft registrations.
f. Snowmobile registrations.
g. Miscellaneous mailing list (magazine, etc.).
h. Payroll and personnel information system.
i. Fur buyer reports.
j. Fish and game violations.
k. Safety certified students (hunter safety, snowmobile safety, boating safety).
l. Special events applications and permits.
m. Snowmobile accident reports.
n. Boating accident reports.
o. Drowning reports.
p. Timber buyer reports and bonds.
q. Work programs with ISU.
r. Timber management and forestry.
s. State park ranger violation reports.
t. Incident reports.
u. Donations.
v. Real estate acquisition.
w. Encroachments.
x. Campground host program.
y. Law enforcement intelligence network (LEIN) and turn in poachers (TIP).
z. Park leases and concessions.

561—2.14(17A,22) Other groups of records. This rule describes groups of records maintained by the department other than record systems. These records are routinely available to the public. However, the department's files of these records may contain confidential information. In addition, some records may contain information about individuals. Records are stored on paper, microfilm, microfiche, and, in some cases, automated data processing systems.

2.14(1) Rulemaking. Rulemaking records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

2.14(2) Commission records. Agendas, minutes and materials presented to the environmental protection commission and the natural resource commission are available from the office of the director, except these records concerning closed sessions that are confidential under Iowa Code section 21.5. Commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3.

2.14(3) Publications. News releases, annual reports, Iowa Conservationist, Iowa Outdoors, project reports, department newsletters, etc., are available from the department offices for public information. Brochures describing various department programs are available at local offices of the department. Department news releases, project reports, the Conservationist, and newsletters may contain information about individuals, including department staff or members of the commission or committees.

2.14(4) Statistical reports. Periodic reports for various department programs are available from the department offices for public information.

2.14(5) Grants or loans. Records on persons and institutions receiving grants or loans are available through the institutions, also for public information. The records may contain information about employees of a grantee.

2.14(6) Published materials. The department uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

2.14(7) Policy manuals. The department employees' manual, containing the policies and procedures for programs administered by the department, is available in every office of the department. Policy manuals do not contain information about individuals.

2.14(8) All other records that are not exempted from disclosure by law. The department maintains a variety of records that do not generally contain information pertaining to named individuals.

These rules are intended to implement Iowa Code section 22.11.

Regulatory Analysis

Notice of Intended Action to be published: 561—Chapter 4
"Agency Procedure for Rule Making"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.4, 17A.4A, 17A.4B, and 455A
State or federal law(s) implemented by the rulemaking: Executive Order 10 (2023)

Public Hearing

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

September 24, 2025 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

Free language access: If you speak a non-English language, the Department of Natural Resources (Department) offers you language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

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

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on September 24, 2025. Comments should be directed to:

Kelli Book
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.210.3408
Email: kelli.book@dnr.iowa.gov

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.210.3408 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.210.3408 al menos siete días antes del evento.

Purpose and Summary

The existing rules provide the procedure for rulemaking; however, the rules are unnecessary and redundant to the provisions for rulemaking codified in Iowa Code sections 17A.4, 17A.4A, and 17A.4B. Because the rules simply duplicate the process provided by the Iowa Code, they can be rescinded by this proposed rulemaking consistent with Executive Order 10's mandate to remove redundancy and unnecessary provisions.

Analysis of Impact

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

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

There are no costs associated with this proposed rulemaking.

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

There are no persons impacted by this rulemaking. The procedure for rulemaking will remain in the Iowa Code.

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

- **Quantitative description of impact:**

There are no costs associated with this proposed rulemaking.

- **Qualitative description of impact:**

There are no costs associated with this proposed rulemaking.

3. **Costs to the State:**

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

There are no costs associated with this proposed rulemaking.

- **Anticipated effect on State revenues:**

There will be no impact on State revenues associated with this proposed rulemaking.

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

Not applicable.

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

Not applicable.

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

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

None were considered.

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

The rules are being rescinded because they are duplicative of the Iowa Code.

Small Business Impact

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

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

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

The proposed rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **561—Chapter 4**.

Regulatory Analysis

Notice of Intended Action to be published: 561—Chapter 5
"Petitions for Rulemaking"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.7 and 455A
State or federal law(s) implemented by the rulemaking: Executive Order 10 (2023)

Public Hearing

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

September 24, 2025 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

Free language access: If you speak a non-English language, the Department of Natural Resources (Department) offers you language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

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

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on September 24, 2025. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.210.3408
Email: kelli.book@dnr.iowa.gov

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.210.3408 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.210.3408 al menos siete días antes del evento.

Purpose and Summary

The Iowa Administrative Procedure Act requires an agency to adopt rules describing how it will receive and review rulemaking petitions. Chapter 5 governs the Department's process for receiving and reviewing rulemaking petitions. The proposed chapter adopts the Uniform Rules on Agency Procedures contained in the first volume of the Iowa Administrative Code along with Department-specific provisions.

Analysis of Impact

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

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

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

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

Persons who file rulemaking petitions with the Department will benefit from this proposed rulemaking because it provides a clear and concise process for submitting a rulemaking petition.

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

- **Quantitative description of impact:**

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

- **Qualitative description of impact:**

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

3. **Costs to the State:**

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

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

- **Anticipated effect on State revenues:**

There will be no impact on State revenues associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

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

Not applicable; the proposed rulemaking is required by law.

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

Not applicable; the proposed rulemaking is procedural in nature and is required by law.

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

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

None were considered.

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

The proposed rulemaking is required by law.

Small Business Impact

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

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

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

The proposed rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 561—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
PETITIONS FOR RULEMAKING

The department of natural resources hereby adopts, with the following amendments, the Uniform Rules on Agency Procedure relating to petitions for rulemaking, which are published on the general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

561—5.1(17A) Petition for rulemaking. In lieu of the words "(designate office)", insert "Director, Department of Natural Resources, 6200 Park Avenue, Suite 200, Des Moines, Iowa 50321". Also, in lieu of the words "(AGENCY NAME)", insert "DEPARTMENT OF NATURAL RESOURCES".

561—5.2(17A) Inquiries. In lieu of the words "(designate official by full title and address)", insert "Director, Department of Natural Resources, 6200 Park Avenue, Suite 200, Des Moines, Iowa 50321".

These rules are intended to implement Iowa Code section 17A.7.

Regulatory Analysis

Notice of Intended Action to be published: 561—Chapter 6
"Declaratory Orders"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.9(2) and 455A
State or federal law(s) implemented by the rulemaking: Executive Order 10 (2023)

Public Hearing

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

September 24, 2025 1 to 2 p.m.	Yellow River Conference Room 6200 Park Avenue, Suite 200 Des Moines, Iowa

Free language access: If you speak a non-English language, the Department of Natural Resources (Department) offers you language assistance services free of charge. Contact the Department at kelli.book@dnr.iowa.gov.

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

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on September 24, 2025. Comments should be directed to:

Kelli Book
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.210.3408
Email: kelli.book@dnr.iowa.gov

Free language assistance: If you need assistance in a language other than English, contact the Department at kelli.book@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.210.3408 at least seven days before the event.

Asistencia linguistica gratuita: Si necesita ayuda en un idioma que no sea ingles, comuniquese con el Departamento at kelli.book@dnr.iowa.gov o civilrights@dnr.iowa.gov o por telefono a 515.210.3408 el menos siete dias antes del evento.

Purpose and Summary

The Iowa Administrative Procedure Act requires an agency to adopt rules describing how it will receive and process declaratory orders. Chapter 6 governs the Department's process for receiving and reviewing declaratory orders. The proposed chapter adopts the Uniform Rules on Agency Procedures contained in the first volume of the Iowa Administrative Code along with Department-specific provisions.

Analysis of Impact

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

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

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

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

Persons who seek a declaratory order from the Department will benefit from this proposed rulemaking because it provides a clear and concise process for seeking a declaratory order.

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

- **Quantitative description of impact:**

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

- **Qualitative description of impact:**

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

3. **Costs to the State:**

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

There are no costs associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

- **Anticipated effect on State revenues:**

There will be no impact on State revenues associated with this proposed rulemaking. The proposed rulemaking is procedural in nature and is required by law.

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

Not applicable; the proposed rulemaking is required by law.

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

Not applicable; the proposed rulemaking is procedural in nature and is required by law.

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

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

None were considered.

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

The proposed rulemaking is required by law.

Small Business Impact

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

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

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

The proposed rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 561—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
DECLARATORY ORDERS

The department of natural resources hereby adopts, with the following amendments, the Uniform Rules on Agency Procedure relating to declaratory orders, which are published on the general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

561—6.1(17A) Petition for declaratory order. In lieu of the words "(designate agency)", insert "department of natural resources". In lieu of the words "(designate office)", insert "director's office, department of natural resources". In lieu of the words "(AGENCY NAME)", the heading of the petition should read:

BEFORE THE DEPARTMENT OF NATURAL RESOURCES

561—6.2(17A) Notice of petition. In lieu of "___ days (15 or less)", insert "15 days". In lieu of the words "(designate agency)", insert "department of natural resources".

561—6.3(17A) Intervention.

6.3(1) In lieu of "___ days", insert "20 days".

6.3(2) In lieu of the words "(designate agency)", insert "department of natural resources".

6.3(3) In lieu of the words "(designate office)", insert "director's office, department of natural resources". In lieu of the words "(designate agency)", insert "department". In lieu of the words "(AGENCY NAME)", the heading of the petition should read:

BEFORE THE DEPARTMENT OF NATURAL RESOURCES

561—6.4(17A) Briefs. In lieu of the words "(designate agency)", insert "department".

561—6.5(17A) Inquiries. In lieu of the words "(designate official by full title and address)", insert "Director, Department of Natural Resources, 6200 Park Avenue, Suite 200, Des Moines, Iowa 50321."

561—6.6(17A) Service and filing of petitions and other papers.

6.6(2) *Filing—when required.* In lieu of the words "(specify office and address)", insert "Director, Department of Natural Resources, 6200 Park Avenue, Suite 200, Des Moines, Iowa 50321." In lieu of the words "(agency name)", insert "department of natural resources".

561—6.7(17A) Consideration. In lieu of the words "(designate agency)", insert "department of natural resources". Add the following new paragraphs:

An order, including a refusal to issue an order, issued by the director is final unless the issue is within the rulemaking authority of one of the department's commissions, in which case the order or refusal is final unless appealed to the commission within ten days of receipt by the petitioner or reviewed by the commission on its own motion. On appeal or review, the commission may:

1. Approve the director's ruling, in which case the order becomes the final declaratory order of the department, or
2. Reverse or modify the declaratory order, in which case the modified order becomes the final declaratory order of the department, or
3. Request additional information from the petitioner, or
4. Decline to issue an order, as specified in rule 561—6.9(17A).

The commission's order or refusal to issue an order will be made within a reasonable time and sent by certified mail to the petitioner upon issuance.

561—6.8(17A) Action on petition. In lieu of the words "(designate agency head)", insert "director".

561—6.9(17A) Refusal to issue order. In lieu of the words "(designate agency)", insert "department of natural resources".

561—6.10(17A) Effect of a declaratory order. In lieu of the words "(designate agency)", insert "department of natural resources".

These rules are intended to implement Iowa Code section 17A.9.

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]

Regulatory Analysis

Notice of Intended Action to be published: 591—Chapters 1 through 4, 9, 11, 13, 16, and 17 "Rescission of Chapters"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 455G (repealed), 17A.7(2), and Executive Order 10

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 455G (repealed) and section 17A.7(2) and Executive Order 10

Public Hearing

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

September 24, 2025 2 to 3 p.m.	Videoconference call Please contact Keith Wilken at USTEO10@dnr.iowa.gov for videoconference call information

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department of Natural Resources (Department) at USTEO10@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.360.1671 at least seven days before the event.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al USTEO10@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.360.1671 al menos siete días antes del evento.

Public Comment

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

Keith Wilken
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.681.0794
Email: USTEO10@dnr.iowa.gov

Free language assistance: If you speak a non-English language, the Department offers language assistance services free of charge. Contact the Department at USTEO10@dnr.iowa.gov.

Servicios gratuitos de asistencia lingüística: Si habla un idioma que no sea el inglés, los servicios de asistencia lingüística están disponibles de forma gratuita. Comuníquese con el Departamento al USTEO10@dnr.iowa.gov.

Purpose and Summary

The rules of the Underground Storage Tank (UST) Fund Board (Board) were intended to govern the Board and regulate the disbursement of moneys allocated to the Board by Iowa Code chapter 455G and other applicable laws. On April 19, 2024, Governor Reynolds signed 2024 Iowa Acts, Senate File 2414, into law, which dissolved the Board. The legislation also transferred the remaining

moneys to the Department to disperse consistent with the laws previously governing the Board, and capped the moneys available to that amount currently appropriated to the fund. Additionally, Senate File 2414 transferred the rules of the Board to the jurisdiction of the Department.

The rules will continue to provide benefits to stakeholders while funds remain available for dispersal. The Department anticipates the final dispersal of regulated funding ending by December 31, 2026. As such, the Department proposes to rescind the rules in their entirety effective that same day. This delayed rescission will provide stakeholders ample time to request reimbursement for actions, such as tank removals and other funding regulated by the rules. After that date, the Department will rely on the authority of Iowa Code chapter 455B and existing, related agreements to finalize any matters remaining.

Analysis of Impact

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

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

There will be no further impact to any person by this rulemaking due to the repeal of Iowa Code chapter 455G.

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

There will be no further impact to any person by this rulemaking due to the repeal of Iowa Code chapter 455G.

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

- **Quantitative description of impact:**

There will be no further costs of this rulemaking due to the repeal of Iowa Code chapter 455G.

- **Qualitative description of impact:**

There will be no further costs of this rulemaking due to the repeal of Iowa Code chapter 455G.

3. **Costs to the State:**

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

There will be no further costs of this rulemaking due to the repeal of Iowa Code chapter 455G.

- **Anticipated effect on State revenues:**

There will be no further costs of this rulemaking due to the repeal of Iowa Code chapter 455G.

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

Inaction is not an option in this matter due to the repeal of Iowa Code chapter 455G.

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

Rescission of these chapters is necessary due to the repeal of Iowa Code chapter 455G.

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

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

No alternative methods were considered.

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

Not applicable.

Small Business Impact

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

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

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

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

There will be no impact on any small business by this rulemaking due to the repeal of Iowa Code chapter 455G.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **591—Chapter 1**.

ITEM 2. Rescind and reserve **591—Chapter 2**.

ITEM 3. Rescind and reserve **591—Chapter 3**.

ITEM 4. Rescind and reserve **591—Chapter 4**.

ITEM 5. Rescind and reserve **591—Chapter 9**.

ITEM 6. Rescind and reserve **591—Chapter 11**.

ITEM 7. Rescind and reserve **591—Chapter 13**.

ITEM 8. Rescind and reserve **591—Chapter 16**.

ITEM 9. Rescind and reserve **591—Chapter 17**.

Regulatory Analysis

Notice of Intended Action to be published: 575—Chapters 1 through 3
"State Preserves"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 465C.8 and 455A.5(6)"a"
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 465C

Public Hearing

A public hearing at which persons may present their views orally will be held via virtual meeting as follows:

September 24, 2025 10 a.m.	Via videoconference

Persons who wish to attend the virtual meeting should contact John Pearson via email at john.pearson@dnr.iowa.gov. A link will be provided prior to the hearing. Persons who wish to make oral comments at the virtual public hearing must submit a request to John Pearson prior to the hearing to facilitate an orderly hearing.

Free language assistance: If you need assistance in a language other than English, contact the Department of Natural Resources (Department) at john.pearson@dnr.iowa.gov or civilrights@dnr.iowa.gov or by telephone at 515.669.7614 at least seven days before the event.

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al john.pearson@dnr.iowa.gov o civilrights@dnr.iowa.gov o por teléfono a 515.669.7614 al menos siete días antes del evento.

Public Comment

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

John Pearson
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.669.7614
Email: john.pearson@dnr.iowa.gov

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

Asistencia lingüística gratuita: Si necesita ayuda en un idioma que no sea inglés, comuníquese con el Departamento al john.pearson@dnr.iowa.gov.

Purpose and Summary

Agency number [575] of the Iowa Administrative Code contains chapters regulating State preserves. Preserves are the highest classification of public land and exist to protect significant natural, geological, historical, archaeological, and scenic sites in Iowa. The rules also govern the State Preserves Advisory Board and include provisions for its membership, operation, reporting requirements, and recordkeeping procedures. Recent changes to the Iowa Code eliminated this Board and transferred its authority and duties to the Department and the Natural Resource Commission (Commission). For this reason, many of the existing provisions in 575—Chapters 1 through 3 are now no longer relevant. This rulemaking proposes to remove those irrelevant provisions and then

consolidate the remaining provisions into a single "State Preserves" chapter. This new chapter would then be transferred to the Commission's jurisdiction under 571—Chapter 60.

Analysis of Impact

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

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

There are no costs associated with this rulemaking.

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

Anyone with an interest in State preserves may benefit from this rulemaking through simplification and consolidation of the rules.

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

- **Quantitative description of impact:**

Not applicable. This revision simplifies existing rules with no added costs.

- **Qualitative description of impact:**

These rules are simplified by eliminating obsolete language.

3. **Costs to the State:**

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

There are no costs associated with this rulemaking. The preserves program will continue to be administered by Department staff.

- **Anticipated effect on State revenues:**

There are no anticipated effects on State revenues.

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

There are no costs associated with this rulemaking. This rulemaking is necessitated by changes to the Iowa Code.

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

This rulemaking is required by changes to the Iowa Code.

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

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

No alternative methods were considered.

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

Not applicable.

Small Business Impact

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

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

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

This rulemaking does not have a significant impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 575—Chapter 1 and adopt the following **new** chapter in lieu thereof:

CHAPTER 1
STATE PRESERVES

575—1.1(465C) Duties as to state preserves. The natural resource commission is charged with the responsibility of locating, identifying, evaluating, and dedicating areas as state preserves.

575—1.2(465C) Types of preserves. There shall be five major classes of preserves.

1.2(1) *Natural preserves.* These areas contain natural communities; habitats; native flora and fauna; or endangered, threatened, or rare organisms.

1.2(2) *Archaeological preserves.* These areas contain significant deposits left by prehistoric or early historic peoples.

1.2(3) *Historical preserves.* These are sites that contain structures or places that are of significance in studying the tenure of humans in Iowa since the advent of the first Euro-American explorers.

1.2(4) *Geological preserves.* These are areas that contain rare or distinctive landforms, fossils, stratigraphic sections, mineral deposits or examples of mining history; type or reference sections; or other special features or deposits that represent the events and processes of Iowa's earth history.

1.2(5) *Scenic preserves.* These are areas that contain scenic features of aesthetic, scientific, or educational value.

575—1.3(465C) Management provisions.

1.3(1) *Administration and management.* The administrative and management authority for a preserve shall be agreed upon by the commission, the property owner, and the manager.

1.3(2) *Management plan.* For each preserve, an authorized representative of the owner shall prepare a management plan in consultation with department staff. The management plan shall be consistent with the articles of dedication and shall include identification of uses of the preserve that are compatible and incompatible with its dedication as a preserve. The management plan shall be amended periodically, as appropriate, in response to new information. The management plan and amendments shall be submitted to the commission for approval. The department shall keep a copy of the current management plan. A management plan for a new preserve shall be submitted for approval by the commission in conjunction with approval of dedication of the preserve. Management plans for existing preserves shall be prepared and submitted for approval as resources are available.

These rules are intended to implement Iowa Code section 465C.8.

ITEM 2. Transfer **575—Chapter 1** as **571—Chapter 60**.

ITEM 3. Rescind and reserve **575—Chapter 2**.

ITEM 4. Rescind and reserve **575—Chapter 3**.

Regulatory Analysis

Notice of Intended Action to be published: 661—Chapter 251
"Firefighter Training and Certification"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 100B.10 and 2025 Iowa Acts, House File 793

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 100B and 2025 Iowa Acts, House File 793

Public Hearing

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

September 23, 2025 9 to 9:30 a.m.	125 Public Conference Room Oran Pape State Office Building Des Moines, Iowa

Public Comment

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

Josie Wagler
215 East 7th Street
Des Moines, Iowa 50319
Email: wagler@dps.state.ia.us

Purpose and Summary

Pursuant to Executive Order 10, the Department proposes rescinding Chapter 251 and adopting a new chapter in lieu thereof. The purpose of proposed Chapter 251 is to provide minimum training standards and certification standards for firefighters in Iowa. This rulemaking also incorporates an addition to the certification standards pursuant to 2025 Iowa Acts, House File 793.

Analysis of Impact

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

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

Any person wishing to pursue firefighter certification in Iowa will bear the cost.

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

Firefighters in Iowa will benefit from clearly defined certification and training standards.

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

- **Quantitative description of impact:**

The cost to take a certification examination from the State is $50.

- **Qualitative description of impact:**

Establishing minimum training and certification standards helps better equip firefighters in Iowa to prevent occupational accidents, injuries, illnesses, and deaths.

3. **Costs to the State:**

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

No costs are associated with this rulemaking.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

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

The cost to take a certification examination is higher in many other states than it is in Iowa. As the number of incidents fire service personnel respond to increases, these training and certification standards help equip first responders with the necessary skills and tools needed to prevent occupational accidents, injuries, illnesses, and deaths.

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

The Department has determined this to be the least costly and least intrusive method for achieving the purpose of the proposed rulemaking. The certification and accreditation program is accredited by the National Board on Fire Service Professional Qualifications (Pro Board) and the International Fire Service Accreditation Congress (IFSAC) to certify fire service personnel to accepted national standards. Standards for the certification and accreditation program are based upon nationally recognized standards established by the National Fire Protection Association (NFPA).

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

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

No alternative methods were considered.

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

Not applicable.

Small Business Impact

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

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

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

This rulemaking is not anticipated to have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 661—Chapter 251 and adopt the following **new** chapter in lieu thereof:

CHAPTER 251
FIREFIGHTER TRAINING AND CERTIFICATION

661—251.1(100B) Definitions. The following definitions apply to rules 661—251.1(100B) to 661—251.204(100B):

"Emergency incident" means any incident involving a fire or other hazardous situation to which personnel of a fire department respond.

"NFPA" means the National Fire Protection Association.

"Structural firefighting" means firefighting in a hazardous environment that requires the use of self-contained breathing apparatus.

661—251.2 to **251.100** Reserved.

MINIMUM TRAINING STANDARDS

661—251.101(100B) Minimum training standard. Any member of a fire department will have completed the training requirements identified in the job performance requirements for the firefighter I classification in NFPA 1010 – 2024 edition, Standard on Professional Qualifications for Fire Fighters, based on the current edition adopted by the fire service training bureau, prior to the member's engaging in structural firefighting. Each fire department will identify its members who are or will be engaged in structural firefighting and ensure that any member engaged in structural firefighting has completed the training requirements specified in this rule prior to the member's engaging in structural firefighting.

NOTE: A firefighter is not required to be certified to meet this requirement. Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, a local fire department, or any combination thereof.

EXCEPTION 1: A firefighter who received training that complied with the job performance requirements for the firefighter I classification contained in an earlier edition of NFPA 1001 is deemed to have met this requirement, provided that records documenting the training are maintained in accordance with rule 661—251.104(100B).

EXCEPTION 2: The chief or the training officer of any fire department may apply to the state fire marshal by June 1 of any year for an extension of the deadline to meet the training requirement for members of the department engaged in structural firefighting. Any such extension will be for one year and may be renewed annually upon application. An extension will be granted only if the department has requested training required under this rule, with training costs to be offset through funding from the firefighting training and equipment fund, pursuant to 661—Chapter 259, and funds to offset the cost of the training have not been available or have been inadequate to fully offset the cost of the training. The extension may be for all or some of the firefighters in the department. The application is to be in a form specified by the state fire marshal and will list by name each firefighter for whom an extension is requested. The extension, if granted, will list by name the firefighters to whom the extension applies and will apply only to those listed.

661—251.102(100B) Other training. Any member of a fire department who serves in a capacity other than structural firefighting at an emergency incident will have received training based on the duties the member might perform at an emergency incident. Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

661—251.103(100B) Continuing training. Fire department members will participate in at least 24 hours of continuing training annually, which may include but is not limited to the following subject matter areas:

1. Personal protective equipment and respiratory protection.
2. Structural firefighting techniques, including standard operating policies and procedures or standard operating guidelines.
3. Ground ladders.
4. Hose and hose appliances.
5. Ventilation.

6. Forcible entry.
7. Search and rescue techniques.
8. Firefighter safety.
9. National Incident Management System or Incident Command System.
10. Emergency vehicle driver-operator.
11. Hazardous materials first responder—operations level.
12. Emergency medical service (EMS) training.
13. Additional training based on standard operating policies and procedures or standard operating guidelines.
14. Occupational Safety and Health Administration (OSHA)-related training, such as blood-borne pathogen protection.
15. Specialty training such as confined space entry, vehicle extrication, rescue techniques, wildland or agricultural firefighting techniques.
16. Emergency response to terrorism.
17. Any other training designed to meet local training needs.

NOTE: Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

661—251.104(100B) Recordkeeping. Each fire department will maintain training records for each individual member of the department who participates in emergency incidents. These training records will identify, for all training completed by the individual firefighter, the person or persons who provided the training, the dates during which the training was completed, the location or locations where the training was delivered, and a description of the content of the training.

661—251.105 to **251.200** Reserved.

FIREFIGHTER CERTIFICATION

661—251.201(100B) Firefighter certification and accreditation program. There is established within the fire service training bureau of the state fire marshal division a firefighter certification program for the state of Iowa, known as the certification and accreditation program. The certification and accreditation program is accredited by the National Board on Fire Service Professional Qualifications (Pro Board) and the International Fire Service Accreditation Congress (IFSAC) to certify fire service personnel to accepted national standards. All certifications issued by the certification and accreditation program will be based upon nationally accepted standards.

NOTE 1: Participation in the certification and accreditation program is voluntary, and state law does not require certification to work or volunteer as a firefighter in Iowa. However, some fire departments within the state require certification for continued employment or promotion. Inquiries regarding such requirements should be directed to the hiring or employing department.

NOTE 2: Inquiries and requests regarding the certification and accreditation program should be directed to the fire service training bureau.

251.201(1) *Eligibility.* Any person seeking certification through the certification and accreditation program will be a current member of a fire, emergency, or rescue organization within the state of Iowa or enrolled in a fire science program within the Iowa college system and at least 18 years of age.

EXCEPTION: Persons not meeting the requirement of membership in a fire, emergency, or rescue organization may be granted exceptions to this requirement on an individual basis. Individuals seeking such exceptions will address these requests to the fire service training bureau.

251.201(2) *Registration.* Registration forms for each level of firefighter certification may be obtained from the fire service training bureau. In order to enter the certification and accreditation program, a candidate will submit a completed registration, accompanied by the required fee, to the fire

service training bureau. The registration and fee will be submitted no less than two weeks prior to the date of any examination in which the candidate wishes to participate.

661—251.202(100B) Certification standards. Standards for the certification and accreditation program are based upon nationally recognized standards established by the NFPA. Certification at each level in the Iowa fire service certification system results in national certification.

251.202(1) *Firefighter.*

a. Firefighter I. Certification as a firefighter I is based upon the requirements for firefighter I certification established in NFPA 1010 – 2024 edition, "Standard on Professional Qualification for Fire Fighters."

b. Firefighter II. Firefighter II. Certification as a firefighter II is based upon the requirements for firefighter II certification established in NFPA 1010 – 2024 edition, "Standard on Professional Qualifications for Fire Fighters."

251.202(2) *Driver/operator.*

a. Driver/operator (pumper). Certification as a driver/operator (pumper) is based upon the requirements for fire department vehicle driver/operator (pumper) certification established in NFPA 1010 – 2024 edition, "Standard on Professional Qualification for Fire Fighters."

b. Driver/operator (aerial). Certification as a driver/operator (aerial) is based upon the requirements for fire department vehicle driver/operator (aerial) certification established in NFPA 1010 – 2024 edition, "Standard on Professional Qualifications for Fire Fighters."

251.202(3) *Fire officer.*

a. Fire officer I. Certification as a fire officer I is based upon the requirements for fire officer I certification established in NFPA 1021 – 2020 edition, "Standard for Fire Officer Professional Qualifications."

b. Fire officer II. Certification as a fire officer II is based upon the requirements for fire officer II certification established in NFPA 1021 – 2020 edition, "Standard for Fire Officer Professional Qualifications."

251.202(4) *Fire inspector.* Certification as a fire inspector is based upon the requirements for certification as a fire inspector established in NFPA 1030 – 2024 edition, "Standard for Professional Qualifications for Fire Prevention Programs."

251.202(5) *Fire investigator.* Certification as a fire investigator is based upon the requirements for certification as a fire investigator established in NFPA 1033 – 2022 edition, "Standard for Professional Qualifications for Fire Investigator."

251.202(6) *Fire and emergency services instructor.*

a. Fire and emergency services instructor I. Certification as a fire and emergency services instructor I is based upon the requirements for certification as a fire and emergency services instructor I established in NFPA 1041 – 2019 edition, "Standard for Fire and Emergency Services Instructor Professional Qualifications."

b. Fire and emergency services instructor II. Certification as a fire and emergency services instructor II is based upon the requirements for certification as a fire and emergency services instructor II established in NFPA 1041 – 2019 edition, "Standard for Fire and Emergency Services Instructor Professional Qualifications."

251.202(7) *Live fire instructor.*

a. Live fire instructor. Certification as a live fire instructor is based upon the requirements for certification as a live fire instructor established in NFPA 1041 – 2019 edition "Standard for Fire and Emergency Services Instructor Professional Qualifications."

b. Live fire instructor in charge. Certification as a live fire instructor in charge is based upon the requirements for certification as a live fire instructor in charge established in NFPA 1041 – 2019 edition "Standard for Fire and Emergency Services Instructor Professional Qualifications."

251.202(8) *Responder to hazardous materials incidents.*

a. Responder to hazardous materials incidents at the awareness level. Certification as a responder to hazardous materials incidents (awareness) is based on the requirements established in NFPA 470 – 2022 edition, "Hazardous Materials/Weapons of Mass Destruction (WMD) Standard for Responders."

b. Responder to hazardous materials incidents at the operations level. Certification as a responder to hazardous materials incidents (operations) is based upon the requirements established in NFPA 470 – 2022 edition, "Hazardous Materials/Weapons of Mass Destruction (WMD) Standard for Responders."

661—251.203(100B) Fees.

251.203(1) The fee for each certification is $50. These fees can be found on the fire service training bureau's web page and also within the publication Certification Procedures Guide for each level of certification, published by the fire service training bureau. The information in each guide is effective upon publication until superseded by publication of a later edition. Prospective candidates who are considering application for a particular level of certification should contact the fire service training bureau for the latest date of publication of the Certification Procedures Guide.

251.203(2) Fees may be paid by personal credit card or check made payable to Iowa Department of Public Safety—Fire Service Training Bureau, credit card or check from a public agency or private organization, or money order. The check, credit card information, money order or draft will be submitted with the application.

661—251.204(100B) Certification, denial, and revocation of certification.

251.204(1) *Certification.* Upon completion of the requirements for certification, the applicant's name will be entered into the Iowa certification database maintained by the fire service training bureau for the respective level of certification and into the certification databases maintained by the Pro Board and the IFSAC. Individuals who successfully complete the certification requirements will receive an individualized certificate awarding national certification from the fire service training bureau, which will bear numbered seals from the Pro Board and the IFSAC, and additional insignia from the fire service training bureau.

251.204(2) *Denial of certification.* Certification will be denied to any applicant who fails to meet all of the requirements for the type of certification, who knowingly submits false information to the fire service training bureau, or who engages in fraudulent activity during the certification process.

251.204(3) *Revocation.* The fire service training bureau may revoke the certification of any individual who is found to have knowingly provided false information to the fire service training bureau during the certification process or to have engaged in fraudulent activity during the certification process. In addition, certification may be revoked by the fire service training bureau if an individual was found to have engaged in and been convicted of a felony-level crime, including but not limited to murder, arson, sexual assault, physical assault, embezzlement, and crimes committed against a fire department or its respective association.

251.204(4) *Appeals.* Any person who is denied certification or whose certification is revoked may appeal the denial or revocation. An appeal of a denial or revocation of certification will be made to the commissioner of public safety within 30 days of the issuance of the denial or revocation using the contested case procedures specified in rules 661—10.301(17A) through 661—10.332(17A).

251.204(5) *Sex offender registry.* Pursuant to 2025 Iowa Acts, House File 793, a person who has committed any crime as an adult that resulted in the requirement that the person be listed on a sex offender registry will not be certified as a firefighter and will not serve as a noncertified or volunteer firefighter.

These rules are intended to implement Iowa Code chapter 100B.

ARC 9524C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Notice of Intended Action

Proposing rulemaking related to local emergency management and providing an opportunity for public comment

The Homeland Security and Emergency Management Department hereby proposes to amend Chapter 7, "Local Emergency Management," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 29C.9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 29C.9.

Purpose and Summary

The Federal Emergency Management Agency recently updated its document titled "Developing and Maintaining Emergency Operations Plans: Comprehensive Preparedness Guide (CPG) 101. Version 3.1." This version replaces and rescinds Version 2.0 from 2021. CPG 101 is adopted by reference in subrule 7.3(4). This rulemaking proposes to update the reference with the latest version.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 9, 2025. A public hearing was held on the following date(s):

- August 4, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 9, 2025. Comments should be directed to:

Blake DeRouchey
Department of Homeland Security and Emergency Management
7900 Hickman Rd, Suite 500
Windsor Heights, Iowa 50324
Phone: 515.323.4232
Email: blake.derouchey@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

September 23, 2025 9 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#
September 24, 2025 9 a.m.	Geode Room 7900 Hickman Road Windsor Heights, Iowa meet.google.com/oqm-wujn-dif Or dial: (US) +1 475.277.0077 PIN: 619 998 977#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend subparagraph **7.3(4)"d"(1)** as follows:

(1) The commission shall develop a comprehensive emergency plan that is capabilities-based, multihazard and multifunctional in nature. The plan will conform to the Comprehensive Preparedness Guide 101 as established by the Federal Emergency Management Agency published ~~2021~~ 2025 with any modifications as determined and communicated by the department.

ARC 9525C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rulemaking related to refugee cash assistance and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to amend Chapter 60, "Refugee Cash Assistance," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 217.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 45 CFR 400.211; United States, Administration for Children and Families. "Office of Refugee Resettlement; Notice of Change of Eligibility," 90 Fed. Reg. 13,370 (March 21, 2025).

Purpose and Summary

This proposed rulemaking amends subrule 60.7(1) to reflect federal updates to the eligibility period, or time limit, for receiving refugee cash assistance from 12 months to 4 months. The eligibility period is set by the procedures outlined in 40 CFR 400.211. The update to the eligibility period was published in the March 21, 2025, Federal Register.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 23, 2025. A public hearing was held on the following date(s):

- August 12, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 23, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: victoria.daniels@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

September 23, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 247 784 930 693 5 Passcode: Fv9rK6s3
September 23, 2025 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 232 677 074 969 4 Passcode: 5no6Sg9w

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 60.7(1) as follows:

60.7(1) *Assistance.* A refugee may receive assistance, if otherwise eligible:

a. For refugees who entered the country prior to October 1, 2021, during the first eight months the refugee is in the United States, beginning the month the refugee enters the country.

b. For refugees who entered the country on or after October 1, 2021, and for whom eligibility for refugee cash assistance was determined on or before May 4, 2025, during the first 12 months the refugee is in the United States, beginning the month the refugee enters the country.

c. For refugees who entered the country on or after October 1, 2021, and for whom eligibility for refugee cash assistance was determined on or after May 5, 2025, during the first four months the refugee is in the United States, beginning the month the refugee enters the country.

Exception: For asylees, the date of entry is the date asylum is granted. The 8-month, ~~or~~ 12-month, or 4-month period of eligibility begins the month asylum is granted. A nonrefugee child in the home with a refugee parent (or refugee parents, if both are in the home) is eligible for assistance until the parent(s) has been in the United States for 8, ~~or~~ 12, or 4 months, or until the child reaches 8, ~~or~~ 12, or 4 months of age, whichever occurs first. For Afghan special immigrant (SI) parolees and Afghan SI conditional permanent residents (CPRs), the date is the date of "entry into the community," which is the date the individual departed a safe haven. For Afghan humanitarian parolees, the date is the latter of October 1, 2021, or the date of entry into the community, which is the date the individual departed a safe haven. "Safe haven" is the term the U.S. government and other relevant stakeholders have used for U.S. military bases in the continental United States that housed Afghans evacuated under Operation Allies Refuge/ Operation Allies Welcome (OAR/OAW) as Afghans awaited resettlement to their ultimate state of residence.

ITEM 2. Amend subrule 60.7(2) as follows:

60.7(2) *Resources.* The resources of refugees excluded because of the 8-month, ~~or~~ 12-month, or 4-month limit will be considered in the same manner as though these refugees were included in the eligible group.

ARC 9535C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rulemaking related to license reactivation and providing an opportunity for public comment

The Department of Inspections, Appeals, and Licensing hereby proposes to amend Chapter 961, "Licensure of Sign Language Interpreters and Transliterators," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 147.36, 154E.3, 272C.3, 272C.4 and 272C.10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 154E and section 272C.10.

Purpose and Summary

This proposed rule sets minimum standards for entry into the sign language interpreter and transliterator profession. Iowa residents, licensees, and employers benefit from the rules because the rules articulate the processes by which individuals apply for licensure as a sign language interpreter or transliterator in the State of Iowa, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency. Requirements include the application process and examination requirements.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 23, 2025. A public hearing was held on the following date(s):

- August 12, 2025

No public comments were received, but the Board of Sign Language Interpreters and Transliterators did make a change to the requirements for reactivation of an inactive license to require both verification of completing continuing education and verification of passing an examination because the Board believes the examination is needed to show competency after being inactive for five years or more. The Board agrees that 80 hours of continuing education is not necessary along with the examination and reduced the requirement to 40 hours of continuing education.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 23, 2025. Comments should be directed to:

Jessica O'Brien
Department of Inspections, Appeals, and Licensing
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Phone: 515.281.6352
Fax: 515.281.7969
Email: jessica.o'brien@dia.iowa.gov

Public Hearing

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

September 23, 2025	6200 Park Avenue
9 to 9:20 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 rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind rule 481—961.6(17A,147,272C) and adopt the following **new** rule in lieu thereof:

481—961.6(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee needs to:

961.6(1) Submit a completed online reactivation application and pay the nonrefundable fee.

961.6(2) If licensed in another jurisdiction, submit a license verification from the jurisdiction in which the applicant has been most recently licensed and has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

a. The licensee's name;

b. The date of initial licensure;

c. Current licensure status; and

d. Any disciplinary action taken against the license.

961.6(3) Provide verification of current competence to practice sign language interpreting or transliterating by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, or the licensee is actively practicing in another jurisdiction:

(1) Verification of a current certification as identified in subrule 961.2(1) or of passing an examination identified in subrule 961.2(1) after the license became inactive; or

(2) Verification of active practice, consisting of a minimum of 2,080 hours, in another state or jurisdiction during the two years preceding an application for reactivation; and

(3) Verification of completing 40 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years and the licensee is not currently practicing in another jurisdiction:

(1) Verification of completing 40 hours of continuing education within two years of the application for reactivation; and

(2) Verification of passing an examination identified in subrule 961.2(1) after the license became inactive.

IOWA COMMUNICATIONS NETWORK

Public Notice

NOTICE OF OFFICIAL CONTRACT LIMITATION AMOUNT ADJUSTMENT FOR THE PERIOD COMMENCING SEPTEMBER 1, 2025, AND ENDING AUGUST 31, 2026

In accordance with Iowa Code section 8D.11(1)"c," the Iowa Communications Network's Executive Director hereby publishes the official adjusted contract limitation amount for the period commencing on September 1, 2025, and ending on August 31, 2026, of $3,102,901.10.

The adjusted contract limitation amount becomes effective on September 1, 2025. The amount was determined by applying the formula specified in the statute. According to the Federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 2.7 percent from July 2024 to June 2025.

Pursuant to Iowa Code section 8D.11(1)"c," this notice is exempt from the rulemaking process in Iowa Code chapter 17A.

Questions with respect to this notice should be directed to:
ICN Executive Director
400 East 14th Street
Des Moines, Iowa 50319
Telephone: 515.725.4692

ARC 9534C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Proposing rulemaking related to private activity bond allocation and providing an opportunity for public comment

The Iowa Finance Authority hereby proposes to rescind Chapter 8, "Private Activity Bond Allocation," Iowa Administrative Code, and to adopt a new Chapter 8 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 7C.12 and 16.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 7C.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 8 and adopt a new chapter in lieu thereof. This chapter describes the policies and procedures applicable to the private activity bond

allocation administered pursuant to Iowa Code chapter 7C and the Director of the Authority's role as the Governor's designee for the purposes of that chapter.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025. A public hearing was held on the following date(s):

- July 15, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on September 25, 2025. Comments should be directed to:

Lisa Connell
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50309
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

September 23, 2025 8:45 to 9 a.m.	1963 Bell Avenue Des Moines, Iowa Information about virtual participation can be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review
September 25, 2025 3:15 to 3:30 p.m.	1963 Bell Avenue Des Moines, Iowa Information about virtual participation can be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 265—Chapter 8 and adopt the following **new** chapter in lieu thereof:

CHAPTER 8
PRIVATE ACTIVITY BOND ALLOCATION

265—8.1(7C) Authority. Pursuant to Iowa Code section 7C.12, the governor has appointed the director of the authority as the governor's designee responsible for administering the procedures for allocation of private activity bonds. The governor's designee adopts this chapter pursuant to Iowa Code section 7C.12(2)*"a."*

265—8.2(7C) Definitions.

"Allocation" means the same as defined in Iowa Code section 7C.3.

"Application" means a request submitted for an allocation.

"Authority" means the Iowa finance authority created pursuant to Iowa Code section 16.1A.

"Beneficiary" means an entity that is intended to benefit from issuance of a bond by an issuer.

"Governor's designee" means the same as defined in Iowa Code section 7C.3.

"Issuer" means a political subdivision that proposes to issue bonds for a particular project or purpose for which an allocation of the state ceiling is required and has not already been made under Iowa Code section 7C.4A(1) through 7C.4A(5).

"Political subdivision" means the same as defined in Iowa Code section 7C.3.

"Private activity bonds" means the same as defined in Section 141 of the Internal Revenue Code.

"State ceiling" means the same as defined in Iowa Code section 7C.3.

265—8.3(7C) Forms and applications. Information and forms are available upon request from the governor's designee at the address set forth in rule 265—1.3(16) or on the authority's website.

8.3(1) An issuer or beneficiary, or the duly authorized agent of an issuer or beneficiary, must apply for the allocation of a portion of the private activity bond state ceiling allocated pursuant to Iowa Code chapter 7C in the form and content prescribed by the governor's designee. Applications may be submitted to the governor's designee electronically or via email.

8.3(2) The governing body of an issuer must adopt a resolution evidencing an intent to issue the bonds prior to submission of an application.

8.3(3) An applicant must submit the application fee set forth in rule 265—8.7(7C) and all required attachments to the application before such application is considered for allocation.

8.3(4) Except as provided in subrules 8.3(5) and 8.4(4), the governor's designee shall certify allocations in the order in which applications are received, as indicated in Iowa Code section 7C.5. Applications for any given calendar year may be submitted to the governor's designee beginning on December 1 of the preceding year.

8.3(5) The portion of the state ceiling allocated pursuant to Iowa Code section 7C.4A(1)*"a"*(4) shall be allocated pursuant to subrule 8.4(4).

265—8.4(7C) Certification of current allocation.

8.4(1) The governor's designee shall maintain separate lists of applications for private activity bonds for allocation pursuant to Iowa Code section 7C.4A(2), 7C.4A(4), 7C.4A(5), and 7C.4A(7). If there are additional applications after the state ceiling for the purpose of industries is fully allocated and, before June 30, the state ceiling for the use of political subdivisions is fully allocated to applications, all applications that have not been allocated any state ceiling will be placed on the list for allocation pursuant to Iowa Code section 7C.4A(7) in the chronological order of receipt without regard to the purpose for which such applications were made.

8.4(2) The governor's designee shall promptly certify to the issuer the amount of the state ceiling allocated to the bonds for the purpose of the project for which the application was submitted, in the order

as determined by Iowa Code chapter 7C. The governor's designee shall continue to allocate the state ceiling for each purpose separately (or, if the allocation is made under Iowa Code section 7C.4A(7), in the chronological order of applications received) until all the available state ceiling for that purpose is fully allocated. If there is not sufficient available state ceiling to fully fund an application that is next in order for allocation, the governor's designee shall notify the applicant of the amount that is available and the applicant shall have the option to take what is available within five calendar days of receiving notice of availability. If the applicant does not notify the governor's designee of its decision to take the available allocation within five calendar days of receiving notice of that option, the available state ceiling shall be offered to the next application on the list under the same conditions, and the initial offeree will maintain its position on the list. If the partial allocation is accepted, the applicant may submit a new application for additional state ceiling and that application will be added to the bottom of the applicable list in the chronological order of its receipt.

8.4(3) If the bonds are issued and delivered prior to the expiration date of the allocation, then the issuer or the issuer's attorney shall within ten days following the issuance and delivery of the bonds notify the governor's designee in the form and content prescribed by the governor's designee.

8.4(4) Upon receipt of a complete application for allocation for a qualified residential rental project, the bonds for which will be issued by the authority, the authority may determine in its sole discretion whether to allocate a portion of its allocation under Iowa Code section 7C.4A(1)*"a"*(4) to such application based on factors including but not limited to the readiness, feasibility, and impact of the project.

265—8.5(7C) State ceiling carryforwards. In the event the aggregate principal amount of bonds issued by all issuers in a calendar year is less than the state ceiling for that calendar year, an issuer or beneficiary may apply to the governor's designee for an allocation of a specified portion of the excess state ceiling to be applied to a specified carryforward project. The application must be in writing and shall comply with the carryforward provisions of Section 146(f) of the Internal Revenue Code and regulations promulgated under that section. Any carryforward allocation that has not expired under Section 146 of the Internal Revenue Code released by the original applicant may be allocated to any other applicant for allocation for the same purpose for which the original application was made.

265—8.6(7C) Expiration of allocations and resubmission. Allocations expire as described in Iowa Code sections 7C.7 and 7C.9. If an allocation expires, an issuer may resubmit its application pursuant to Iowa Code section 7C.10.

265—8.7(7C) Use by political subdivisions. For the purposes of the amount of the state ceiling allocated pursuant to Iowa Code section 7C.4A(6), a political subdivision will be considered to use the proceeds of private activity bonds if such proceeds are used to finance a project owned or utilized directly by the political subdivision or to finance a program of the political subdivision that the legislature by statute has authorized or directed the political subdivision to implement.

265—8.8(7C) Application and allocation fees. The governor's designee may charge reasonable fees for providing administrative assistance with regard to the filing of applications and the allocation of the private activity bond state ceiling in accordance with this chapter. A fee of 2 basis points (.02%) of the amount of state ceiling for which application is made shall be paid by the applicant upon filing the application with the governor's designee.

265—8.9(7C) References. All references to the Internal Revenue Code and its implementing regulations in this chapter are to the laws as in effect [effective date of this rulemaking].

These rules are intended to implement Iowa Code chapter 7C.

ARC 9531C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Proposing rulemaking related to water pollution control works and drinking water facilities financing program and providing an opportunity for public comment

The Iowa Finance Authority hereby proposes to rescind Chapter 26, "Water Pollution Control Works and Drinking Water Facilities Financing," and to adopt a new Chapter 26, "Water Pollution Control Works and Drinking Water Facilities Financing Program," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 16.5 and 16.133.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 16.131 through 16.133A and 455B.294 through 455B.297.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 26 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Water Pollution Control Works and Drinking Water Facilities Financing Program. The program provides loans to finance drinking water and wastewater treatment facilities and water pollution control projects.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on June 11, 2025. A public hearing was held on the following date(s):

- July 1, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on September 25, 2025. Comments should be directed to:

Lisa Connell
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50309
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

September 23, 2025 9 to 9:15 a.m.	1963 Bell Avenue Des Moines, Iowa Information about virtual participation can be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review
September 25, 2025 3 to 3:15 p.m.	1963 Bell Avenue Des Moines, Iowa Information about virtual participation can be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 265—Chapter 26 and adopt the following **new** chapter in lieu thereof:

CHAPTER 26
WATER POLLUTION CONTROL WORKS AND
DRINKING WATER FACILITIES FINANCING PROGRAM

265—26.1(16) Purpose and authority responsibilities. The program is established pursuant to Iowa Code chapter 455B, subchapter III, part 5, and is jointly administered by the department and the authority. The authority is primarily responsible for the financial management of the program pursuant to Iowa Code chapter 455B, subchapter III, part 5, and Iowa Code chapter 16, subchapter X, part 2. The authority's financial management responsibilities include but are not limited to the following:

1. Ensuring the program maintains sufficient financial resources to support projects in perpetuity, including providing state match funds for federal capitalization grants;
2. Managing the financial assets of the program, including investments and audits;
3. Receiving, reviewing and approving loan applications;
4. Executing loan agreements, including establishing loan terms; and
5. Disbursing loan funds and monitoring loan repayments.

265—26.2(16) Definitions.

"Authority" or *"IFA"* means the Iowa finance authority created in Iowa Code section 16.1A.

"Clean Water Act" means the same as defined in Iowa Code section 16.131A.

"Department" or *"DNR"* means the Iowa department of natural resources.

"Director" means the director of the authority.

"Disadvantaged community" means a community that qualifies for more favorable loan terms, including but not limited to loan forgiveness, based on criteria established in the IUP.

"Eligible costs" means all costs related to the completion of a project as defined in the Clean Water Act and Safe Drinking Water Act and 567—Chapters 40 and 90.

"EPA" means the United States Environmental Protection Agency.

"Intended use plan" or *"IUP"* means a plan developed by DNR identifying the intended uses of funds available through the program.

"Linked deposit" means funds deposited by the authority to induce a participating lending institution to offer a loan at a lower interest rate for a project type identified in subrule 26.6(7).

"Net revenues" means the same as defined in Iowa Code section 384.80.

"Nonpoint source project" means any project described in Section 319 of the Clean Water Act.

"Participating lending institution" means a lending institution approved by the authority to make loans for a project type identified in subrule 26.6(7).

"Program" means the same as defined in Iowa Code section 16.131A.

"Recipient" means the entity receiving funds from the program.

"Safe Drinking Water Act" means the same as defined in Iowa Code section 16.131A.

265—26.3(16) Eligibility, application, and approval.

26.3(1) Only projects included on state project priority lists developed and maintained by DNR pursuant to 567—Chapters 44 and 90 are eligible for the program. The authority will consider the following when determining whether to provide a loan to an eligible recipient:

a. Recipient's financial capability;

b. Recipient's willingness to accept all loan terms, conditions, and covenants;

c. The priority of the project;

d. Funds available; and

e. Whether the recipient has a record of violations of the law that over a period of time tends to show a consistent pattern or that establishes intentional, criminal, or reckless conduct in violation of such laws.

26.3(2) Applications for loans shall be submitted to the authority in the form and content established by the authority. The application will include:

a. A description of the project, project budget, and estimated project timeline;

b. The requested loan amount and loan term;

c. The proposed security for the loan and documentation that approval processes have been initiated;

d. The tax status of the loan;

e. The other sources of funds for the project;

f. A pro forma cash flow analysis in a form acceptable to the authority that demonstrates that the net revenues of the borrower are sufficient pursuant to paragraph 26.5(2)*"d"*;

g. Documentation that technical and environmental review has been completed;

h. An opinion from the applicant's counsel documenting that public procurement procedures have been followed, including but not limited to Iowa Code chapters 26 and 26A; and

i. Any other information reasonably requested by the authority.

26.3(3) Subsequent segments of a project that has been previously awarded financial assistance will receive priority over new projects. Loans made for separate segments of a project will be administered separately.

26.3(4) Requested loan amounts may be adjusted to reflect eligible costs.

26.3(5) Complete and eligible loan applications that are recommended for approval based on the criteria in subrule 26.3(1) will be considered by the authority board. The board may approve, deny, or defer an application for a loan.

265—26.4(16) Infrastructure construction loans.

26.4(1) *Loan agreements.* The authority will prepare a loan agreement after an application has been approved by the authority board. Prior to execution of the agreement, the recipient shall provide an enforceability opinion and, if applicable, a bond counsel opinion as to the status of interest on the obligation in forms acceptable to the authority.

26.4(2) *Loan terms.* The extent to which the loan terms and fees is established in the IUP are required by 40 CFR 35.3150 and 35.3555.

a. Interest rates. Loan interest rates shall be established in the IUP based on factors including but not limited to:

(1) The average daily Bloomberg BVAL General Obligation Municipal AAA 20-year yield;

(2) Taxable and tax-exempt status;

(3) Length of loan term;

(4) Interest rate cost of funds to the program;

(5) Availability of other program funds;

(6) Prevailing market interest rates of comparable loans; and

(7) Long-term program viability.

b. Fees.

(1) The loan initiation fee shall be established in the IUP. The fee shall be payable on the closing date of the loan agreement. The loan initiation fee will be waived for projects located in a disadvantaged community.

(2) The annual loan servicing fee shall be established in the IUP. Payment of the loan servicing fee will be made semiannually along with scheduled interest payments.

c. Revenue pledge. The recipient shall establish sufficient revenue sources for the repayment of the loan, as determined by the authority. To ensure repayment of obligations according to the terms of the loan agreement, the recipient shall agree to impose, collect, and increase, if necessary, user charges, taxes, or other dedicated revenue sources identified for the loan repayment in order to maintain annual net revenues at a level equal to at least 110 percent of the amount necessary to pay debt service on all revenue obligations during the next fiscal year. At the discretion of the director or director's designee, the authority may allow other revenue sources and coverage of less than 110 percent. At the discretion of the director or director's designee, the authority may require revenue sources and coverage in excess of 110 percent of the amount necessary to pay all revenue obligations if the recipient has a history of default on its revenue obligations or insufficient credit history, as determined by the authority. The loan agreement shall authorize the authority to require revenue adjustment to collect delinquent loan payments.

d. Security.

(1) A loan may be secured by a first lien upon the net revenues of the recipient's system. Loans secured by net revenues of a system may rank on a parity basis with other outstanding obligations, or, with the approval of the director or director's designee, those loans may be subordinate in right of payment to the recipient's other outstanding revenue obligations.

(2) A loan may be secured by a general obligation of the recipient, and the recipient may achieve this through the provision for a levy of taxes to repay the loan.

e. Construction payment schedules. The loan agreement shall include an estimated construction drawdown schedule provided by the recipient.

26.4(3) *Loan commitments.* Loan funds are considered a binding commitment at the time a loan agreement is executed.

26.4(4) *Costs.* The recipient shall use the program loan proceeds solely for the purpose of eligible costs of the approved project. The recipient must document all eligible costs to the satisfaction of the authority and the department before loan proceeds are disbursed.

26.4(5) *Loan amount and repayment period.* All loans shall be made contingent on the availability of funds. The maximum loan term will be 30 years. Repayment of the loan must begin no later than one year after the project is substantially complete.

26.4(6) *Prepayment.* A recipient may prepay a loan, in whole or in part, on any date with the prior written consent of the authority.

265—26.5(16) Planning and design loans.

26.5(1) *Timing of loan.* Prior to a recipient's execution of a loan agreement for an infrastructure construction loan described in rule 265—26.4(16), funds may be loaned to the recipient to pay for initial eligible costs, including the cost of facility planning and design engineering.

26.5(2) *Duration.* Planning and design loans must be repaid within three years from the date a loan agreement is executed unless the director or director's designee provides written consent to a longer term.

26.5(3) *Interest rate.* The interest rate will be specified in the IUP as required by 40 CFR 35.3150 and 35.3555.

26.5(4) *Rollover to construction loan.* All funds borrowed by the recipient as a planning and design loan may be financed as a part of a construction loan agreement upon expiration of the term of the planning and design loan.

26.5(5) *Repayment.* If the recipient does not execute a state revolving fund construction loan, the planning and design loan shall be paid in full at the end of the three-year term unless the loan term is extended by written consent of the director. The authority may negotiate a payment plan with the recipient in lieu of immediate payment in full.

265—26.6(16) Nonpoint source loan programs.

26.6(1) *Nonpoint source loan assistance.* Loan assistance for nonpoint source projects will be in the form of low-interest loans, linked deposits, or loan participations through participating lending institutions.

26.6(2) *Application for loan assistance.* Application for loan assistance pursuant to this rule may be made at any participating lending institution or submitted to the authority or the authority's agent, as applicable. A list of participating lending institutions will be made available by the authority or other entity that assists the authority to administer this program. Applications for loan assistance shall be in the form and content established by the authority.

26.6(3) *Project approval.* Each project must be approved by the appropriate environmental or conservation agency identified in subrule 26.6(7).

26.6(4) *Loan approval.* For linked deposit programs, the participating lending institution will either approve or deny the loan in accordance with the program requirements after receipt of a completed loan application form. If the loan is approved, the lending institution will notify the authority, or its agent, to reserve funds in that amount. This reservation is necessary to ensure that funds are available at the time of disbursement. If the loan is denied, the lending institution must notify the loan applicant, and the lending institution must clearly state the reasons for the loan denial. For low-interest loans with the authority, the authority or its agent will notify the applicant of the loan approval or denial. For loan participation, the authority or its agent will notify the applicant of the approval or denial.

26.6(5) *Availability of funds.* Before acting on a loan application, the lending institution shall ensure that adequate funds are available for the project.

26.6(6) *Property transfer.* The balance of a loan made pursuant to this rule shall be immediately due in full if the recipient transfers the project property.

26.6(7) *Loan amount and period.* All loans will be made contingent on the availability of funds for the applicable purpose as indicated in the IUP. The minimum and maximum loan amounts for each project type are as follows:

Type of Project	Type of Assistance	Minimum Loan Amount	Maximum Outstanding Balance	Maximum Loan Term	Project Approval Agency
General Nonpoint Source	Low-interest loans, Linked deposit or Loan participations	$5,000	No maximum	20 years	DNR
Local Water Protection	Linked deposit	$5,000	$500,000 per common ownership	10 years	Division of Soil Conservation
Livestock Water Quality Facilities	Linked deposit	$10,000	$500,000 per common ownership	15 years*	Division of Soil Conservation

Type of Project	Type of Assistance	Minimum Loan Amount	Maximum Outstanding Balance	Maximum Loan Term	Project Approval Agency
On-Site Wastewater Systems Assistance	Linked deposit	$2,000	No maximum	10 years	County

*If the loan is made only for preparation of a comprehensive nutrient management plan, the loan period shall not exceed five years.

For the purposes of this subrule, "common ownership" means the ownership of an animal feeding operation as a sole proprietor, or a majority ownership interest held by a person, in each of two or more animal feeding operations as a joint tenant, tenant in common, shareholder, partner, member, beneficiary, or other equity interest holder. The majority ownership interest is a common ownership interest when it is held directly, indirectly through a spouse or dependent child, or both.

26.6(8) *Prepayment.* A recipient may prepay a loan, in whole or in part, without penalty, with the written consent of the authority.

26.6(9) *Loan adjustments.* If the eligible costs exceed the loan amount, the recipient may request an increase in the loan amount. The lending institution is authorized to execute a loan for a principal amount of up to 10 percent above the amount of the loan application if the eligible costs exceed the application amount. The authority will evaluate the request by considering available moneys and financial risk. Should the eligible costs be less than the loan amount, the loan shall be appropriately adjusted so that the loan amount does not exceed the amount of eligible costs.

26.6(10) *Disbursement of funds.* Funds shall be disbursed in accordance with the loan agreement. The loan agreement may allow for periodic disbursement of funds.

265—26.7(16) Administration.

26.7(1) The recipient shall maintain records that document all costs associated with the project. The recipient shall provide access to these records to the authority, the department, the auditor of the state of Iowa, the EPA, the Office of the Inspector General at the EPA, or their agents or designees upon request. The recipient shall retain such records and documents for inspection and audit purposes for a period of three years from the date of the final loan payment.

26.7(2) The recipient shall provide the authority, the DNR, or their agents or designees access to the project site on request for the duration of the loan to verify that the funds are being used for the purpose intended, that the construction work meets applicable state and federal requirements, and that the project is being operated and maintained as designed.

26.7(3) The recipient's accounting procedures shall conform to generally accepted government accounting standards.

26.7(4) The authority may, for cause, find that a recipient is not in compliance with the requirements of the program. Remedies for noncompliance may include penalties up to and including withholding of or return of loan funds. Findings of noncompliance may include but are not limited to the use of loan funds for activities not described in the application for the grant; failure to begin construction within one year of execution of a loan agreement; or failure to comply with any applicable state or federal rules, regulations, or laws.

265—26.8(16) References. References to the Clean Water Act and Safe Drinking Water Act and the Code of Federal Regulations in this chapter are as in effect on [effective date of rulemaking].

These rules are intended to implement Iowa Code chapter 455B, subchapter III, part 5, and Iowa Code sections 16.131 through 16.133A.

ARC 9532C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Proposing rulemaking related to wastewater and drinking water treatment financial assistance program and providing an opportunity for public comment

The Iowa Finance Authority hereby proposes to rescind Chapter 28, "Wastewater and Drinking Water Treatment Financial Assistance Program," Iowa Administrative Code, and to adopt a new Chapter 28 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 16.5 and 16.134.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 16.134 and 16.135.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 28 and adopt a new chapter in lieu thereof. This chapter describes the policies and procedures applicable to the Wastewater and Drinking Water Treatment Financial Assistance Program. The program provides grants to install or upgrade wastewater treatment facilities and systems and drinking water treatment facilities and systems, including source water protection projects, and for engineering or technical assistance for facility planning and design.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on June 11, 2025. A public hearing was held on the following date(s):

- July 1, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on September 25, 2025. Comments should be directed to:

Lisa Connell
Iowa Finance Authority
1963 Bell Avenue, Suite 200

Des Moines, Iowa 50309
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

September 23, 2025 9 to 9:15 a.m.	1963 Bell Avenue Des Moines, Iowa Information about virtual participation can be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review
September 25, 2025 3 to 3:15 p.m.	1963 Bell Avenue Des Moines, Iowa Information about virtual participation can be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 265—Chapter 28 and adopt the following **new** chapter in lieu thereof:

CHAPTER 28
WASTEWATER AND DRINKING WATER TREATMENT FINANCIAL ASSISTANCE PROGRAM

265—28.1(16) Definitions.

"Authority" means the Iowa finance authority created in Iowa Code section 16.1A.

"Committee" means the water quality financing review committee created pursuant to Iowa Code section 16.134(10).

"Costs" means all expenses incurred by the recipient and determined by the authority as reasonable and necessary to carry out a project.

"Program" means the same as defined in Iowa Code section 16.134(1).

"Project" means the installation or upgrade of wastewater treatment facilities and systems and drinking water treatment facilities and systems, including source water protection projects, and engineering or technical assistance for facility planning and design.

"Recipient" means the entity receiving funds from the program.

265—28.2(16) Project funding. The committee will approve or deny applications for grants through the program in accordance with the priorities listed in Iowa Code section 16.134 and subject to the limitations therein. The committee will determine the weighting of priorities on an annual basis.

265—28.3(16) Administration.

28.3(1) The authority will notify successful applicants in writing of an approved application for a grant. The terms of the grant may be negotiated by the authority and shall be included in a written agreement with the recipient. The agreement may include any other term that the authority deems

necessary or convenient for the efficient administration of the program. All eligible costs shall be documented to the satisfaction of the authority before grant funds may be disbursed.

28.3(2) The recipient shall maintain records that document all costs associated with the project. The recipient shall provide access to these records to the authority, the auditor of the state of Iowa, or their agents or designees upon request. The recipient shall retain such records and documents for a period of three years from the date of the final disbursement of grant funds.

28.3(3) The recipient shall provide the authority or its agents or designees access to the project site on request for the duration of the grant to verify that the funds are being used for the purpose intended, that the construction work meets applicable state and federal requirements, and that the project is being operated and maintained as designed.

28.3(4) The recipient's accounting procedures shall conform to generally accepted government accounting standards.

28.3(5) The recipient shall comply with all applicable federal and state requirements of the project and its operations.

28.3(6) The authority may, for cause, find that a recipient is not in compliance with the requirements of the program. Remedies for noncompliance may include penalties up to and including withholding of or return of grant funds. Findings of noncompliance may include but are not limited to the use of grant funds for activities not described in the application for the grant; failure to begin construction within one year of execution of a grant agreement; or failure to comply with any applicable state or federal rules, regulations, or laws.

These rules are intended to implement Iowa Code sections 16.134 and 16.135.

ARC 9533C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Proposing rulemaking related to water quality financing program and providing an opportunity for public comment

The Iowa Finance Authority hereby proposes to rescind Chapter 46, "Water Quality Financing Program," Iowa Administrative Code, and to adopt a new Chapter 46 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 16.5 and 16.152.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 16.134A and 16.151 through 16.154.

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 46 and adopt a new chapter in lieu thereof. This chapter describes the policies and procedures applicable to the Water Quality Financing Program. The program provides grants and loans to enhance the quality of surface water and groundwater.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on June 11, 2025. A public hearing was held on the following date(s):

- July 1, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Authority no later than 4:30 p.m. on September 25, 2025. Comments should be directed to:

Lisa Connell
Iowa Finance Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50309
Email: lisa.connell@iowaeda.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

September 23, 2025 9 to 9:15 a.m.	1963 Bell Avenue Des Moines, Iowa Information about virtual participation can be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review
September 25, 2025 3 to 3:15 p.m.	1963 Bell Avenue Des Moines, Iowa Information about virtual participation can be found at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Authority and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 265—Chapter 46 and adopt the following **new** chapter in lieu thereof:

CHAPTER 46
WATER QUALITY FINANCING PROGRAM

265—46.1(16) Definitions.

"Authority" means the Iowa finance authority created in Iowa Code section 16.1A.

"Cost" means the same as defined in Iowa Code section 16.151.

"Financial assistance" means assistance provided by the authority in the form of grants, loans, or forgivable loans.

"Municipality" means the same as defined in Iowa Code section 16.151.

"Program" means the same as defined in Iowa Code section 16.151.

"Project" means the same as defined in Iowa Code section 16.151.

265—46.2(16) Application and approval.

46.2(1) *Annual applications.* The authority will accept applications for financial assistance annually.

46.2(2) *Plan requirements.* Each application must include a plan that meets the criteria of Iowa Code section 16.154(1).

46.2(3) *Review.* The authority's review of applications for financial assistance shall include the considerations identified in Iowa Code section 16.154(2).

46.2(4) *Approval.* Complete and eligible applications that are recommended for approval based on the criteria in Iowa Code section 16.154(2) will be considered by the authority board. The board may approve, deny, or defer an application.

265—46.3(16) Administration.

46.3(1) The authority will notify successful applicants in writing of an approved application for financial assistance. The terms of the financial assistance may be negotiated by the authority and shall be included in a written agreement with the recipient. The agreement may include any other term that the authority deems necessary or convenient for the efficient administration of the program. All eligible costs shall be documented to the satisfaction of the authority before financial assistance may be disbursed. Recipients shall pay a loan initiation fee to the authority upon loan closing. The fee may be up to 2 percent of the full loan commitment amount, not to exceed $100,000.

46.3(2) The recipient shall maintain records that document all costs associated with the project. The recipient shall provide access to these records to the authority, the auditor of the state of Iowa, or their agents or designees upon request. The recipient shall retain such records and documents for a period of three years from the date of the final disbursement of financial assistance.

46.3(3) The recipient shall provide the authority or its agents or designees access to the project site on request to verify that the financial assistance is being used for the purpose intended and that the construction work meets applicable state and federal requirements, and that the project is being operated and maintained as designed.

46.3(4) The recipient's accounting procedures shall conform to generally accepted government accounting standards.

46.3(5) All loans made by the authority to finance projects under the program shall meet the following requirements:

a. Repayment must begin within 30 days after project completion or by the date specified in the loan agreement;

b. A loan term cannot exceed 20 years; and

c. A recipient may prepay a loan at any time with no penalty.

46.3(6) Loans made by the authority to municipalities shall meet the following additional requirements:

a. The recipient shall provide an enforceability opinion of counsel in a form acceptable to the authority; and

b. The loan shall be secured by a first lien upon the dedicated source of repayment that may rank on a parity basis with other obligations or, with the approval of the director, may be subordinate in right of payment to one or more of the recipient's other outstanding revenue obligations.

46.3(7) Noncompliance. The authority may, for cause, find that a recipient is not in compliance with the requirements of the program. Remedies for noncompliance may include penalties up to and including withholding of or return of financial assistance. Findings of noncompliance may include but are not limited to the use of financial assistance for activities not described in the application for the grant; failure to begin construction within one year of execution of a loan agreement; or failure to comply with any applicable state or federal rules, regulations, or laws.

These rules are intended to implement Iowa Code section 16.134A and chapter 16, subchapter X, part 4.

ARC 9527C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to brain injury services program and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 56, "Brain Injury Services Program," Iowa Administrative Code, and to adopt a new Chapter 56 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 135.22B.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 135.22B.

Purpose and Summary

The purpose of the Brain Injury Services Program is to provide services, service funding, or other support for persons with a brain injury under one of the program components established pursuant to Iowa Code section 135.22B. The overall purpose of this chapter is to establish administrative rules in accordance with Iowa Code section 135.22B relative to the financial eligibility requirements for services under the waiver-eligible and cost-share components of the Brain Injury Services Program.

While the services described in this proposed chapter are not funded, the resource facilitation and training components of the program, which are not the subject of this proposed chapter, have been continuously funded since 2006.

The proposed chapter underwent a Red Tape Review pursuant to Executive Order 10. As a result, the Department updated definitions to refer to the appropriate Iowa Code section; eliminated redundant, outdated, and restrictive language; and added dates certain.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 23, 2025. A public hearing was held on the following date(s):

- August 12, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 23, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

September 23, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 247 784 930 693 5 Passcode: Fv9rK6s3
September 23, 2025 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 232 677 074 969 4 Passcode: 5no6Sg9w

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 641—Chapter 56 and adopt the following **new** chapter in lieu thereof:

CHAPTER 56
BRAIN INJURY SERVICES PROGRAM

641—56.1(135) Definitions. For purposes of this chapter, the following definitions apply:

"Assessment" means the review of the member's current functioning with regard to the member's situation, needs, strengths, abilities, desires and goals.

"Brain injury services waiver" means the same as defined in Iowa Code section 135.22B.

"Cost share" means the portion an individual is responsible to pay for services received by the individual.

"Countable income," when determining initial and ongoing eligibility for the brain injury services program, means all earned and unearned income unless specifically exempted in 441—subrule 86.2(2).

"Family size," for purposes of establishing initial and ongoing eligibility under the brain injury services program, means all persons living together who are children and who are parents of those children as defined in 441—subrule 86.2(3).

"Member" means an individual who has applied for and been found eligible to participate in the waiver-eligible component or the cost-share component of the brain injury services program.

"Program" means the department's brain injury services program.

641—56.2(135) Waiver-eligible component. Persons eligible for the brain injury services waiver and on the waiting list for the waiver are eligible for the waiver-eligible component. The program may provide funding for the nonfederal share of the cost of services if the appropriation for the medical assistance program does not have sufficient funding designated to do so.

56.2(1) Provision of funding under this component is not an entitlement and is subject to funding availability.

56.2(2) A person who receives support under the waiver-eligible component of the program is not eligible to receive support under the cost-share component of the program.

641—56.3(135) Cost-share component. Persons determined ineligible for the brain injury services waiver due to fiscal or functional criteria or persons who are eligible for the waiver but for whom funding was not authorized or available to provide waiver eligibility are eligible for the cost-share component of the program.

56.3(1) An individual must meet all of the following requirements:

a. The individual is aged one month through 64 years.

b. The individual has a brain injury as defined in Iowa Code section 135.22.

c. The individual is a resident of Iowa and either a United States citizen or a qualified alien as defined in 8 U.S.C. Section 1641 as amended to August 1, 2025.

d. The individual meets the cost-share component's financial eligibility requirements and is willing to pay a cost share for the cost-share component.

56.3(2) Financial eligibility and cost share. The department will use countable income to determine initial and ongoing eligibility for the program. Cost share will be as follows:

a. Individuals who are at 300 percent or below the federal poverty level for a family of the same size will not be assessed a cost share.

b. Individuals whose countable income is between 301 percent and 350 percent of the federal poverty level for a family of the same size will be assessed a 10 percent cost share for services that will be payable to the service provider.

c. Individuals whose countable income is between 351 percent and 400 percent of the federal poverty level for a family of the same size will be assessed a 20 percent cost share for services that will be payable to the service provider.

d. Individuals whose countable income is above 400 percent of the federal poverty level for a family of the same size will be assessed a 30 percent cost share for services that will be payable to the service provider.

56.3(3) The cost-share component must be the source of last resort for payment; the program will not pay for services when the provision of those services is mandated by law or administrative rule to be the responsibility of another governmental unit, private agency or program. Brain injury cost-share services are not available to an individual who receives services or funding under any type of medical assistance home- and community-based services waiver.

641—56.4(135) Application process.

56.4(1) The department will provide the application materials, including the waiver application and any denial letter, financial assessment, and functional assessment regarding the person in an agreed-upon format.

56.4(2) The department will determine eligibility within 45 days of receipt of complete application materials.

a. After determining if the applicant's service needs fit within the scope of the program, the department will inform the discharge planner or case manager on behalf of the applicant or the applicant's legal representative of the applicant's eligibility.

b. The case manager will establish an interdisciplinary team for each member and, with the team, identify the member's plan based on the member's needs and desires as well as the availability and appropriateness of services. The case manager will notify the department of the service plan.

c. The date of eligibility for applicants deemed eligible for the cost-share component will be the date when both the service eligibility and financial eligibility assessments have been completed.

d. The department will notify the applicant or the applicant's legal representative within seven days of the date eligibility determination is completed.

56.4(3) After determining an applicant's eligibility, if no payment slot is available, the program will enter the applicant on a waiting list according to the following:

a. The date a completed application is date-stamped in a county office of the department. If more than one application is received on the same date, applicants will be entered on the waiting list on the basis of the applicant's month of birth, with January designated as month one.

b. As slots become available, applicants will be selected from the waiting list based on their order on the waiting list to maintain the number of persons approved for participation in the program.

56.4(4) The member or the member's legal representative shall complete and sign a Brain Injury Functional Assessment form indicating the member's choice of caregiver.

56.4(5) The member's case manager will initiate development of the consumer's service plan and commencement of services. All service plans must be approved by the program.

56.4(6) The department will not pay the cost of services provided to a member prior to approval of eligibility.

56.4(7) The program will make the final determination as to whether program funding will be authorized under the cost-share component.

641—56.5(135) Service providers and reimbursement.

56.5(1) A service provider must either be certified to provide services under the brain injury services waiver or have a contract with a county to provide services and apply to become certified to provide services under the brain injury services waiver within 90 days of the date that services commence.

56.5(2) The reimbursement rate payable for the cost of a service provided under the cost-share component is the rate payable under the medical assistance program. However, if the service provider does not have a medical assistance program reimbursement rate, the rate will be the amount payable under the county contract.

56.5(3) All service providers must contract with the department and will be paid retroactively to the date of service eligibility.

56.5(4) Service providers will be responsible for billing and collection of any cost share from an individual as determined by the department.

641—56.6(135) Available services/service plan.

56.6(1) Services available will be consistent with the services offered through the Medicaid home- and community-based services waiver.

56.6(2) Service plans must reflect use of all services, including non-cost-shared services, to ensure that no duplication of services occurs.

56.6(3) All service plans must be submitted, either electronically or in hard-copy format, to the program for approval prior to implementation.

56.6(4) Any change to the service plan must be approved by the program.

641—56.7(135) Redetermination.

56.7(1) The department will annually conduct a complete financial redetermination of continuing eligibility for the program after consultation with the case manager and the interdisciplinary team.

56.7(2) The department will also conduct a redetermination of continuing eligibility when a change in financial or functional circumstances occurs that affects eligibility.

641—56.8(135) Appeal rights. Any individual denied funding under either the waiver-eligible or the cost-share component of the program may appeal pursuant to 441—Chapter 7.

These rules are intended to implement Iowa Code section 135.22B.

ARC 9526C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rulemaking related to tobacco use prevention and control community partnership initiative and providing an opportunity for public comment

The Department of Health and Human Services hereby proposes to rescind Chapter 151, "Tobacco Use Prevention and Control Community Partnership Initiative," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 142A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, House File 2673, and Executive Order 10.

Purpose and Summary

This proposed rulemaking is being undertaken as a result of Executive Order 10. This chapter became obsolete effective July 1, 2025, due to the enactment of 2024 Iowa Acts, House File 2673. That legislation, in part, realigned the State's behavioral health service system and repealed Iowa Code chapter 142A, which established the Tobacco Use Prevention and Control Commission (Commission). The Commission was dissolved effective July 1, 2025. Because the Commission was dissolved, this chapter is no longer needed.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 23, 2025. A public hearing was held on the following date(s):

- August 12, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 441—Chapter 6.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 23, 2025. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

September 23, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 247 784 930 693 5 Passcode: Fv9rK6s3
September 23, 2025 2 to 2:30 p.m.	Microsoft Teams Meeting ID: 232 677 074 969 4 Passcode: 5no6Sg9w

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **641—Chapter 151**.

ARC 9528C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to apprenticeship training program and providing an opportunity for public comment

The Workforce Development Department hereby proposes to rescind Chapter 65, "Apprenticeship Training Program," Iowa Administrative Code, and to adopt a new Chapter 65 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 84E.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 84D and 84E.

Purpose and Summary

The purpose of these proposed rules is to clarify and implement the Apprenticeship Training Program.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 23, 2025. A public hearing was held on the following date(s):

- August 12, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 23, 2025. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.802.9425
Email: brooke.axiotis@iwd.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

September 23, 2025 9 a.m.	Microsoft Teams Join the meeting now Meeting ID: 248 573 222 179 4 Passcode: dE32bq3Y Dial in by phone +1 469.998.6043 Find a local number Phone conference ID: 919 427 308#
September 23, 2025 1:30 p.m.	Microsoft Teams Join the meeting now Meeting ID: 261 059 884 755 8 Passcode: Z8W7rk6m Dial in by phone +1 469.998.6043

Find a local number
Phone conference ID: 305 409 801#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.802.9425 or via email at brooke.axiotis@iwd.iowa.gov at least 48 hours prior to the hearing date.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 871—Chapter 65 and adopt the following **new** chapter in lieu thereof:

CHAPTER 65
APPRENTICESHIP TRAINING PROGRAM

871—65.1(84E) Authority. The authority for adopting rules establishing an apprenticeship training program is provided in Iowa Code section 84A.5(5)*"l"* and chapter 84E.

871—65.2(84E) Purpose. The purpose of the apprenticeship training program is to assist eligible apprenticeship programs by providing financial assistance in the form of training grants.

871—65.3(84E) Definitions. The following definitions apply to this chapter. Additional definitions can be found in Iowa Code section 84E.2.

"Apprentice" means a person who is at least 16 years of age, except where a higher minimum age is required by law; who is employed in an apprenticeable occupation; and who is registered in Iowa with the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship.

"Apprenticeable occupation" means an occupation approved for apprenticeship by the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship.

"Apprenticeship program" means a program registered with the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship that includes terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, including the requirement for a written apprenticeship agreement.

"Apprenticeship sponsor" means an entity operating an apprenticeship program or an entity in whose name an apprenticeship program is being operated that is registered with or approved by the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship.

"Department" means the department of workforce development created in Iowa Code section 84A.1 (Iowa workforce development).

"Program" means the apprenticeship training program established pursuant to this chapter.

"Total instructional hours" means the total instructional hours reported by an apprenticeship sponsor or lead apprenticeship sponsor. "Total instructional hours" does not mean the minimum federal standard for instructional hours.

"Training year" means the most recent calendar year.

871—65.4(84E) Annual appropriations—amount of assistance available—standard contract—use of funds.

65.4(1) The department will provide financial assistance under the program from moneys appropriated for purposes of the program pursuant to Iowa Code section 84G.3.

65.4(2) The department will disburse funds to an apprenticeship sponsor or lead apprenticeship sponsor only after approval of a completed application and execution of a contract between the apprenticeship sponsor or lead sponsor and the department. The department shall have sole discretion in determining whether an applicant has provided all necessary information as required under this chapter. The department will prepare a standard contract for the program to be executed by each eligible applicant. Each executed contract will provide for an amount of financial assistance in the form of a training grant as determined by Iowa Code section 84E.4(2). All changes or amendments to the standard contract shall be at the department's sole discretion. All such changes shall be consistent with the requirements of Iowa Code chapter 84E and of this chapter. The department will notify apprenticeship sponsors and lead apprenticeship sponsors by the end of a calendar year of any standard contract changes for the upcoming application period.

65.4(3) Financial assistance received by an apprenticeship sponsor or lead apprenticeship sponsor under this rule shall be used only for the cost of conducting and maintaining an apprenticeship program. The department may require an apprenticeship sponsor or lead apprenticeship sponsor to provide any information reasonably necessary to verify the use of program funds.

871—65.5(84E) Eligibility for assistance. An eligible apprenticeship sponsor or lead apprenticeship sponsor may apply to the department for assistance under the program. To be eligible, an applicant must meet all of the following requirements:

65.5(1) The applicant is an apprenticeship sponsor, or a lead apprenticeship sponsor, that conducts an apprenticeship program that is registered with the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship for apprentices who will be employed at worksites in Iowa.

65.5(2) The applicant conducts an apprenticeship program that includes a minimum of 100 contact hours per apprentice for each training year of the apprenticeship program.

65.5(3) The applicant provides all of the following information to the department:

a. The federal apprentice registration number of each apprentice in the apprenticeship program.

b. The address and a description of the physical location where in-person training is conducted.

c. A certification of the apprenticeship sponsor's training standards as most recently approved by the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship, or, in the case of a lead apprenticeship sponsor, a representative sample of participating members' training standards.

d. A certification of the apprenticeship sponsor's compliance review or quality assessment as most recently conducted by the U.S. Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship unless the apprenticeship sponsor has not been subjected to a compliance review or quality assessment. In the case of a lead apprenticeship sponsor, a sampling of compliance reviews or quality assessments from participating members will be sufficient.

e. Any other information the department reasonably determines is necessary.

65.5(4) The applicant shall apply on or before February 1 of each year in which funding is available. The application submitted by the applicant should reflect program information from the prior training year. Because all applications to the program must be received in order to determine the amount of financial assistance available pursuant to rule 871—65.4(84E), the department will not accept applications on a continuous basis.

65.5(5) An apprenticeship sponsor receiving financial assistance under Iowa Code chapter 84F is ineligible for financial assistance under this chapter during the same fiscal year.

871—65.6(84E) Application submittal and review process.

65.6(1) The department will develop a standardized application and make the application available to applicants. To apply for assistance under the program, an applicant shall submit an application to the department as instructed by the Notice of Funding Opportunity.

65.6(2) The director shall have final funding authority on applications for financial assistance under this program. Applications will be reviewed and processed for eligibility by the staff of the department. The director will approve, defer or deny applications consistent with the requirements of this chapter.

871—65.7(84E) Notice and reporting.

65.7(1) *Notice of award.* Program applicants will be notified in writing of the funding decision, including any conditions and terms of the approval as may be required under the program.

65.7(2) *Reporting.* An applicant receiving assistance under the program shall submit any information reasonably requested by the department in sufficient detail to permit the department to prepare any reports required by the department, the general assembly or the governor's office.

These rules are intended to implement Iowa Code chapter 84E.

ARC 9529C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to future ready Iowa registered apprenticeship development fund and providing an opportunity for public comment

The Workforce Development Department hereby proposes to rescind Chapter 66, "Future Ready Iowa Registered Apprenticeship Development Fund," Iowa Administrative Code, and to adopt a new Chapter 66 with a new title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 84F.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 84D and 84F.

Purpose and Summary

The purpose of these proposed rules is to clarify and implement the Future Ready Iowa Registered Apprenticeship Development Fund.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 23, 2025. A public hearing was held on the following date(s):

- August 12, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 23, 2025. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.802.9425
Email: brooke.axiotis@iwd.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

September 23, 2025 9:30 a.m.	Microsoft Teams Join the meeting now Meeting ID: 228 026 983 421 Passcode: En28TH78 Dial in by phone +1 469.998.6043 Find a local number Phone conference ID: 863 395 407#
September 23, 2025 1:30 p.m.	Microsoft Teams Join the meeting now Meeting ID: 229 518 901 039 6 Passcode: GJ3CL36F Dial in by phone+1 469.998.6043 Find a local number Phone conference ID: 497 069 297#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.802.9425 or via email at brooke.axiotis@iwd.iowa.gov at least 48 hours prior to the hearing date.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 871—Chapter 66 and adopt the following **new** chapter in lieu thereof:

CHAPTER 66
FUTURE READY IOWA REGISTERED APPRENTICESHIP DEVELOPMENT FUND

871—66.1(84F) Purpose. Pursuant to Iowa Code sections 84A.5 and 84F.1, the department is directed to establish a future ready Iowa registered apprenticeship development fund for the purpose of providing financial assistance to incentivize small and medium-sized apprenticeship sponsors to establish new or additional eligible apprenticeable occupations in the apprenticeship sponsor's apprenticeship program in order to support the growth of apprenticeship programs and expand high-quality work-based learning experiences in high-demand fields and careers for persons who are employed in eligible apprenticeable occupations in Iowa.

871—66.2(84F) Definitions. For purposes of this chapter, unless the context otherwise requires, the following definitions apply. More definitions can be found in Iowa Code section 84F.1.

"Agreement" means a contract for financial assistance under the program describing the terms on which the financial assistance is to be provided.

"Director" means the director of the department of workforce development.

871—66.3(84F) Program description.

66.3(1) *Amount, form, and timing of assistance.*

a. The program provides financial assistance in the form of reimbursement grants to support the costs associated with establishing a registered apprenticeship program or adding additional apprenticeable occupations to an applicant's registered apprenticeship program.

b. The maximum grant per applicant per year shall not exceed 50 percent of the apprenticeable occupation budget. The maximum amount awarded to an applicant for any one application per fiscal year shall not exceed $25,000. The aggregate maximum amount that may be awarded to any one applicant per fiscal year for an aggregate number of applications shall not exceed $50,000.

c. The applicant will apply for grant funding based on activities during the calendar year prior to the application period.

66.3(2) *Application.*

a. Forms. All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the department's Notice of Funding Opportunity.

b. Application period. Each fiscal year during which funding is available, applications for financial assistance will only be accepted between January 1 and February 1 of each calendar year following the start of the fiscal year. The department may adjust these dates under extenuating circumstances and will notify affected parties. The department may add a funding window if available funds are not exhausted during the initial submission window and will publish such application dates on the department's website.

66.3(3) *Funding.* If the amount of funding requested by eligible applicants exceeds the amount of funding available to the department in any given fiscal year, department staff will make recommendations to the director as to allocation of available funding. The department may deny applications for incompleteness or because of insufficient funds.

871—66.4(84F) Program eligibility, application scoring, and awards.

66.4(1) *Program eligibility.*

a. To be considered for an award under this program, an apprenticeship program sponsor must meet the following eligibility requirements:

(1) The apprenticeship sponsor established a new eligible apprenticeable occupation or added an eligible apprenticeable occupation to the apprenticeship sponsor's existing apprenticeship program in the calendar year prior to the application period.

(2) Additional requirements as set out in Iowa Code section 84F.1(3)*"a"*(1) and *"a"*(2).

b. An apprenticeship sponsor receiving financial assistance under Iowa Code chapter 84E or section 84F.2 is ineligible for financial assistance under this chapter during the same fiscal year.

66.4(2) *Application scoring criteria.* Applications for financial assistance under the program shall be reviewed and scored as described below. To be considered eligible for funding, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules. If an applicant does not meet all eligibility requirements, the application will not be scored.

a. Budget and costs. The extent to which the applicant's budget and estimated or real program costs are based on industry standards for the eligible occupation. (maximum 30 points)

b. Application of financial assistance. The applicant has provided specific details regarding the use of funding and how it will be applied. (maximum 30 points)

c. Local support. The applicant has provided documentation of local support from area partners, such as schools, local government entities, and other employers, that may benefit from the apprenticeship program. (maximum 10 points)

d. Additional funding. The department will take into consideration sources of funding for establishing an apprenticeable occupation. Scores will be based on whether the source of funding is public or private, whether the funding is repayable, and the proportion of internal funding to funding from other sources. Higher scores will be awarded if the source of funding is a private entity, if the funding is repayable, and if the amount of internal funding is more than 50 percent of funding needed to establish the apprenticeable occupation. (maximum 10 points)

e. Certification of worker safety. The applicant has not violated state or federal statutes, rules or regulations, including environmental and worker safety regulations, or if such violations have occurred, the violations have been addressed and mitigated. (maximum 10 points)

f. Certification of employment at an Iowa work site. The applicant has certified that the apprentices identified by their U.S. Department of Labor identification numbers and represented in the application are registered with the applying sponsor or lead sponsor's registered apprenticeship program and that each apprentice listed worked some time in Iowa during the prior calendar year. (maximum 10 points)

66.4(3) *Financial assistance awards.* The director will make final funding decisions after considering the recommendations of staff. Successful applicants will be notified in writing of an award of financial assistance, including the conditions and terms of approval.

a. Disbursement of funds. The department will disburse funds to a successful applicant only after approval of a completed application and execution of an agreement between the applicant and the department pursuant to this chapter. Prior to disbursement of funds, the applicant must provide the department with confirmation of expenses detailed in the applicant's budget and the department must confirm that all terms for financial assistance have been met.

b. Form of financial assistance. The department will provide financial assistance in the form of a grant to the applicant. The amount of the grant and any other terms shall be included in the agreement required pursuant to this chapter.

c. Use of funds. An applicant shall use funds only for reimbursement of the costs directly related to the project. The department may require documentation or other information establishing the actual costs incurred for a project. Failure to use the funds for reimbursement of the costs directly related to a project shall be grounds for default under the agreement required pursuant to this chapter.

871—66.5(84F) Agreement required.

66.5(1) Each applicant that is approved for financial assistance under the program shall enter into an agreement with the department for the provision of such financial assistance. The agreement will establish the terms on which the financial assistance is to be provided and may include any other terms reasonably necessary for the efficient administration of the program.

66.5(2) The department and the applicant may amend the agreement at any time upon the mutual agreement of both the department and the applicant.

66.5(3) The agreement may require an applicant that has been approved for financial assistance under the program to submit information reasonably required by the department to make reports to the governor's office or the general assembly.

These rules are intended to implement Iowa Code chapter 84F.

ARC 9530C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

Proposing rulemaking related to future ready Iowa expanded registered apprenticeship opportunities program and providing an opportunity for public comment

The Workforce Development Department hereby proposes to rescind Chapter 67, "Future Ready Iowa Expanded Registered Apprenticeship Opportunities Program," Iowa Administrative Code, and to adopt a new Chapter 67 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapters 84D and 84F.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 84F.

Purpose and Summary

The purpose of these proposed rules is to clarify and implement the Future Ready Iowa Expanded Registered Apprenticeship Opportunities Program.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on July 23, 2025. A public hearing was held on the following date(s):

- August 12, 2025

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on September 23, 2025. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319

Phone: 515.802.9425
Email: brooke.axiotis@iwd.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

September 23, 2025 10 a.m.	Microsoft Teams Join the meeting now Meeting ID: 298 197 669 907 5 Passcode: Xd3CV3qx Dial in by phone +1 469.998.6043 Find a local number Phone conference ID: 987 268 454#
September 23, 2025 2 p.m.	Microsoft Teams Join the meeting now Meeting ID: 277 839 227 118 2 Passcode: 8a6jn6pk Dial in by phone +1 469.998.6043 Find a local number Phone conference ID: 591 162 21#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.802.9425 or via email at brooke.axiotis@iwd.iowa.gov at least 48 hours prior to the hearing date.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 871—Chapter 67 and adopt the following **new** chapter in lieu thereof:

CHAPTER 67
FUTURE READY IOWA EXPANDED REGISTERED APPRENTICESHIP OPPORTUNITIES PROGRAM

871—67.1(84F) Purpose. Pursuant to Iowa Code sections 84A.5(5)*"n"* and 84F.2, the department is directed to administer a future ready Iowa expanded registered apprenticeship opportunities program. The purpose of the program is to provide financial assistance to encourage apprenticeship sponsors of apprenticeship programs with 20 or fewer apprentices to maintain apprenticeship programs in high-demand occupations.

871—67.2(84F) Definitions. For purposes of this chapter, unless the context otherwise requires, the following definitions apply. Additional definitions can be found in Iowa Code section 84F.2.

"Agreement" means a contract for financial assistance under the program describing the terms on which the financial assistance is to be provided.

"Director" means the director of the department of workforce development.

871—67.3(84F) Program description.

67.3(1) *Amount, form, and timing of assistance.*

a. Financial assistance received by an apprenticeship sponsor under this chapter shall be used only for the cost of conducting and maintaining an apprenticeship program.

b. Applicants are eligible to apply for grant awards annually based on the number of apprentices in an eligible apprenticeable occupation who are active in their program or who have completed a registered apprenticeship program in the calendar year prior to the applicant window. Applicants will receive $1,000 per active or completed apprentice in their program, up to $20,000.

67.3(2) *Application.*

a. Forms. All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the department's Notice of Funding Opportunity.

b. Application requirements. An apprenticeship sponsor seeking financial assistance under these rules shall provide the following information to the department:

(1) The address and federal apprentice registration number of each apprentice who was actively training in the apprenticeship program as of December 31 of the year prior to submitting the application or completed training during the calendar year prior to submitting the application.

(2) The address and a description of the physical location where in-person training is conducted.

(3) A certification of the apprenticeship sponsor's training standards as most recently approved by the United States Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship.

(4) A certification of the apprenticeship sponsor's compliance review or quality assessment as most recently conducted by the United States Department of Labor, Office of Apprenticeship, and the Iowa Office of Apprenticeship unless the apprenticeship sponsor has not been subjected to a compliance review or quality assessment.

(5) A program budget including how financial assistance awarded under the program will be used.

(6) Any other information the department reasonably requires to determine eligibility and to make award determinations.

c. Application period. Each fiscal year during which funding is available, applications for financial assistance will only be accepted between January 1 and February 1 of each calendar year following the start of the fiscal year. The department may adjust these dates under extenuating circumstances and will notify affected parties. The department may add a funding window if available funds are not exhausted during the initial submission window and will publish such application dates on the department's website.

67.3(3) *Application review.* If the amount of funding requested by eligible applicants exceeds the amount of funding available to the department in any given fiscal year, department staff will make recommendations to the director as to allocation of available funding based on the scoring criteria described in subrule 67.4(2). The department may deny applications for incompleteness or because of insufficient funds.

871—67.4(84F) Program eligibility, application scoring, and awards.

67.4(1) *Program eligibility.*

a. To be considered for an award under this program, an apprenticeship program sponsor must meet the following eligibility requirements:

(1) The apprenticeship sponsor has an apprenticeship program with at least one eligible apprenticeable occupation.

(2) Additional requirements as set out in Iowa Code section 84F.1(3)*"a"*(1) and *"a"*(2).

b. An apprenticeship sponsor receiving financial assistance under Iowa Code chapter 84E or section 84F.1 is ineligible for financial assistance under these rules during the same fiscal year.

c. An apprenticeship sponsor who trains through a lead apprenticeship sponsor that qualifies for financial assistance under Iowa Code chapter 84E is ineligible to receive financial assistance under these rules.

67.4(2) *Application scoring criteria.* Applications for financial assistance under the program shall be reviewed and scored as described below. To be considered eligible for funding, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules. If an applicant does not meet all eligibility requirements, the application will not be scored.

a. Budget and costs. The extent to which the applicant's budget and estimated or real program costs are based on industry standards for the eligible occupation. (maximum 30 points)

b. Application of financial assistance. The applicant has provided specific details regarding the use of funding and how it will be applied. (maximum 30 points)

c. Local support. The applicant has provided documentation of local support from area partners, such as schools, local government entities, and other employers, that may benefit from the apprenticeship program. (maximum 10 points)

d. Additional funding. The department will take into consideration sources of funding for establishing an apprenticeable occupation. Scores will be based on whether the source of funding is public or private, whether the funding is repayable, and the proportion of internal funding to funding from other sources. Higher scores will be awarded if the source of funding is a private entity, if the funding is repayable, and if the amount of internal funding is more than 50 percent of funding needed to establish the apprenticeable occupation. (maximum 10 points)

e. Certification of worker safety. The applicant has not violated state or federal statutes, rules or regulations, including environmental and worker safety regulations, or if such violations have occurred, the violations have been addressed and mitigated. (maximum 10 points)

f. Certification of employment at an Iowa work site. The applicant has certified that the apprentices identified by their U.S. Department of Labor identification numbers and represented in the application are registered with the applying sponsor or lead sponsor's registered apprenticeship program and that each apprentice listed worked some time in Iowa during the prior calendar year. (maximum 10 points)

67.4(3) *Financial assistance awards.*

a. Director approval. The director will make final funding decisions after considering the recommendations of staff. Successful applicants will be notified in writing of an award of financial assistance, including the conditions and terms of approval.

b. Disbursement of funds. The department will disburse funds to a successful applicant only after approval of a completed application and execution of an agreement between the applicant and the department pursuant to this chapter. Prior to disbursement of funds, the applicant must provide the department with confirmation of expenses and the department must confirm that all terms for financial assistance have been met.

c. Form of financial assistance. The department will provide financial assistance in the form of a grant to the applicant. The amount of the grant and any other terms shall be included in the agreement required pursuant to this chapter.

d. Use of funds. An applicant shall use funds only for reimbursement of the costs directly related to the project. The department may require documentation or other information establishing the actual costs incurred for a project. Failure to use the funds for reimbursement of the costs directly related to a project shall be grounds for default under the agreement required pursuant to this chapter.

871—67.5(84F) Agreement required.

67.5(1) Each applicant that is approved for financial assistance under the program shall enter into an agreement with the department for the provision of such financial assistance. The agreement will establish the terms on which the financial assistance is to be provided and may include any other terms reasonably necessary for the efficient administration of the program.

67.5(2) The department and the applicant may amend the agreement at any time upon the mutual agreement of both the department and the applicant.

67.5(3) The agreement may require an applicant that has been approved for financial assistance under the program to submit information reasonably required by the department to make reports to the governor's office or the general assembly.

These rules are intended to implement Iowa Code chapter 84F.

ARC 9536C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rulemaking related to licensure of physician assistants

The Board of Physician Assistants hereby rescinds Chapter 780, "Licensure of Physician Assistants," Iowa Administrative Code, and adopts a new Chapter 780 with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 147.36, 147.76, 148C.3, 148C.5, 272C.3 and 272C.4.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 147, 148C and 272C.

Purpose and Summary

Chapter 780 sets minimum standards for licensure as a physician assistant in Iowa. Iowa residents, licensees, and employers benefit from the rulemaking since it articulates the processes by which individuals apply for licensure, as directed in statute. This includes the process for initial licensure, renewal, and reinstatement. These requirements ensure public safety by ensuring that any individual entering the profession has minimum competency.

This rulemaking also incorporates provisions directed by 2023 Iowa Acts, House File 424, now codified as Iowa Code section 148C.3(2), which includes the joint rulemaking with the Iowa Board of Medicine for rules on the independent practice of physician assistants.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on June 25, 2025, as **ARC 9377C**. A public hearing was held on the following date(s):

- July 15, 2025
- July 16, 2025

The Iowa Physician Assistants Society's attorney was present for the hearing and provided comment in favor of the proposed rules. Comments were received in support of this rulemaking and to thank the staff at the Board office for the support and work on this rulemaking.

Changes from the Notice have been made to clarify the definition of "licensee" in rule 481—780.1(148C) to eliminate any confusion with the definitions in Iowa Code chapter 148C and to update a cross-reference in the definition of "prescription monitoring program database."

Adoption of Rulemaking

This rulemaking was adopted by the Board on August 5, 2025.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking will become effective on October 8, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 481—Chapter 780 and adopt the following **new** chapter in lieu thereof:

CHAPTER 780
LICENSURE OF PHYSICIAN ASSISTANTS

481—780.1(148C) Definitions. In addition to the definitions herein, and unless otherwise stated, the board adopts by reference the definitions found in Iowa Code section 148C.1.

"Active license" means a license that is current and has not expired.

"Approved program" means a program for the education of physician assistants that has been accredited by the Accreditation Review Commission on Education for the Physician Assistant, or its successor, or, if accredited prior to 2001, either by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs.

"CME" means continuing medical education.

"Collaboration" means consultation with or referral to the appropriate physician or other health care professional by a physician assistant as indicated by the patient's condition; the education, competencies, and experience of the physician assistant; and the best practice guidelines.

"Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996, PL 104-191, August 21, 1996, 110 Stat 1936.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means a person licensed by the board as a physician assistant.

"Licensure by endorsement" means the issuance of an Iowa license to practice as a physician assistant to an applicant who is or has been licensed in another state.

"Locum tenens" means the temporary substitution of one licensed physician assistant for another.

"Mandatory training" means training on identifying and reporting child abuse or dependent adult abuse required of physician assistants who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

"NCCPA" means the National Commission on Certification of Physician Assistants.

"Opioid" means a drug that produces an agonist effect on opioid receptors and is indicated or used for the treatment of pain or opioid use disorder.

"Other health care provider" means a person licensed as a physician assistant under Iowa Code chapter 148C or an advanced registered nurse practitioner licensed under Iowa Code chapter 152.

"Physician" means a person who is currently licensed in Iowa to practice medicine and surgery or osteopathic medicine and surgery. A physician supervising a physician assistant practicing in a federal facility or under federal authority will not be required to obtain licensure beyond licensure requirements mandated by the federal government for supervising physicians.

"Prescription monitoring program database" or *"PMP database"* means the Iowa prescription monitoring program database administered by the board of pharmacy pursuant to Iowa Code chapter 124, subchapter VI, and 481—Chapter 556.

"Reactivate" or *"reactivation"* means the process as outlined in rule 481—780.9(17A,147,272C) by which an inactive license is restored to active status.

"Reinstatement" means the process as outlined in rule 481—506.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

"Supervising physician" means a physician who supervises the medical services provided by the physician assistant engaged in independent practice consistent with the physician assistant's education, training, or experience. Supervision shall not be construed as a requirement to be applied to those physician assistants who (1) are not engaged in an independent practice arrangement, (2) have already met the requirements to practice independently, or (3) are not required by law to be supervised. Supervision shall not be construed as requiring the personal presence of a supervising physician at the place where such services are rendered, except insofar as the personal presence is expressly required by these rules or by Iowa Code chapter 148C.

"Supply prescription drugs" means to deliver to a patient or the patient's representative a quantity of prescription drugs or devices that are properly packaged and labeled.

481—780.2(148C) Initial licensure.

780.2(1) The following criteria shall apply to the initial licensure of physician assistants:

a. The applicant for licensure will complete an online application packet and pay the nonrefundable application fee.

b. The applicant for licensure will successfully pass the certifying examination conducted by the NCCPA or a successor examination approved by the board. The applicant will request the NCCPA, or its successor agency, to send a copy of the initial certification to the board office.

c. The applicant for licensure will request the approved program for education of physician assistants to submit official copies of the applicant's transcript to the board office.

EXCEPTION: An applicant who is not a graduate of an approved program but who passed the NCCPA initial certification examination prior to 1986 is exempt from the graduation requirement.

d. In lieu of paragraphs 780.2(1)*"b"* and *"c,"* an applicant for licensure may provide documentation from the Federation Credentials Verification Service (FCVS) of the Federation of State Medical Boards as primary source verification for identity, education and national certification information.

780.2(2) If licensed in another jurisdiction, an applicant for licensure will:

a. Complete the licensure by endorsement application;

b. Submit a license verification document that discloses any disciplinary action taken in all jurisdictions where the applicant was previously licensed; and

c. Submit proof of completion of 100 CME hours for each biennium since the licensee was initially certified.

780.2(3) An applicant for licensure who is licensed in another jurisdiction who cannot satisfy the requirements of licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 481—501.1(272C).

780.2(4) An application not completed according to guidelines will not be reviewed by the board.

780.2(5) Incomplete applications that have been on file in the board office for more than two years will be:

a. Considered invalid and destroyed; or

b. Maintained upon written request from the applicant for licensure.

481—780.3(148C) Temporary licensure.

780.3(1) A temporary license may be issued for an applicant for licensure who has not taken the NCCPA initial certification examination or successor agency examination or is waiting for the results of the examination.

780.3(2) An applicant for licensure must comply with subrule 780.2(1), with the exception of paragraphs 780.2(1)*"b"* and *"c."*

780.3(3) A temporary license will be valid for one year from the date of issuance.

780.3(4) The temporary license will be renewed only once upon an applicant for licensure's showing proof that, through no fault of the applicant, the applicant was unable to take the certification examination recognized by the board. Proof of inability to take the certification examination will be submitted to the board office with written request for renewal of a temporary license, accompanied by the temporary license renewal fee.

780.3(5) If the temporary licensee fails the certification examination, the temporary licensee must cease practice immediately and surrender the temporary license by the next business day.

780.3(6) There is no additional fee for converting temporary licensure to permanent licensure.

780.3(7) An applicant for licensure will ensure that certification of completion is sent to the board directly from an approved program for the education of physician assistants. The certification of completion must be signed by a designee from the approved program.

481—780.4(148C) Physician supervision not required. A physician assistant is not required to be supervised by a physician when:

780.4(1) The physician assistant is licensed in the state of Iowa or eligible to become licensed in the state of Iowa; and

780.4(2) The physician assistant has previously practiced under a supervising physician or in collaboration with an Iowa-licensed physician or other licensed health care professional for a period of at least two years; or

780.4(3) The physician assistant is not practicing in an independent practice arrangement as defined in Iowa Code section 148C.1(5).

481—780.5(148C) Physician supervision required.

780.5(1) A physician assistant is required to be supervised by a physician when the physician assistant is practicing in an independent practice arrangement as defined in Iowa Code section 148C.1(5) and the physician assistant has not previously practiced under a supervising physician or in collaboration with the appropriate physician or other health care professional for a period of at least two years.

780.5(2) Requirements for a physician assistant and supervising physician.

a. A physician assistant will use the jointly approved board forms to notify the board of the identity of the physician assistant's supervising physician prior to beginning practice in Iowa. The physician assistant will notify the board of the identity of each of the physician assistant's supervising physicians and of any change in the status of the supervisory relationships during the physician assistant's required supervisory biennium.

b. A physician assistant and a supervising physician will utilize the board form to show a mutual understanding of the physician assistant's scope of practice, identified medical procedures and the areas of medicine performed.

c. A physician assistant will maintain documentation of current supervising physicians, which will be made available to the board upon request.

d. It shall be the joint responsibility of a physician assistant and a supervising physician to ensure the physician assistant is adequately supervised. Upon agreeing to supervise the physician assistant, the supervising physician will be advised that the physician's name will be listed with the board as a supervising physician. The physician assistant and the supervising physician are each responsible for knowing and complying with the supervision provisions of these rules.

e. Patient care provided by a physician assistant will be reviewed with a supervising physician determined at the practice level, ensuring each patient has received the appropriate medical care.

f. Patient care provided by a physician assistant may be reviewed with a supervising physician in person, by telephone or by other means of telecommunication and determined at the practice level.

481—780.6(148C) Physician eligibility to supervise physician assistants. Information on physician eligibility to supervise physician assistants is contained in 653—subrules 21.1(1) through 21.1(4).

481—780.7(148C) Collaborative practice.

780.7(1) After the conclusion of two years of practice under a supervising physician as required by rule 481—780.5(148C), a physician assistant will continue collaboration with a physician or other health care provider as defined in rule 481—780.1(148C), which will be determined at the practice level. This rule shall not be construed to apply to physician assistants in independent practice who did not previously meet the criteria of rule 481—780.5(148C).

780.7(2) A collaborating physician or other health care provider defined in rule 481—780.1(148C) and a physician assistant should follow best practice guidelines and discuss cases as determined at the practice level. If there are any deficiencies in care noted, the collaborating health care provider will educate the physician assistant on best practice guidelines.

780.7(3) The scope of practice for a physician assistant shall be limited to medical care that is within the physician assistant's education, training, and experience.

780.7(4) Documentation of the collaboration between a physician assistant and a physician or other health care provider shall be kept by the physician assistant and provided to the board upon request.

780.7(5) Eligibility of other health care provider for collaboration. During the two-year period of collaboration, the other health care provider as defined in rule 481—780.1(148C) shall be a provider who has been in practice for a minimum of five years and is not subject to discipline by the provider's respective licensing authority.

481—780.8(148C) License renewal.

780.8(1) The license renewal period for a license to practice will begin on October 1 and end on September 30 two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

780.8(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

780.8(3) A licensee applying for renewal will:

a. Meet the continuing education requirements of 481—Chapter 782 and the mandatory reporting requirements of subrule 780.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Complete the online renewal application, pay the fee, and attach certificate of completion of continuing education hours before the expiration date.

780.8(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa will indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code

section 232.69(3)*"b"* in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 780.8(4)*"e."*

b. A licensee who, in the course of employment responsibilities, examines, attends, counsels or treats adults in Iowa will indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)*"b"* in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 780.8(4)*"e."*

c. The course(s) will be the curriculum provided by the department of health and human services.

d. The licensee will maintain written documentation for three years after mandatory training as identified in paragraphs 780.8(4)*"a"* through *"c,"* including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse will be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements.

f. The board may select licensees for audit of compliance with the requirements in paragraphs 780.8(4)*"a"* through *"e."*

780.8(5) Upon receiving the information required by this rule and the required fee, a two-year license will be issued. In the event the board receives adverse information on the renewal application, the board will issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

780.8(6) A person licensed to practice as a physician assistant will keep the license certificate and renewal displayed in a conspicuous public place at the primary site of practice.

780.8(7) Late renewal. The license will become late when the license has not been renewed by the expiration date on the renewal. A licensee will be assessed a late fee as specified in 481—subrule 507.14(4). To renew a late license, the licensee will complete the renewal requirements and submit the late fee within the grace period.

780.8(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa but may not practice as a physician assistant in Iowa until the license is reactivated. A licensee who practices as a physician assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

481—780.9(17A,147,272C) Requirements for reactivation. To apply for reactivation, a licensee will:

780.9(1) Complete an online reactivation application and pay the nonrefundable reactivation fee.

780.9(2) Provide verification of current competence to practice as a physician assistant by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must:

(1) Submit a license verification document that discloses if disciplinary action was taken in the jurisdiction where the applicant was most recently licensed.

(2) Submit proof of completing 100 hours of continuing education within two years of application for reactivation or NCCPA or successor agency certification.

b. If the license has been on inactive status for more than five years, an applicant must:

(1) Submit a license verification document that discloses if disciplinary action was taken against the applicant from every jurisdiction in which the applicant has been licensed.

(2) Submit proof of completing 200 hours of continuing education within two years of application for reactivation, of which at least 40 percent of the hours completed will be in Category I, or NCCPA or successor agency certification.

481—780.10(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with rule 481—506.31(272C) and must apply for and be granted reactivation of the license in accordance with rule 481—780.9(17A,147,272C) prior to practicing as a physician assistant in this state.

481—780.11(148C) Use of title. A physician assistant licensed under Iowa Code chapter 148C may use the words "physician assistant" after the person's name or signify the same by the use of the letters "PA." A person who meets the qualifications for licensure under Iowa Code chapter 148C but does not possess a current license may use the title "PA" or "physician assistant" but may not act or practice as a physician assistant unless licensed under Iowa Code chapter 148C.

481—780.12(148C) Address change. A physician assistant will notify the board of any change in permanent address within 30 days of its occurrence.

481—780.13(148C) Student physician assistant.

780.13(1) Any person who is enrolled as a student in an approved program will comply with the rules set forth in this chapter. A student is exempted from licensure requirements.

780.13(2) Notwithstanding any other provisions of these rules, a student may perform medical services when the medical services are rendered within the scope of an approved program.

These rules are intended to implement Iowa Code chapters 17A, 147, 148C and 272C.

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