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

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

STEPHANIE A. HOFF, Administrative Code Editor

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making
2018

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

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
17	**Friday, January 26, 2018**	**February 14, 2018**
18	**Friday, February 9, 2018**	**February 28, 2018**
19	**Friday, February 23, 2018**	**March 14, 2018**

PLEASE NOTE:

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Procurement of standard modular office systems, 100.1, 100.6(6), 117.5(3) IAB 1/17/18 **ARC 3574C**	Conference Room 5, A Level Hoover State Office Bldg. Des Moines, Iowa	February 6, 2018 1 to 2 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality, amendments to chs 20, 22, 23, 25, 30, 33, 34 IAB 12/20/17 **ARC 3520C**	Conference Room 4 East Wallace State Office Bldg. Des Moines, Iowa	January 22, 2018 1 p.m.
Water supply, amendments to chs 40 to 44, 81, 83 IAB 1/17/18 **ARC 3568C**	Conference Room 2 North Wallace State Office Bldg. Des Moines, Iowa	February 8, 2018 10 a.m.
Annual reports of solid waste environmental management systems, 111.4, 111.6 to 111.8 IAB 1/17/18 **ARC 3569C**	Conference Room 5 West Wallace State Office Bldg. Des Moines, Iowa	February 13, 2018 10 a.m. to 1 p.m.

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Organization; investment board; benefits advisory committee; protection occupations; employers; benefits, amendments to chs 1 to 5, 11, 31 IAB 1/3/18 **ARC 3537C**	IPERS 7401 Register Dr. Des Moines, Iowa	January 23, 2018 10 to 11 a.m.

LABOR SERVICES DIVISION[875]

Amusement rides and devices—operator requirements, inspections, and payments, 61.3(4)"a," 61.4(1)"a," 61.8 IAB 1/3/18 **ARC 3539C**	150 Des Moines St. Des Moines, Iowa	January 25, 2018 1:30 p.m. (If requested)
Contractor registration, 150.2, 150.4(11)"a" IAB 1/17/18 **ARC 3565C**	150 Des Moines St. Des Moines, Iowa	February 7, 2018 9 a.m. (If requested)

PROFESSIONAL LICENSURE DIVISION[645]

Massage therapy—licensure, education, curriculum, 131.1 to 131.6, 131.8, 132.2, 132.3 IAB 1/3/18 **ARC 3541C**	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	January 23, 2018 9 to 10 a.m.

PUBLIC SAFETY DEPARTMENT[661]

Carbon monoxide alarms, ch 211 IAB 1/3/18 **ARC 3545C**	First Floor Public Conference Room 125 Oran Pape State Office Bldg. Des Moines, Iowa	January 23, 2018 10 a.m.

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Electricians and electrical contractors; electrical inspections, 502.1(3), 551.2, 552.1 IAB 1/17/18 **ARC 3580C**	First Floor Public Conference Room 125 Oran Pape State Office Bldg. Des Moines, Iowa	February 6, 2018 10 to 11 a.m.

REAL ESTATE COMMISSION[193E]

Trust account; property condition disclosure, 13.1, 14.1 IAB 1/17/18 **ARC 3564C**	Commission Office, Suite 350 200 East Grand Ave. Des Moines, Iowa	February 6, 2018 12 noon

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Transportation network companies—insurance carriers, 540.4(3)"a" IAB 1/17/18 **ARC 3572C**	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	February 8, 2018 10 a.m. (If requested)
Commercial learner's permit—period of validity, amendments to ch 607 IAB 1/3/18 **ARC 3532C**	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	January 25, 2018 1 p.m. (If requested)
Coordination of public transit services, amendments to ch 910 IAB 1/3/18 **ARC 3533C**	First Floor, North Conference Room DOT Administration Bldg. 800 Lincoln Way Ames, Iowa	January 25, 2018 8 a.m. (If requested)
School transportation services provided by regional transit systems, ch 911 IAB 1/3/18 **ARC 3534C**	First Floor, North Conference Room DOT Administration Bldg. 800 Lincoln Way Ames, Iowa	January 25, 2018 9 a.m. (If requested)
Federal transit assistance, amendments to ch 922 IAB 1/3/18 **ARC 3536C**	First Floor, North Conference Room DOT Administration Bldg. 800 Lincoln Way Ames, Iowa	January 25, 2018 11 a.m. (If requested)
Capital match revolving loan fund, amendments to ch 923 IAB 1/3/18 **ARC 3535C**	North Conference Room, First Floor DOT Administration Bldg. 800 Lincoln Way Ames, Iowa	January 25, 2018 10 a.m. (If requested)

The following list will be updated as changes occur.

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

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

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

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ARC 3574C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Proposing rule making related to standard modular office systems and providing an opportunity for public comment

The Department of Administrative Services hereby proposes to amend Chapter 100, "Capitol Complex Operations," and Chapter 117, "Procurement of Goods and Services of General Use," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 8A.311, 904.807, and 904.808.

Purpose and Summary

2017 Iowa Acts, House File 293, provides for the Director to promulgate rules regarding procurement of goods manufactured in Iowa as that relates to bidding and to Iowa Prison Industries. An agency can award a bid to a company if the good being procured is manufactured or formulated in Iowa and represents the lowest bid instead of being required to procure the good from Iowa Prison Industries.

Fiscal Impact

The fiscal impact is indeterminable because the anticipated demand on products, the type of products, and the price of those products cannot be determined.

Jobs Impact

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

Waivers

The waiver provisions are covered by 11—Chapter 9.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

Tami Wiencek
Department of Administrative Services
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Fax: 515.281.6140
Email: tami.wiencek@iowa.gov

Public Hearing

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

February 6, 2018, from 1 to 2 p.m.
Conference Room 5, A Level
Hoover State Office Bldg.
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.725.2017.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 11—100.1(8A) as follows:

11—100.1(8A) Definitions. The definitions contained in Iowa Code sections 8A.101 and 8A.301 shall be applicable to such terms when used in this chapter. In addition, the following definitions apply:

"Assignment of office space" means space allocated by the department to a state agency for its use.

"Capitol complex" means an area within the city of Des Moines in which the Iowa state capitol building is located. This area includes the state capitol building and all real property and appurtenances thereto owned by the state of Iowa within an area bounded on the north by Interstate Highway 235, on the east by East 14th Street, on the south by the northernmost railroad tracks south of Court Avenue and on the west by East 6th Street.

"Control of assigned office space" means the ability of an agency to modify its use of assigned space without consultation with the department as long as changes do not include relocating wiring, replacing, adding or deleting modular office components, or making other modifications that would affect the floor plan.

"Dangerous weapon" means any instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death upon a human being when used in the manner for which it was designed. Additionally, any instrument or device of any sort whatsoever which is actually used in such a manner as to indicate that the person possessing the instrument or device intends to inflict death or serious injury upon the other, and which, when so used, is capable of inflicting death upon a human being, is a dangerous weapon. Dangerous weapons include, but are not limited to, any offensive weapon as defined in Iowa Code section 724.1, pistol, revolver, or other firearm, dagger, razor, stiletto, switchblade knife, or knife having a blade exceeding five inches in length. Pistols and revolvers are exempted from the definition of "dangerous weapons" only as set forth in subrule 100.2(2).

"Facilities" means the capitol complex buildings, grounds, and all related property.

"Memorandum of understanding" or *"MOU"* means a written agreement that specifies terms, conditions and any related costs.

"Modular office components" means parts of a modular office system.

"Modular office systems" means standard cubicle furniture; generally, two-foot, three-foot and four-foot sections that have attached work surfaces and file storage space. Modular office systems are available in new, remanufactured and recycled condition.

"~~Nonstandard~~ Standard modular office systems" means modular office systems that ~~do not~~ meet standards set by the department of administrative services, expressed by function and connectivity, for use by state agencies. These standards are for the purpose of facilitating reuse of modular office system components.

"Office furniture" means any furnishing that is free standing and does not require installation with component parts. Examples are desks, chairs, file cabinets, tables, lounge seating, and computer desks.

"Public" means a person on the capitol complex who is not employed by the state of Iowa.

"Recycled modular office components" means used components that have been cleaned and have had broken parts replaced, but have not been disassembled and rebuilt.

"Remanufactured modular office components" means used components that have been disassembled, repainted or reupholstered, rebuilt, and have had broken parts replaced. Remanufactured components are intended to be like new.

"Seat of government" means office space at the capitol, other state buildings and elsewhere in the city of Des Moines for executive branch agencies, except those areas exempted by law.

"Waiver" means a waiver or variance as defined in 11—Chapter 9, Iowa Administrative Code.

ITEM 2. Amend subrule 100.6(6) as follows:

100.6(6) *Purchase of standard modular office systems and components.* ~~To obtain~~ If Iowa Prison Industries (IPI) manufactures office furniture and standard modular office systems and related components, an agency ~~may~~ shall purchase ~~standard modular office components and other furniture items~~ them from ~~Iowa Prison Industries~~ IPI or obtain a written waiver in accordance with Iowa Code section 904.808 ~~without further competition.~~, except as otherwise permitted in paragraphs *"a"* and *"b."*

a. Purchase from a targeted small business. ~~To obtain office furniture and modular office components, an~~ An agency may purchase standard modular office systems and related components and other furniture items from a targeted small business (TSB) without further competition when the purchase will not exceed ~~$5,000~~ $10,000, ~~per 2003~~ as provided in Iowa Code ~~Supplement~~ section ~~8A.311, without further competition.~~ 8A.311(10)*"a."*

~~Use of a competitive selection process is required for all purchases, unless the agency chooses to use one of the procedures above. However, competitive selection may be used for any purchase. When an agency elects to obtain standard office modular components and other furniture items through the department of administrative services' competitive procurement process, IPI and TSBs shall be part of the bidding process.~~

b. Procurement of standard modular office systems and components and other furniture items manufactured in Iowa. An agency may conduct a competitive procurement for standard modular office systems and related components and other furniture items that IPI manufactures if the competitive procurement requires that the products must be manufactured in Iowa. In such procurements, IPI shall be allowed to submit a bid to provide the products. If a bidder other than IPI is the lowest bidder, the agency shall obtain written verification from the bidder that the bidder's product is manufactured in Iowa before making the award.

The portion of the work plan for purchasing modular office systems or office furniture shall allow for the issuance of purchase orders at least 30 days prior to the desired delivery date.

Regardless of how an agency purchases or obtains modular office components, the department of administrative services shall retain responsibility for management and coordination of office space planning.

ITEM 3. Amend subrule 117.5(3) as follows:

117.5(3) *Iowa Prison Industries (IPI) procurement.*

a. Justification for IPI procurement. ~~Agencies~~ If IPI manufactures or formulates a product, agencies shall purchase ~~products~~ the product from IPI or obtain a written waiver in accordance with Iowa Code section 904.808~~.~~, except as otherwise permitted in paragraphs *"b"* and *"c."* ~~See http://www.iaprisonind.com for IPI catalog.~~

b. Purchase of standard modular office systems and related components. Purchase of standard ~~office~~ modular office systems and related components and other furniture items shall be in accordance with 11—subrule 100.6(6).

c. Procurement of product manufactured in Iowa. An agency may conduct a competitive procurement for a product that IPI manufactures or formulates if the competitive procurement requires that the product must be manufactured in Iowa. In such procurements, IPI shall be allowed to submit a bid to provide the product. If a vendor other than IPI is the lowest responsible bidder, the agency shall obtain written verification that the vendor's product is manufactured in Iowa before making the award.

~~*b.*~~ *d. Special procedures for IPI purchases.* An agency may contact IPI directly.

ARC 3567C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

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

The Department of Agriculture and Land Stewardship hereby proposes to amend Chapter 50, "Women, Infants, and Children/Farmers' Market Nutrition Program and Senior Farmers' Market Nutrition Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 175B.5 and 159.5(10).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 159 and 175B.

Purpose and Summary

The proposed amendments would grandfather a farmstand which does not meet the existing criteria for a permanent structure into the program as long as the farmstand has been in business for at least five continuous years, has operated during the majority of the market season, and has a letter of support from a municipality, county or other governmental agency.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

Margaret Thomson
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: margaret.thomson@Iowaagriculture.gov

Public Hearing

No public hearing is scheduled at this time. An oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, an agency, or an association of 25 or more persons as provided in Iowa Code section 17A.4(1)"b."

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 50.8(8) as follows:

50.8(8) A farmstand authorized to participate in the FMNP/SFMNP shall be operated from a permanent building that is primarily used for the sale of eligible foods, is not moveable and remains in the same location year-round. The building shall have at least a roof, sidewalls, and solid floor to protect produce and people. Wood post frame, stud frame, rigid-frame metal, and concrete block construction are suitable farmstand construction. The building must be maintained in a manner consistent with standards generally accepted for this type of business. The structural requirements for a permanent building do not apply under either of the following circumstances:

a. The farmstand not meeting the structural requirements is authorized to participate in the FMNP/SFMNP and is primarily used for the sale of eligible food has operated from a structure at the same location for minimum of five consecutive years and has also been operating the majority of the market season from June 1 through October 31 for a minimum of 11 consecutive weeks annually. The vendor must submit with the vendor's application a letter of support acknowledging five years or more of operation at that location from a municipality, county or governmental agency.

b. Up to two moveable farmstands that do not meet the requirements of permanent farmstands may be authorized in cities and villages that are not located within ten miles of an authorized farmers' market. ~~If three or more applications for moveable farmstands within the same city or village are received by the department, the applicants shall be required to meet the authorization requirements of a farmers' market. An authorized farmstand must be staffed during all hours of operation. Failure to comply will result in a warning citation from the department. Repeated noncompliance could result in the revocation of the farmstand authorization.~~

ITEM 2. Adopt the following **new** subrule 50.8(9):

50.8(9) If three or more applications for moveable farmstands within the same city or village are received by the department, the applicants shall be required to meet the authorization requirements of a farmers' market.

ITEM 3. Adopt the following **new** subrule 50.8(10):

50.8(10) An authorized farmstand must be staffed during all hours of operation. Failure to comply will result in a warning citation from the department. Repeated noncompliance could result in the revocation of the farmstand authorization.

ARC 3568C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

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

The Environmental Protection Commission hereby proposes to amend Chapter 40, "Scope of Division—Definitions—Forms—Rules of Practice," Chapter 41, "Water Supplies," Chapter 42, "Public Notification, Public Education, Consumer Confidence Reports, Reporting, and Record Maintenance," Chapter 43, "Water Supplies—Design and Operation," Chapter 44, "Drinking Water State Revolving Fund," Chapter 81, "Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems," and Chapter 83, "Laboratory Certification," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 272C and sections 455B.105, 455B.113, 455B.173, 455B.222 and 455B.299.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 272C and sections 17A.3(1)"b," 455B.113 to 455B.115, 455B.171 to 455B.188, 455B.190 to 455B.192, 455B.211 to 455B.224 and 455B.299.

Purpose and Summary

The purpose of the proposed rule making is to adopt the federal Groundwater Rule (GWR, November 2006), Lead and Copper Rule – Short-Term Revisions (LCR-STR, October 2007), and Revised Total Coliform Rule (RTCR, February 2013). The U.S. Environmental Protection Agency (EPA) also made other changes to existing federal drinking water rules between August 2004 and July 2016, primarily in analytical methods, which are included in this rule making. States are expected to incorporate these federal rule provisions into state program rules in order to maintain primacy in the drinking water program. The proposed amendments, if adopted, will accomplish that end. In addition, other changes to the Department's public drinking water, operator certification, and environmental laboratory rules are proposed.

Proposed changes are summarized below by chapter.

- Chapter 40: amend definitions for "sanitary survey" and "Ten States Standards"; add new definitions for the following: clean compliance history, Level 1 assessment, Level 2 assessment, sanitary defect, and seasonal system; include the Department's website address; and update forms.
- Chapter 41: rescind the existing total coliform rule and replace it with the RTCR; update analytical methods; revise the existing lead and copper rule by adopting the LCR-STR; require use of an analytical method for an organic contaminant that meets the method detection limit requirements for compliance samples; include the GWR; and make other minor corrections.
- Chapter 42: include the public notification, consumer confidence report, lead consumer notice, and lead public education requirements for the GWR, LCR-STR, and RTCR; update the Department's environmental emergency reporting hotline telephone number; update the American National Standards Institute (ANSI)/National Sanitation Foundation (NSF) 60 certification requirement to allow for use of chemicals that are accredited via third-party conformance with the standard; allow noncommunity

systems that only use a cation-exchange softener to have bacterial compliance history reviewed before continuous disinfection is required; require all systems using water to which chlorine has been added to monitor daily in the distribution system to ensure the minimum disinfectant residual concentration is met; require inactivation ratio to be calculated each day the surface water or influenced groundwater treatment plant is in operation and to notify the Department within 24 hours if the ratio is below 1.0; and make other minor corrections.

- Chapter 43: include the provisions for the GWR, LCR-STR, and RTCR; update the construction standards to the 2012 edition of Ten States Standards and 2016 American Water Works Standards; require new groundwater sources to be tested for ammonia; add the separation distances for ground heat exchange (GHEX) loop boreholes; update the ANSI/NSF 61 certification requirement to allow for use of drinking water system components that are accredited via third-party conformance with the standard; remove arsenic as an exception from the best available technology listing for inorganic compounds; require at least 0.5 log inactivation of *Giardia lamblia* cysts in treatment of surface or influenced groundwater sources to be from a chemical disinfectant; require notification by the surface water or influenced groundwater system to the Department within 24 hours if the daily total inactivation ratio is below 1.0; add the calibration and verification requirements for turbidity and residual disinfectant monitoring; update analytical methods; include federal language for the Long-Term 2 Enhanced Surface Water Treatment Rule for sample collection, analytical methods, and bank filtration credit; add CT virus inactivation tables for groundwater systems; and make other minor changes.
- Chapter 44: revise the provision relating to allowable costs to be funded through the Drinking Water State Revolving Fund to allow for funding of the replacement of lead service lines.
- Chapter 81: add new definitions of "operation shift" and "shift operator"; correct Iowa Code citations in the definition of "rural water district"; allow transient noncommunity systems to be classified as Grade A systems; rescind sunset education credit; rescind oral examination allowance and fee; change reexamination time frame from 180 days to 30 days; remove the description of accommodations for examination; rescind temporary certification; and make other minor changes.
- Chapter 83: update the "Manual for Certification of Laboratories Analyzing Environmental Samples for the Iowa DNR" to 2017; remove reference to "fecal coliform" and replace with reference to *E. coli* when appropriate; rescind an outdated procedure for initial certification of solid waste and contaminated sites program parameters; update the Department's environmental emergency hotline telephone number; add credit card fee payment option; include record-keeping requirements for a laboratory auditor; and make other minor changes.

These chapters and the amendments to them were reviewed by the water supply technical advisory group at a meeting held on April 28, 2017. The group is comprised of individuals representing a wide variety of water supply stakeholders, including professional drinking water organizations, certified operators, certified environmental laboratories, environmental interests, agricultural and business interests, public water supplies, consulting engineers, and other state agencies.

Fiscal Impact

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

Jobs Impact

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

Waivers

There are no specific provisions for waivers in the rules, although there are considerations for system source water, size, and type in GWR and RTCR. There are general authorities to issue waivers for some rules, which are used when appropriate. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 9, 2018. Comments should be directed to:

Diane Moles
Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: diane.moles@dnr.iowa.gov
Phone: 515.725.0281

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows. Upon arrival, attendees should proceed to the fourth floor to check in at the Department's reception desk to receive a visitor's badge and directions to the appropriate hearing location.

February 8, 2018, at 10 a.m.
DNR Conference Room 2 North
Wallace State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **567—40.2(455B)**, definitions of "Sanitary survey" and "Ten States Standards," as follows:

"Sanitary survey" means a review and on-site inspection conducted by the department of the water source, facilities, equipment, operation and maintenance and records of a public water supply system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water and identifying improvements necessary to maintain or improve drinking water quality, pursuant to 567—subrule 43.1(7).

"Ten States Standards" means the "Recommended Standards for Water Works," ~~2007~~ 2012 edition as adopted by the Great Lakes—Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers.

ITEM 2. Adopt the following **new** definitions of "Clean compliance history," "Level 1 assessment," "Level 2 assessment," "Sanitary defect" and "Seasonal system" in rule **567—40.2(455B)**:

"Clean compliance history" means, for the purposes of 567—paragraph 41.2(1)*"e"*(4)"2," a record of no monitoring violations and no coliform treatment technique trigger exceedances or treatment technique violations under 567—subrule 41.2(1).

"Level 1 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform bacteria monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 1 assessment is conducted by the system operator or owner. Minimum elements of the assessment include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a groundwater system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system owner or operator must conduct the assessment consistent with any department directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

"Level 2 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform bacteria monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. A Level 2 assessment is conducted by a department water supply inspector and will typically include the system operator. Minimum elements of the assessment include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a groundwater system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The department may tailor specific assessment elements with respect to the size and type of the system and the size, type and characteristics of the distribution system. The system must comply with any expedited actions or additional actions required by the department in the case of an *E. coli* MCL violation.

"Sanitary defect" means a defect that could provide a pathway of entry for microbial contamination into the distribution system or that is indicative of a failure or imminent failure in a barrier that is already in place.

"Seasonal system" means a noncommunity water system that is not operated as a public water system on a year-round basis and starts up and shuts down at the beginning and end of each operating season.

ITEM 3. Amend rule 567—40.3(17A,455B), introductory paragraph, as follows:

567—40.3(17A,455B) Forms. The following forms are used by the public to apply for department approvals and to report on activities related to the public water supply program of the department. All forms may be obtained from the department's website at www.iowadnr.gov (water supply pages) or from the Environmental Services Division, Administrative Support Station, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319-0034. Properly completed application forms shall be submitted to the Water Supply Section, Environmental Services Division. Water Supply System Monthly and Other Operation Reporting forms shall be submitted to the appropriate field office (see 567—subrule 42.4(3)). Properly completed laboratory forms (reference 567—Chapter 83) shall be submitted to the State Hygienic Laboratory or as otherwise designated by the department.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 4. Amend the following two entries in the table in subrule **40.3(1)**:

Schedule No.	Name of Form	Form Number
~~"6b"~~	~~Distribution Pumping Station~~	~~542-3141~~
"13a"	Chemical Addition	~~542-3141~~ 542-3241

ITEM 5. Amend subrule 40.3(2) as follows:

40.3(2) *Operation permit application forms.*

~~*a.* Form 13-1 — community water supply~~

~~*b.*~~ *a.* Form 13-2 — ~~noncommunity~~ application for a new water supply 542-1300

b. Form 13-3 — renewal application for an existing water supply 542-1301

ITEM 6. Rescind subrule 40.3(3) and adopt the following **new** subrule in lieu thereof:

40.3(3) *Water supply reporting forms.* The monthly water supply operation report forms are available from the department's water supply operations section website. The laboratory analyses for compliance samples are reported via electronic means directly to the department by each certified laboratory.

ITEM 7. Amend rule 567—41.2(455B), catchwords, as follows:

567—41.2(455B) Biological maximum contaminant ~~levels~~ level (MCL), treatment technique (TT), and monitoring requirements.

ITEM 8. Rescind subrule 41.2(1) and adopt the following **new** subrule in lieu thereof:

41.2(1) *Coliform bacteria and E. coli.* The provisions of this subrule include both maximum contaminant level and treatment technique requirements. The provisions of this subrule apply to all public water systems. Failure to comply with the applicable requirements in this subrule is a violation of the national primary drinking water regulations.

a. Maximum contaminant level. A public water system must determine compliance with the MCL for *E. coli* for each month in which the system is required to monitor for total coliforms. A system is in compliance with the MCL for *E. coli* for samples taken under this subrule unless any of the following conditions occur. For purposes of the public notification requirements in 567—42.1(455B), violation of the MCL may pose an acute risk to health.

(1) *E. coli*-positive repeat sample. The system has an *E. coli*-positive repeat sample following a total coliform-positive routine sample.

(2) *E. coli*-positive routine sample. The system has a total coliform-positive repeat sample following an *E. coli*-positive routine sample.

(3) Failure to collect all required repeat samples following *E. coli*-positive routine samples. The system fails to take all required repeat samples following an *E. coli*-positive routine sample.

(4) Failure to test for *E. coli* on any total coliform-positive repeat sample. The system fails to test for *E. coli* when any repeat sample tests positive for total coliform.

b. Analytical methodology.

(1) Sample volume. The standard sample volume required for analysis is 100 mL, regardless of the analytical method used.

(2) Presence/absence required. Only the presence or absence of total coliforms and *E. coli* is required to be determined in any compliance sample; a determination of density is acceptable but is not required.

(3) Holding time and temperature. The time from sample collection to initiation of test medium incubation may not exceed 30 hours. Systems are encouraged but not required to hold samples below 10° C during transit.

(4) Dechlorinating agent required for chlorinated water. If water having a residual chlorine (measured as free, combined, or total chlorine) is to be analyzed, sufficient sodium thiosulfate ($Na_2S_2O_3$) must be added to the sample bottle before sterilization to neutralize any residual chlorine in

the water sample. Dechlorination procedures are addressed in Section 9060A.2 of Standard Methods for the Examination of Water and Wastewater (20th and 21st editions).

(5) Systems must conduct total coliform and *E. coli* analyses in accordance with one of the analytical methods in the following table.

Methodology Category	Method[1]	Citation[1]
Total Coliform Bacteria Methods:		
Lactose Fermentation Methods	Standard Total Coliform Fermentation Technique	Standard Methods 9221 B.1, B.2 (20th, 21st, and 22nd ed.)[2, 3] Standard Methods Online 9221 B.1, B.2-99, B-06[2,3]
	Presence-Absence (P-A) Coliform Test	Standard Methods 9221 D.1, D.2 (20th and 21st ed.)[2, 7] Standard Methods Online 9221 D.1, D.2-99[2, 7]
Membrane Filtration Methods	Standard Total Coliform Membrane Filter Procedure	Standard Methods 9222 B, C (20th and 21st ed.)[2, 4] Standard Methods Online 9222 B-97[2, 4], 9222 C-97[2, 4]
	Membrane Filtration using MI Medium	EPA Method 1604[2]
	m-ColiBlue24 Test[2, 4]	
	Chromocult[2, 4]	
Enzyme Substrate Methods	Colilert	Standard Methods 9223 B (20th, 21st and 22nd ed.)[2, 5] Standard Methods Online 9223 B-97, B-04[2, 5]
	Colilert-18	Standard Methods 9223 B (21st and 22nd ed.)[2, 5] Standard Methods Online 9223 B-04[2, 5]
	Colisure	Standard Methods 9223 B (20th, 21st and 22nd ed.)[2, 5, 6] Standard Methods Online 9223 B-97, B-04[2, 5, 6]
	E*Colite Test[2]	
	Readycult Test[2]	
	modified Colitag Test[2]	
	Tecta EC/TC Test[2]	
***Escherichia coli (E. coli)* Methods:**		
Escherichia coli Procedures (following Lactose Fermentation Methods)	EC-MUG Medium	Standard Methods 9221 F.1 (20th, 21st and 22nd ed.)[2] Standard Methods Online 9221 F-06[2]
Escherichia coli Partition Method	EC broth with MUG (EC-MUG)	Standard Methods 9222 G.1*c*(2) (20th and 21st ed.)[2, 8]
	NA-MUG Medium	Standard Methods 9222 G.1*c*(1) (20th and 21st ed.)[2]
Membrane Filtration Methods	Membrane Filtration using MI Medium	EPA Method 1604[2]
	m-ColiBlue24 Test[2, 4]	
	Chromocult[2, 4]	
Enzyme Substrate Methods	Colilert	Standard Methods 9223 B (20th, 21st and 22nd ed.)[2, 5] Standard Methods Online 9223 B-97, B-04[2, 5, 6]
	Colilert-18	Standard Methods 9223 B (21st and 22nd ed.)[2, 5] Standard Methods Online 9223 B-04[2, 5]
	Colisure	Standard Methods 9223 B (20th, 21st and 22nd ed.)[2, 5, 6] Standard Methods Online 9223 B-97, 04[2, 5, 6]
	E*Colite Test[2]	
	Readycult Test[2]	
	modified Colitag Test[2]	
	Tecta EC/TC Test[2]	

[1]The procedures must be done in accordance with the documents listed in 41.2(1)*"a"*(6). For Standard Methods, either the 20th (1998) or 21st (2005) edition may be used. For Standard Methods Online, the year in which each method was approved by the Standard Methods Committee is designated by the last two digits following the hyphen in the method number. The methods listed are the only online versions that may be used. For vendor methods, the date of the method listed in 41.2(1)*"a"*(6) is the date/version of the approved method. The methods listed are the only versions that may be used for compliance with this rule. Laboratories should be careful to use only the approved versions of the methods, as product package inserts may not be the same as the approved versions of the methods.

[2]Incorporated by reference. See 41.2(1)*"a"*(6).

[3]Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth if the system conducts at least 25 parallel tests between lactose broth and lauryl tryptose broth using the water normally tested and if the findings from this comparison demonstrate that the false-positive rate and the false-negative rate for total coliforms, using lactose broth, is less than 10 percent.

[4]All filtration series must begin with membrane filtration equipment that has been sterilized by autoclaving. Exposure of filtration equipment to UV light is not adequate to ensure sterilization. Subsequent to the initial autoclaving, exposure of the filtration equipment to UV light may be used to sanitize the funnels between filtrations within a filtration series. Alternatively, membrane filtration equipment that is presterilized by the manufacturer (i.e., disposable funnel units) may be used.

[5]Multiple-tube and multi-well enumerative formats for this method are approved for use in presence-absence determination under this subrule.

[6]Colisure results may be read after an incubation time of 24 hours.

[7]A multiple-tube enumerative format, as described in Standard Methods for the Examination of Water and Wastewater 9221, is approved for this method for use in presence-absence determination under this subrule.

[8]The following changes must be made to the EC broth with MUG (EC-MUG) formulation: Potassium dihydrogen phosphate, KH_2PO_4, must be 1.5 g, and 4-methylumbelliferyl-beta-D-glucuronide must be 0.05 g.

(6) Methods incorporated by reference. The standards required in this subrule are incorporated by reference with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR Part 51. All approved material is available for inspection either electronically at www.regulations.gov, in hard copy at the Water Docket, or from the sources indicated below. The Docket ID is EPA-HQ-OW-2008-0878. Hard copies of these documents may be viewed at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202)566-1744, and the telephone number for the Water Docket is (202)566-2426. Copyrighted materials are only available for viewing in hard copy. These documents are also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202)741-6030 or go to www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

1. American Public Health Association, 800 I Street, NW, Washington, DC 20001. Standard Methods for the Examination of Water and Wastewater, 20th edition (1998):

- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," B.1, B.2, "Standard Total Coliform Fermentation Technique."
- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," D.1, D.2, "Presence-Absence (P-A) Coliform Test."
- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," B, "Standard Total Coliform Membrane Filter Procedure."
- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," C, "Delayed-Incubation Total Coliform Procedure."
- Standard Methods 9223, "Enzyme Substrate Coliform Test," B, "Enzyme Substrate Test," Colilert and Colisure.
- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," F.1, "*Escherichia coli* Procedure: EC-MUG Medium."
- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," G.1*c*(2), "*Escherichia coli* Partition Method: EC Broth with MUG (EC-MUG)."
- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," G.1*c*(1), "*Escherichia coli* Partition Method: NA-MUG Medium."

2. American Public Health Association, 800 I Street, NW, Washington, DC 20001. Standard Methods for the Examination of Water and Wastewater, 21st edition (2005):

- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," B.1, B.2, "Standard Total Coliform Fermentation Technique."
- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," D.1, D.2, "Presence-Absence (P-A) Coliform Test."
- Standard Methods 9221, "Membrane Filter Technique for Members of the Coliform Group," B, "Standard Total Coliform Membrane Filter Procedure."
- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," C, "Delayed-Incubation Total Coliform Procedure."
- Standard Methods 9223, "Enzyme Substrate Coliform Test," B, "Enzyme Substrate Test," Colilert and Colisure.
- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," F.1, "*Escherichia coli* Procedure: EC-MUG Medium."
- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," G.1.*c*(2), "*Escherichia coli* Partition Method: EC Broth with MUG (EC-MUG)."
- Standard Methods 9222, "Membrane Filter Technique for Members of the Coliform Group," G.1.*c*(1), "*Escherichia coli* Partition Method: NA-MUG Medium."

3. American Public Health Association, 800 I Street, NW, Washington, DC 20001. "Standard Methods Online" available at www.standardmethods.org:

- Standard Methods Online 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group" (1999), B.1, B.2-99, B-06, "Standard Total Coliform Fermentation Technique."
- Standard Methods Online 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group" (1999), D.1, D.2-99, "Presence-Absence (P-A) Coliform Test."
- Standard Methods Online 9222, "Membrane Filter Technique for Members of the Coliform Group" (1997), B-97, "Standard Total Coliform Membrane Filter Procedure."
- Standard Methods Online 9222, "Membrane Filter Technique for Members of the Coliform Group" (1997), B-97, "Delayed-Incubation Total Coliform Procedure."
- Standard Methods Online 9223, "Enzyme Substrate Coliform Test" (1997), B-97, "Enzyme Substrate Test," Colilert and Colisure.

4. Charm Sciences, Inc., 659 Andover Street, Lawrence, MA 01843-1032; telephone (800)343-2170: E*Colite—"Charm E*Colite Presence/Absence Test for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Drinking Water," January 9, 1998.

5. CPI International, Inc., 5580 Skylane Blvd., Santa Rosa, CA 95403; telephone (800)878-7654: modified Colitag, ATP D05-0035—"Modified Colitag Test Method for the Simultaneous Detection of *E. coli* and other Total Coliforms in Water," August 28, 2009.

6. EMD Millipore (a division of Merck KGaA, Darmstadt, Germany), 290 Concord Road, Billerica, MA 01821; telephone (800)645-5476:

- Chromocult—"Chromocult Coliform Agar Presence/Absence Membrane Filter Test Method for Detection and Identification of Coliform Bacteria and *Escherichia coli* for Finished Waters," November 2000, Version 1.0.
- Readycult—"Readycult Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters," January 2007, Version 1.1.

7. EPA's Water Resource Center (MC-4100T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone (202)566-1729: EPA Method 1604, EPA 821-R-02-024—"EPA Method 1604: Total Coliforms and *Escherichia coli* in Water by Membrane Filtration Using a Simultaneous Detection Technique (MI Medium)," September 2002, www.nemi.gov.

8. Hach Company, P.O. Box 389, Loveland, CO 80539; telephone (800)604-3493: m-ColiBlue24—"Membrane Filtration Method m-ColiBlue24 Broth," Revision 2, August 17, 1999.

9. American Public Health Association, 800 I Street, NW, Washington, DC 20001. Standard Methods for the Examination of Water and Wastewater, 22nd edition (2012):

- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," B.1, B.2, "Standard Total Coliform Fermentation Technique."
- Standard Methods 9223, "Enzyme Substrate Coliform Test," B, "Enzyme Substrate Test," Colilert and Colisure.
- Standard Methods 9221, "Multiple-Tube Fermentation Technique for Members of the Coliform Group," F.1, "*Escherichia coli* Procedure: EC-MUG Medium."

10. Veolia Water Solutions and Technologies, Suite 4697, Biosciences Complex, 116 Barrie Street, Kingston, Ontario, Canada K7L 3N6: Tecta EC/TC. "Presence/Absence Method for Simultaneous Detection of Total Coliforms and *Escherichia coli* in Drinking Water," April 2014.

(7) Laboratory certification. Systems must have all compliance samples required under this subrule analyzed by a laboratory certified by the department in accordance with 567—Chapter 83 to analyze drinking water samples. The laboratory used by the system must be certified for each method and associated contaminant used for compliance monitoring analyses under this subrule.

c. Sampling plan.

(1) Written sampling plan required. Systems must collect total coliform samples according to the written sampling plan.

1. Systems must develop a written sampling plan that identifies sample locations and a sample collection schedule that are representative of water throughout the distribution system. Major elements of the plan shall include, but not be limited to, the following:

- Map of the distribution system served by the system;
- List of routine compliance sample locations for each sample period;
- List of repeat compliance sample locations for each routine compliance sample location;
- Any other sample locations necessary to meet the requirements of this subrule;
- Sample collection schedule;
- Proper sampling technique instructions;
- Log of samples taken; and
- For groundwater systems subject to 567—41.7(455B), triggered source water monitoring plan.

2. The system shall review the sampling plan every two years and update it as needed and shall retain the sampling plan on file at the facility. The plan must be made available to the department upon request and for review during sanitary surveys and must be revised by the system at the direction of the department.

3. Monitoring under this subrule may take place at a customer's premises, dedicated sampling station, or other designated compliance sampling location.

(2) Sampling schedule. Systems must collect routine samples at regular time intervals throughout the month. Systems that use only groundwater and serve 4,900 or fewer people, or regional water systems that use only groundwater and serve less than 121 miles of pipe, may collect all required routine samples on a single day if the samples are taken from different sites.

(3) Minimum number of required routine samples. Systems must take at least the minimum number of required routine samples even if the system has had an *E. coli* MCL violation or has exceeded the coliform treatment technique triggers in 41.2(1)*"l."* Such samples must be designated as "routine" when submitted to the laboratory.

(4) Additional compliance monitoring samples. A system may conduct more compliance monitoring than is required to investigate potential problems in the distribution system and may use monitoring as a tool to assist in uncovering problems. A system may take more than the minimum number of required routine samples and must include the results when calculating whether the coliform treatment technique trigger in 41.2(1)*"l"*(1)"1" and "2" has been exceeded only if the samples are taken in accordance with the existing sampling plan and are representative of water throughout the distribution system. Such samples must be designated as "routine" when submitted to the laboratory.

(5) Repeat samples. Systems must identify repeat monitoring locations in the sampling plan. Repeat samples must be analyzed at the same laboratory as the corresponding original routine sample(s), unless written approval for use of a different laboratory is granted by the department. The system must collect at least one repeat sample from the sampling tap where the original routine total

coliform-positive sample was taken, at least one repeat sample at a tap within five service connections upstream of the original sample location, and at least one repeat sample at a tap within five service connections downstream of the original sample location. Such samples must be designated as "repeat" when submitted to the laboratory.

1. If the sampling location of a total coliform-positive sample is at or within one service connection from the end of the distribution system, the system must still take all required repeat samples. However, the department may allow an alternative sampling location in lieu of one of the upstream or downstream sampling locations.

2. A groundwater system with two or more wells that is required to conduct triggered source water monitoring under subrule 41.7(3) must collect groundwater source sample(s) in addition to the required repeat samples.

3. A groundwater system with a single well that is required to conduct triggered source water monitoring may, with written department approval, collect one of its required repeat samples at the triggered source water sample monitoring location. The system must demonstrate to the department's satisfaction that the sampling plan remains representative of water quality in the distribution system. If approved, the sample result may be used to meet the requirements of subrule 41.7(3) and this subrule. If a repeat sample taken at the triggered source water monitoring location is *E. coli*-positive, the system has violated the *E. coli* MCL, and must also comply with the requirements for additional source water samples under 41.7(3)*"a"*(3).

4. The department may review, revise, and approve, as appropriate, repeat sampling proposed by the system under 41.2(1)*"c"*(5). The system must demonstrate that the sampling plan remains representative of the water quality in the distribution system.

(6) Special purpose samples. Special purpose samples, such as those taken to determine whether disinfection practices are sufficient following pipe placement, replacement, or repair, must not be used to determine whether the coliform treatment technique trigger has been exceeded. Repeat samples are not considered special purpose samples and must be used to determine whether the coliform treatment technique trigger has been exceeded. Such samples must be designated as "special" when submitted to the laboratory and cannot be used for compliance.

(7) Residual disinfectant measurement. Any system adding a chemical disinfectant to the water must meet the requirements specified in 567—subparagraph 42.4(3)*"b"*(1). The minimum required residual disinfectant measurements are as follows, unless otherwise directed by the department in writing:

1. Groundwater systems. A system that uses only groundwater and adds a chemical disinfectant or provides water that contains a disinfectant must measure and record the free and total chlorine residual disinfectant concentration at least at the same points in the distribution system and at the same time as routine and repeat total coliform bacteria samples are collected, as specified in 41.2(1)*"e"* through 41.2(1)*"j."* The system shall report the residual disinfectant concentration to the laboratory with the bacteria sample and comply with the applicable reporting requirements of 567—subrule 42.4(3).

2. Surface water and influenced groundwater systems.

- Any surface water or IGW PWS must meet the requirements for minimum residual disinfectant entering the distribution system pursuant to 567—paragraph 43.5(4)*"b"*(2)"1"; and
- A system that uses surface water or IGW must comply with the requirements specified in 567—paragraph 43.5(4)*"b"*(2)"2" for daily distribution system residual disinfectant monitoring. The system must measure and record the free and total chlorine residual disinfectant concentration at least at the same points in the distribution system and at the same time as routine and repeat total coliform bacteria samples are collected, as specified in 41.2(1)*"e"* through 41.2(1)*"j."* The residual disinfectant measurements required as a part of this subrule may be used to satisfy the requirement in 567—paragraph 43.5(4)*"b"*(2)"2" on the day(s) when a routine or repeat total coliform bacteria sample(s) is collected, in lieu of separate samples. The system shall report the residual disinfectant concentration to the laboratory with the bacteria sample and comply with the applicable reporting requirements of 567—subrule 42.4(3).

d. Invalidation of total coliform samples. A total coliform-positive sample invalidated under this paragraph does not count toward meeting the minimum monitoring requirements of this subrule.

(1) The department may invalidate a total coliform-positive sample only if the following conditions are met:

1. The laboratory establishes that improper sample analysis caused the total coliform-positive result.

2. The department, on the basis of the results of the required repeat samples, determines that the total coliform-positive sample resulted from a domestic or other non-distribution system plumbing problem. "Domestic or other non-distribution system plumbing problem" means a coliform contamination problem in a public water system with more than one service connection that is limited to the specific service connection from which the coliform-positive sample was taken. The department cannot invalidate a sample on the basis of repeat sample results unless all repeat samples collected at the same tap as the original total coliform-positive sample are also total coliform-positive and all repeat samples collected at a location other than the original tap are total coliform-negative. The department cannot invalidate a total coliform-positive sample on the basis of repeat samples if all the repeat samples are total coliform-negative or if the system has only one service connection.

3. The department has substantial grounds to believe that the total coliform-positive result is due to a circumstance or condition that does not reflect water quality in the distribution system. The system must still collect all repeat samples required under 41.2(1)*"j"* and use them to determine whether a coliform treatment technique trigger in 41.2(1)*"l"* has been exceeded.

The decision and supporting rationale for invalidating a total coliform-positive sample under 41.2(1)*"d"*(1) must be documented in writing, and approved and signed by the supervisor of the water supply operations section or water supply engineering section and the department official who recommended the decision. The department must make this document available to EPA and the public. The written documentation must state the specific cause of the total coliform-positive sample and what action the system has taken, or will take, to correct this problem. The department may not invalidate a total coliform-positive sample solely on the grounds that all repeat samples are total coliform-negative or because of poor sampling technique.

(2) Laboratory invalidation. A laboratory must invalidate a total coliform sample (unless total coliforms are detected, in which case the sample is valid) if the sample produces a turbid culture in the absence of gas production using an analytical method where gas formation is examined (e.g., the multiple-tube fermentation technique), produces a turbid culture in the absence of an acid reaction in the presence-absence (P-A) coliform test, or exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter (e.g., membrane filter technique). If a laboratory invalidates a sample because of such interference, the system must collect another sample from the same location as that of the original sample within 24 hours of being notified of the interference problem and must have the sample analyzed for the presence of total coliforms. The system must continue to resample within 24 hours and have the samples analyzed until a valid result is obtained. The department may waive the 24-hour time limit on a case-by-case basis.

e. Routine monitoring for specific groundwater noncommunity water systems serving 1,000 or fewer people. This paragraph applies to noncommunity water systems using only groundwater (not IGW) as a source and serving 1,000 or fewer people. Groundwater noncommunity water systems that serve schools, preschools, and child care facilities, and all public water systems owned or managed by state agencies, such as parks and rest areas, must monitor at the same frequency as a like-sized community water system, in accordance with 41.2(1)*"f,"* 41.2(1)*"g,"* or 41.2(1)*"h."*

(1) General. Following any total coliform-positive sample taken under 41.2(1)*"e,"* systems must comply with the repeat monitoring requirements and *E. coli* analytical requirements in 41.2(1)*"j."* Once all monitoring required by 41.2(1)*"e"* and 41.2(1)*"j"* for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in 41.2(1)*"l"* have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by 41.2(1)*"l."*

(2) Monitoring frequency for total coliforms. Systems must monitor each calendar quarter that the system provides water to the public, with the following exceptions:

1. A system on quarterly monitoring that experiences any of the following events must begin monthly monitoring in the month following the event. The system must continue on monthly monitoring until the system meets the requirements for returning to quarterly monitoring.

- The system has an *E. coli* MCL violation.
- The system triggers one Level 2 assessment under the provisions of 41.2(1)*"l"* in a rolling 12-month period.
- The system triggers two Level 1 assessments under the provisions of 41.2(1)*"l"* in a rolling 12-month period.
- The system has a coliform treatment technique violation.
- The system has two coliform monitoring violations in a rolling 12-month period.
- The system has one monitoring coliform violation and one Level 1 assessment under the provisions of 41.2(1)*"l"* in a rolling 12-month period.

2. A system on monthly monitoring for reasons other than those identified in 41.2(1)*"e"*(2)"1" is not considered to be on increased monitoring for the purposes of 41.2(1).

3. Seasonal systems must sample each month in which they are in operation. All seasonal systems must also demonstrate completion of a department-approved start-up procedure before serving water to the public, which includes a requirement for a coliform-negative start-up sample.

(3) Evaluation of sampling frequency during a sanitary survey. During each sanitary survey, the department must evaluate the status of the system including the distribution system, to determine whether the system is on an appropriate monitoring schedule. The department may modify the system's monitoring schedule, as necessary, or may allow the system to stay on its existing monitoring schedule, consistent with the provisions of 41.2(1)*"e."*

(4) Requirements for returning from monthly to quarterly sampling frequency for nonseasonal noncommunity systems. The department may reduce the monitoring frequency for a nonseasonal noncommunity system on monthly monitoring triggered under 41.2(1)*"e"*(2)"1" to quarterly monitoring if the system meets the following criteria. For the purposes of 41.2(1)*"e"*(4), "protected water source" means the well meets separation distances from sources of microbial contamination pursuant to 567—subrule 43.3(7), Table A; or the system has 4-log virus inactivation treatment that is approved by the department and is in continuous usage.

1. Within the previous 12 months, the system must have a completed sanitary survey or voluntary Level 2 assessment, be free of sanitary defects, and have a protected water source;

2. The system must have a clean compliance history for a minimum of the previous 12 months; and

3. The department must review the approved sampling plan, which must designate the time period(s) for monitoring based on site-specific considerations (e.g., during periods of highest demand or highest vulnerability to contamination). The system must collect compliance samples during these time periods.

(5) Additional routine monitoring for systems on quarterly sampling in the month following a total coliform-positive routine sample. Systems collecting samples on a quarterly frequency must conduct additional routine monitoring the month following one or more total coliform-positive samples (with or without a Level 1 treatment technique trigger). Systems must collect at least three routine samples during the next month. Systems may either collect samples at regular time intervals throughout the month or may collect all required routine samples on a single day if samples are taken from different sites. Systems must use the results of additional routine samples in coliform treatment technique trigger calculations under 41.2(1)*"l."*

f. Routine monitoring for groundwater community water systems serving 1,000 or fewer people. This paragraph applies to community water systems using only groundwater (not IGW) as a source and serving 1,000 or fewer people.

(1) General. Following any total coliform-positive sample taken under 41.2(1)*"f,"* systems must comply with the repeat monitoring requirements and *E. coli* analytical requirements in 41.2(1)*"j."* Once all monitoring required by 41.2(1)*"f"* and 41.2(1)*"j"* for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in 41.2(1)*"l"* have

been exceeded. If any trigger has been exceeded, systems must complete assessments as required by 41.2(1)*"l."*

(2) Monitoring frequency for total coliforms. The routine monitoring frequency for total coliforms is one sample per month.

g. Routine monitoring requirements for SW/IGW public water systems serving 1,000 or fewer people. This paragraph applies to all public water supply systems serving 1,000 or fewer people that use surface water/influenced groundwater sources, including consecutive systems.

(1) General. Following any total coliform-positive sample taken under 41.2(1)*"g,"* systems must comply with the repeat monitoring requirements and *E. coli* analytical requirements in 41.2(1)*"j."* Once all monitoring required by 41.2(1)*"g"* and 41.2(1)*"j"* for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in 41.2(1)*"l"* have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by 41.2(1)*"l."*

(2) Monitoring frequency for total coliforms. The routine monitoring frequency for total coliforms is one sample per month. Systems may not reduce monitoring frequency.

(3) Seasonal systems must sample each month in which they are in operation, and the monitoring frequency cannot be reduced. All seasonal systems must also demonstrate completion of a department-approved start-up procedure before serving water to the public, which includes a requirement for a coliform-negative start-up sample.

h. Routine monitoring requirements for public water systems serving more than 1,000 people. The provisions of this paragraph apply to all public water systems serving more than 1,000 people except regional water systems. The requirements for regional water systems are listed in 41.2(1)*"i."*

(1) General. Following any total coliform-positive sample taken under 41.2(1)*"h,"* systems must comply with the repeat monitoring requirements and *E. coli* analytical requirements in 41.2(1)*"j."* Once all monitoring required by 41.2(1)*"h"* and 41.2(1)*"l"* for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in 41.2(1)*"l"* have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by 41.2(1)*"l."*

(2) Monitoring frequency for total coliforms. The routine monitoring frequency for total coliforms is based upon the population served by the system, as follows:

Population Served	Minimum Number of Routine Samples per Month
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15
17,201 to 21,500	20
21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60

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Population Served	Minimum Number of Routine Samples per Month
59,001 to 70,000	70
70,001 to 83,000	80
83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270
970,001 to 1,230,000	300

(3) Seasonal systems must sample each month in which they are in operation, and the monitoring frequency cannot be reduced. All seasonal systems must also demonstrate completion of a department-approved start-up procedure before serving water to the public, which includes a requirement for a coliform-negative start-up sample.

(4) Reduced monitoring. Community systems may not reduce the number of required routine samples.

(5) Increased monitoring. If the department, on the basis of a sanitary survey or monitoring results history, determines that some greater frequency of monitoring is more appropriate, that frequency shall be the frequency required under these rules. The increased frequency shall be confirmed or changed on the basis of subsequent surveys.

i. Routine monitoring requirements for regional public water systems. The provisions of 41.2(1)*"i"* apply to all regional water systems. The supplier of water for a regional water system as defined in 567—40.2(455B) shall sample for coliform bacteria at a frequency based upon the miles of pipe in its distribution system.

(1) General. Following any total coliform-positive sample taken under 41.2(1)*"i,"* systems must comply with the repeat monitoring requirements and *E. coli* analytical requirements in 41.2(1)*"j."* Once all monitoring required by 41.2(1)*"i"* and 41.2(1)*"j"* for a calendar month has been completed, systems must determine whether any coliform treatment technique triggers specified in 41.2(1)*"l"* have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by 41.2(1)*"l."*

(2) Monitoring frequency for total coliforms. The routine monitoring frequency for total coliforms is based upon the miles of pipe in the system's distribution system, as indicated in the following chart. In no case shall the sampling frequency for a regional water system be less than as set forth in 41.2(1)*"h"* based upon the population equivalent served. The following chart represents sampling frequency per miles of pipe in the distribution system and is determined by calculating one-half the square root of the miles of pipe.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Miles of Pipe	Minimum Number of Routine Samples per Month
0 – 9	1
10 – 25	2
26 – 49	3
50 – 81	4
82 – 121	5
122 – 169	6
170 – 225	7
226 – 289	8
290 – 361	9
362 – 441	10
442 – 529	11
530 – 625	12
626 – 729	13
730 – 841	14
842 – 961	15
962 – 1,089	16
1,090 – 1,225	17
1,226 – 1,364	18
1,365 – 1,521	19
1,522 – 1,681	20
1,682 – 1,849	21
1,850 – 2,025	22
2,026 – 2,209	23
2,210 – 2,401	24
2,402 – 2,601	25
2,602 – 2,809	26
2,810 – 3,025	27
3,026 – 3,249	28
3,250 – 3,481	29
3,482 – 3,721	30
3,722 – 3,969	31
3,970 – 4,225	32
4,226 – 4,489	33
4,490 – 4,671	34
4,672 – 5,041	35
5,042 – 5,329	36
5,330 – 5,625	37
5,626 – 5,929	38
5,930 – 6,241	39
6,242 – 6,561	40
6,562 and greater	41

(3) Reduced monitoring. Regional water systems may not reduce the number of required routine samples.

(4) Increased monitoring. If the department, on the basis of a sanitary survey or monitoring results history, determines that some greater frequency of monitoring is more appropriate, that frequency shall be the frequency required under these rules. The increased frequency shall be confirmed or changed on the basis of subsequent surveys.

j. Repeat monitoring. If a routine sample taken under 41.2(1)*"e"* through 41.2(1)*"i"* is total coliform-positive, the system must collect a set of repeat samples. The department cannot waive the requirement for a system to collect repeat samples.

(1) The system must collect no fewer than three repeat samples for each total coliform-positive routine sample found.

(2) The system must collect the repeat samples within 24 hours of being notified of the positive routine sample result. The department may extend the 24-hour limit on a case-by-case basis if the system has a logistical problem in collecting the repeat samples within 24 hours that is beyond its control. In the case of an extension, the department must specify how much time the system has to collect the repeat samples.

(3) The system must collect all repeat samples on the same day, except that the department may allow a system with a single service connection to collect the required set of repeat samples over a three-day period. "System with a single service connection" means a system which supplies drinking water to consumers through a single service line.

(4) The system must collect an additional set of repeat samples in the manner specified in 41.2(1)*"j"*(1) to (3) if one or more repeat samples in the current set of repeat samples is total coliform-positive. The system must collect the additional set of repeat samples within 24 hours of being notified of the positive result, unless the department extends the limit as provided in 41.2(1)*"j"*(2). The system must continue to collect additional sets of repeat samples until either total coliforms are not detected in one complete set of repeat samples or the system determines that a coliform treatment technique trigger specified in 41.2(1)*"l"* has been exceeded as a result of a total coliform-positive repeat sample and notifies the department. If a trigger identified in 41.2(1)*"l"* is exceeded as a result of a total coliform-positive routine sample, systems are required to conduct only one round of repeat monitoring for each total coliform-positive routine sample.

(5) Results of all routine and repeat samples taken under 41.2(1)*"e"* through 41.2(1)*"i"* that are not invalidated by the department must be used to determine whether a coliform treatment technique trigger specified in 41.2(1)*"l"* has been exceeded.

k. E. coli testing requirements.

(1) If any routine or repeat sample is total coliform-positive, the system must analyze that total coliform-positive culture medium to determine the presence of *E. coli*. If *E. coli* are present, the system must notify the department by the end of the same day when the system is notified of the test result. If the notification is outside of the department's routine office hours, the system shall call the department's Environmental Emergency Reporting Hotline at (515)725-8694.

(2) The department has the discretion to allow a system, on a case-by-case basis, to forgo *E. coli* testing on a total coliform-positive sample if that system assumes that the total coliform-positive sample is *E. coli*-positive. Accordingly, the system must notify the department as specified in 41.2(1)*"k"*(1), and the provisions of 41.2(1)*"a"* apply.

l. Coliform treatment technique triggers. Systems must conduct assessments in accordance with 41.2(1)*"m"* after exceeding any treatment technique trigger.

(1) Level 1 treatment technique triggers.

1. For systems taking 40 or more samples per month, the system exceeds 5.0 percent total coliform-positive samples for the month.

2. For systems taking fewer than 40 samples per month, the system has two or more total coliform-positive samples in the same month.

3. The system fails to take every required repeat sample after any single total coliform-positive sample.

(2) Level 2 treatment technique triggers.

1. An *E. coli* MCL violation, as specified in 41.2(1)*"p"*(1).

2. A second Level 1 trigger as defined in 41.2(1)*"l"*(1) within a rolling 12-month period, unless the department has determined a likely reason that the samples that caused the first Level 1 treatment technique trigger were total coliform-positive and has established that the system has corrected the problem.

m. Assessment requirements. Systems must ensure that Level 1 and 2 assessments are conducted in order to identify the possible presence of sanitary defects and defects in distribution system coliform monitoring practices. Level 1 assessments may be conducted by the system owner or operator. Level 2 assessments must be conducted by the department with the assistance of the system owner or operator.

(1) General. When conducting assessments, systems must ensure that the assessor evaluates minimum elements that include review and identification of inadequacies in sample sites; sampling protocol; sample processing; atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., small groundwater systems); and existing water quality monitoring data. The system must conduct the assessment consistent with any department directives that tailor specific assessment elements with respect to the size and type of the system, and the size type, and characteristics of the distribution system.

(2) Level 1 assessment. A system must conduct a Level 1 assessment consistent with the department requirements if the system exceeds one of the treatment technique triggers in 41.2(1)*"l"*(1).

1. The system must complete the Level 1 assessment as soon as practical after any trigger in 41.2(1)*"l"*(1). In the completed assessment form, the system must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The system may also note on the assessment form that no sanitary defects were identified. The system must submit the completed Level 1 assessment form to the department within 30 days after the system learns that it has exceeded a trigger.

2. If the department reviews the completed Level 1 assessment and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the department must consult with the system. If the department requires revisions after consultation, the system must submit a revised assessment form to the department on an agreed-upon schedule not to exceed 30 days from the date of the consultation.

3. Upon completion and submission of the assessment form by the system, the department must determine if the system has identified the likely cause for the Level 1 trigger and, if so, establish that the system has corrected the problem or has included a schedule acceptable to the department for correction of the problem.

(3) Level 2 assessment. A system must ensure that a Level 2 assessment is conducted if the system exceeds one of the treatment technique triggers in 41.2(1)*"l"*(2). The system must comply with any expedited actions or additional actions required by the department in the case of an *E. coli* MCL violation.

1. The system must ensure that a Level 2 assessment is completed by the department as soon as practical after any trigger in 41.2(1)*"l"*(2). The system must submit a completed Level 2 assessment form to the department within 30 days after the system learns that it has exceeded a trigger. The assessment form must contain a description of the sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. It may also be noted on the assessment form that no sanitary defects were identified.

2. If the department reviews the completed Level 2 assessment and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the department must consult with the system. If the department requires revisions after consultation, the system must submit a revised assessment form to the department on an agreed-upon schedule not to exceed 30 days.

3. Upon completion and submission of the assessment form by the system, the department must determine if the system has identified the likely cause for the Level 2 trigger and determine whether the

system has corrected the problem or has included a schedule acceptable to the department for correction of the problem.

(4) Corrective actions. A system must correct sanitary defects found through either a Level 1 or 2 assessment conducted under 41.2(1)*"l."* For corrections not completed by the time of submission of the assessment form, the system must complete the corrective action(s) in compliance with a timetable approved by the department in consultation with the system. The system must notify the department when each scheduled corrective action is completed.

(5) Consultation. At any time during the assessment or corrective actions phase, either the water system or the department may request a consultation with the other party to determine the appropriate actions to be taken. The system may consult with the department on all relevant information that may impact on its ability to comply with a requirement of this subrule, including the method of accomplishment, an appropriate time frame, and other relevant information.

n. Reporting requirements.

(1) *E. coli.*

1. The system must notify the department by the end of the same day when the system learns of an *E. coli*-positive violation. If the notification is outside of the department's routine office hours, the system shall call the department's Environmental Emergency Reporting Hotline at (515)725-8694.

2. The system must notify the department by the end of the same day when the system learns of the *E. coli*-positive routine sample. If the notification is outside of the department's routine office hours, the system shall call the department's Environmental Emergency Reporting Hotline at (515)725-8694.

(2) A system that has violated the treatment technique for coliforms in 41.2(1)*"l"* must report the violation to the department no later than the end of the next business day after it learns of the violation, and must notify the public in accordance with rule 567—42.1(455B).

(3) A system required to conduct an assessment under the provisions of 41.2(1)*"l"* must submit the assessment report within 30 days. The system must notify the department in accordance with 41.2(1)*"m"*(4) when each scheduled corrective action is completed for any corrections that were not completed by the time of submission of the assessment form.

(4) A system that has failed to comply with a coliform monitoring requirement must report the monitoring violation to the department within 10 days after the system discovers the violation, and must notify the public in accordance with rule 567—42.1(455B).

(5) A seasonal system must certify, prior to serving water to the public, that it has complied with the department-approved start-up procedure.

o. Record-keeping requirements. Additional record-keeping requirements are listed in 567—paragraph 42.5(1)*"j."*

p. Violations.

(1) *E. coli* MCL violation. A system is in violation of the MCL for *E. coli* when any of the following occurs, and must conduct public notice in accordance with rule 567—42.1(455B):

1. The system has an *E. coli*-positive repeat sample following a total coliform-positive routine sample.

2. The system has a total coliform-positive repeat sample following an *E. coli*-positive routine sample.

3. The system fails to take all required repeat samples following an *E. coli*-positive routine sample.

4. The system fails to test for *E. coli* when any repeat sample tests positive for total coliform.

(2) Treatment technique violation. A system is in violation of a treatment technique trigger when any of the following occurs, and must conduct public notice in accordance with rule 567—42.1(455B):

1. A system exceeds a treatment technique trigger specified in 41.2(1)*"l"* and then fails to conduct the required assessment within the time frame specified in 41.2(1)*"m."*

2. A system exceeds a treatment technique trigger specified in 41.2(1)*"l"* and then fails to conduct the required corrective actions within the time frame specified in 41.2(1)*"m"*(4).

3. A seasonal system fails to complete a department-approved start-up procedure prior to serving water to the public, including collection of a finished water sample that tests total coliform-negative.

(3) Monitoring violation. A system is in violation of monitoring requirements when any of the following occurs, and must conduct public notice in accordance with rule 567—42.1(455B):

1. Failure to take every required routine or additional routine sample in a compliance period.

2. Failure to analyze for *E. coli* following a total coliform-positive routine sample.

(4) Reporting violation. A system is in violation of reporting requirements when any of the following occurs, and must conduct public notice in accordance with rule 567—42.1(455B):

1. Failure to submit a monitoring report after a system properly conducts monitoring in a timely manner.

2. Failure to submit a completed assessment form after a system properly conducts an assessment in a timely manner.

3. Failure to notify the department following an *E. coli*-positive sample as required by 41.2(1)*"k"*(1) in a timely manner.

4. Failure to submit the certification of completion of department-approved start-up procedure by a seasonal system.

q. Best available technology (BAT). The U.S. Environmental Protection Agency (EPA) identifies, and the department has adopted, the following as the best technology, treatment techniques, or other means available for all systems in achieving compliance with the maximum contaminant level for *E. coli* in 41.2(1)*"a."* The following is also identified as affordable technology, treatment techniques, or other means available to systems serving 10,000 or fewer people for achieving compliance with the *E. coli* maximum contaminant level.

(1) Well protection. Protection of wells from fecal contamination by appropriate placement and construction.

(2) Disinfectant residual. Maintenance of a disinfectant residual throughout the distribution system.

(3) Distribution system maintenance. Proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, cross-connection control, and continual maintenance of a minimum positive water pressure of 20 psi in all parts of the distribution system at all times.

(4) Filtration or disinfection. Filtration and disinfection of surface water or groundwater under the direct influence of surface water in accordance with 567—43.5(455B), 567—43.9(455B), and 567—43.10(455B), or disinfection of groundwater in accordance with rule 567—41.7(455B) using strong oxidants such as, but not limited to, chlorine, chlorine dioxide, or ozone.

(5) Wellhead protection program. For groundwater systems, compliance with the requirements of the department's wellhead protection program.

ITEM 9. Amend subparagraph **41.2(3)"e"(1)** as follows:

(1) Method. The heterotrophic plate count shall be performed in accordance with one of the following methods:

1. Method 9215B Pour Plate Method, Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992, 19th edition, 1995, ~~or~~ 20th edition, 1998, 21st edition, 2005, and 22nd edition, 2012. The cited method in any of ~~the three~~ these editions may be used. Standard Methods Online method 9215 B-04 may be used.

2. No change.

ITEM 10. Amend the following footnote in subparagraph **41.3(1)"b"(1)**:

**The recommended fluoride level is ~~1.1~~ 0.7 milligrams per liter ~~or the level as calculated from "Water Fluoridation, a Manual for Engineers and Technicians" Table 2-4~~ as published by the U.S. Department of Health and Human Services, Public Health Service (~~September 1986~~ July-August 2015). At this optimum level in drinking water, fluoride has been shown to have beneficial effects in reducing the occurrence of tooth decay.

ITEM 11. Amend subparagraph **41.3(1)"e"(1)** as follows:

(1) Analytical methods for IOCs. Analysis for the listed inorganic contaminants shall be conducted using the following methods, or their equivalent as determined by EPA. Criteria for analyzing arsenic, barium, beryllium, cadmium, chromium, copper, lead, nickel, selenium, sodium, and thallium with digestion or directly without digestion, and other analytical test procedures are contained in Technical

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Notes on Drinking Water Methods, EPA-600/R-94-173, October, 1994. This document is available from the National Technical Information Service, NTIS PB95-104766, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. The toll-free number is (800)553-6847.

INORGANIC CONTAMINANTS ANALYTICAL METHODS

Contaminant	Methodology[15]	EPA	ASTM[3]	SM	SM Online[26]	Other	Detection Limit, mg/L
Antimony	Atomic absorption; furnace			3113B[4, 27, 33]	3113 B-04, B-10		0.003
	Atomic absorption; platform	200.9[2]					0.0008[12]
	ICP-Mass spectrometry	200.8[2]					0.0004
	Atomic absorption; hydride		D3697-92, 02, 07, 12				0.001
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Arsenic[16]	ICP-Mass spectrometry	200.8[2]					0.0014[17]
	Atomic absorption; platform	200.9[2]					0.0005[15]
	Atomic absorption; furnace		D2972-97C, 03C, 08C	3113B[4, 27, 33]	3113 B-04, B-10		0.001
	Atomic absorption; hydride		D2972-97B, 03B, 08B	3114B[4, 27, 33]	3114 B-09		0.001
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Asbestos	Transmission electron microscopy	100.1[9]					0.01 MFL
	Transmission electron microscopy	100.2[10]					
Barium	Inductively coupled plasma	200.7[2]		3120B[18, 27, 33]	3120 B-99		0.002
	ICP-Mass spectrometry	200.8[2]					
	Atomic absorption; direct			3111D[4, 27, 33]	3111 D-99		0.1
	Atomic absorption; furnace			3113B[4, 27, 33]	3113 B-04, B-10		0.002
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Beryllium	Inductively coupled plasma	200.7[2]		3120B[18, 27, 33]	3120 B-99		0.0003
	ICP-Mass spectrometry	200.8[2]					0.0003
	Atomic absorption; platform	200.9[2]					0.00002[12]
	Atomic absorption; furnace		D3645-97B, 03B, 08B	3113B[4, 27, 33]	3113 B-04, B-10		0.0002
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Cadmium	Inductively coupled plasma	200.7[2]					0.001
	ICP-Mass spectrometry	200.8[2]					
	Atomic absorption; platform	200.9[2]					
	Atomic absorption; furnace			3113B[4, 27, 33]	3113 B-04, B-10		0.0001
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Chromium	Inductively coupled plasma	200.7[2]		3120B[18, 27, 33]	3120 B-99		0.007
	ICP-Mass spectrometry	200.8[2]					
	Atomic absorption; platform	200.9[2]					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Contaminant	Methodology[15]	EPA	ASTM[3]	SM	SM Online[26]	Other	Detection Limit, mg/L
	Atomic absorption; furnace			3113B[4, 27, 33]	3113 B-04, B-10		0.001
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Cyanide	Manual distillation (followed by one of the following four analytical methods:)		D2036-98A, D2036-06A	4500-CN-C[18, 27, 33]			
	Spectrophotometric; amenable[14]		D2036-98B, D2036-06B	4500-CN-G[18, 27, 33]	4500-CN-G-99		0.02
	Spectrophotometric; manual[13]		D2036-98A, D2036-06A	4500-CN-E[18, 27, 33]	4500-CN-E-99	I-3300-85[5]	0.02
	Spectrophotometric; semi-automated[13]	335.4[6]					0.005
	Selective electrode[13]			4500-CN-F[18, 27, 33]	4500-CN-F-99		0.05
	~~UV/Distillation/Spectrophotometric~~ UV, distillation, spectrophotometric[22]					Kelada 01[20]	0.0005
	~~Distillation/Spectrophotometric~~ Micro distillation, flow injection, spectrophotometric[13]					QuikChem 10-204-00-1-X[21]	0.0006
	Ligand exchange with amperometry[14]		D6888-04			OIA-1677, DW[25]	0.0005
	Gas chromatography/mass spectrometry headspace					ME355.01[29]	
Fluoride	Ion chromatography	300.0[6], 300.1[23]	D4327-97, 03, 11	4110B[18, 27, 33]	4110 B-00		
	Manual distillation; colorimetric; SPADNS			4500F-B,D[18, 27, 33]	4500 F-B,D-97		
	Manual electrode		D1179-93B, 99B, D1179-04B, 10B	4500F-C[18, 27, 33]	4500 F-C-97		
	Automated electrode					380-75WE[11]	
	Automated alizarin			4500F-E[18, 27, 33]	4500 F-E-97	129-71W[11]	
	Capillary ion electrophoresis					D6508, Rev.2[24]	
	Arsenite-free colorimetric; SPADNS					Hach SPADNS 2 Method 10225[31]	
Magnesium	Atomic absorption; direct		D511-93~~B~~, 03B, 09B, 14B	3111B[4, 27, 33]	3111 B-99		
	ICP	200.7[1]		3120B[18, 27, 33]	3120 B-99		
	Complexation Titrimetric Methods		D511-93~~A~~, 03A, 09A, 14B	3500-Mg E[4]			
				3500-Mg B[19, 27, 33]	3500-Mg B-97		
	Ion chromatography		D6919-03, 09				
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Mercury	Manual, cold vapor	245.1[2]	D3223-97, 02, 12	3112B[4, 27, 33]	3112 B-09		0.0002
	Automated, cold vapor	245.2[1]					0.0002
	ICP-Mass spectrometry	200.8[2]					

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Contaminant	Methodology[15]	EPA	ASTM[3]	SM	SM Online[26]	Other	Detection Limit, mg/L
Nickel	Inductively coupled plasma	200.7[2]		3120B[18, 27, 33]	3120 B-99		0.005
	ICP-Mass spectrometry	200.8[2]					0.0005
	Atomic absorption; platform	200.9[2]					0.0006[12]
	Atomic absorption; direct			3111B[4, 27, 33]	3111 B-99		
	Atomic absorption; furnace			3113B[4, 27, 33]	3113 B-04, 10		0.001
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Nitrate	Ion chromatography	300.0[6], 300.1[23]	D4327-97, 03, 11	4110B[18, 27, 33]	4110 B-00	B-1011[8]	0.01
	Automated cadmium reduction	353.2[6]	D3867-90A	4500-NO_3-F[18, 27, 33]	4500-NO_3-F-00		0.05
	Ion selective electrode			4500-NO_3-D[18, 27, 33]	4500-NO_3-D-00	601[7]	1
	Manual cadmium reduction		D3867-90B	4500-NO_3-E[18, 27, 33]	4500-NO_3-E-00		0.01
	Capillary ion electrophoresis					D6508, Rev.2[24]	0.076
	Reduction/colorimetric					Systea Easy (1-Reagent)[30] NECi Nitrate-Reductase[34]	
	Colorimetric; direct					Hach TNTplus™ 835/836 Method 10206[32]	
Nitrite	Ion chromatography	300.0[6], 300.1[23]	D4327-97, 03, 11	4110B[18, 27, 33]	4110 B-00	B-1011[8]	0.004
	Automated cadmium reduction	353.2[6]	D3867-90A	4500-NO_3-F[18, 27, 33]	4500-NO_3-F-00		0.05
	Manual cadmium reduction		D3867-90B	4500-NO_3-E[18, 27, 33]	4500-NO_3-E-00		0.01
	Spectrophotometric			4500-NO_2-B[18, 27, 33]	4500-NO_2-B-00		0.01
	Capillary ion electrophoresis					D6508, Rev. 2[24]	0.103
	Reduction/colorimetric					Systea Easy (1-Reagent)[30] NECi Nitrate-Reductase[34]	
Selenium	Atomic absorption; hydride		D3859-98~~A~~, 03A, 08A	3114B[4, 27, 33]	3114 B-09		0.002
	ICP-Mass spectrometry	200.8[2]					
	Atomic absorption; platform	200.9[2]					
	Atomic absorption; furnace		D3859-98~~B~~, 03B, 08B	3113B[4, 27, 33]	3113 B-04, 10		0.002
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Sodium	Inductively coupled plasma	200.7[2]					
	Atomic absorption; direct			3111B[4, 27, 33]	3111 B-99		
	Ion chromatography		D6919-03, 09				
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Revision 4.2[28]					
Thallium	ICP-Mass spectrometry	200.8[2]					
	Atomic absorption; platform	200.9[2]					0.0007[12]

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at (800)426-4791. Documents may be inspected at EPA's Drinking Water Docket, EPA West, 1301 Constitution Avenue, NW, Room B102, Washington, DC 20460 (telephone: (202)566-2426); or at the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

[1]"Methods for Chemical Analysis of Water and Wastes," EPA-600/4-79-020, March 1983. Available at NTIS, PB84-128677.

[2]"Methods for the Determination of Metals in Environmental Samples—Supplement I," EPA-600/R-94-111, May 1994. Available at NTIS, PB95-125472.

[3]Annual Book of ASTM Standards, 1994, 1996, ~~or~~ 1999 or 2003, Vols. 11.01 and 11.02, American Society for Testing and Materials (ASTM) International; ~~any year containing the cited version of the method may be used~~ the methods listed are the only versions that may be used. Copies may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[4]18th and 19th editions of Standard Methods for the Examination of Water and Wastewater, 1992 and 1995, respectively, American Public Health Association; either edition may be used. Copies may be obtained from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[5]Techniques of Water Resources Investigation of the U.S. Geological Survey, Book 5, Chapter A-1, 3rd edition, 1989, Method I-3300-85. Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225-0425.

[6]"Methods for the Determination of Inorganic Substances in Environmental Samples," EPA-600-R-93-100, August 1993. Available at NTIS, PB94-120821.

[7]The procedure shall be done in accordance with the Technical Bulletin 601, "Standard Method of Test for Nitrate in Drinking Water," July 1994, PN221890-001, Analytical Technology, Inc. Copies may be obtained from ATI Orion, 529 Main Street, Boston, MA 02129.

[8]Method B-1011, "Waters Test Method for Determination of Nitrite/Nitrate in Water Using Single Column Ion Chromatography," August 1987. Copies may be obtained from Waters Corporation, Technical Services Division, 34 Maple Street, Milford, MA 01757; telephone: (508)482-2131.

[9]Method 100.1, "Analytical Method for Determination of Asbestos Fibers in Water," EPA-600/4-83-043, EPA, September 1983. Available at NTIS, PB83-260471.

[10]Method 100.2, "Determination of Asbestos Structure Over 10 Microns in Length in Drinking Water," EPA-600/R-94-134, June 1994. Available at NTIS, PB94-201902.

[11]Industrial Method No. 129-71W, "Fluoride in Water and Wastewater," December 1972, and Method No. 380-75WE, "Fluoride in Water and Wastewater," February 1976, Technicon Industrial Systems. Copies may be obtained from Bran & Luebbe, 1025 Busch Parkway, Buffalo Grove, IL 60089.

[12]Lower MDLs are reported using stabilized temperature graphite furnace atomic absorption.

[13]Screening method for total cyanides.

[14]Measures "free" cyanides when distillation, digestion, or ligand exchange is omitted.

[15]Because MDLs reported in EPA Methods 200.7 and 200.9 were determined using a 2X preconcentration step during sample digestion, MDLs determined when samples are analyzed by direct analysis (i.e., no sample digestion) will be higher. For direct analysis of cadmium by Method 200.7, sample preconcentration using pneumatic nebulization may be required to achieve lower detection limits. ~~Method 200.9 is capable of obtaining an arsenic MDL of 0.0001 mg/L using multiple depositions.~~ Preconcentration may also be required for direct analysis of antimony and thallium by Method 200.9, and antimony by Method 3113B, unless multiple in-furnace depositions are made.

[16]If ultrasonic nebulization is used in the determination of arsenic by Method 200.8, the arsenic must be in the pentavalent state to provide uniform signal response. For direct analysis of arsenic with Method 200.8 using ultrasonic nebulization, samples and standards must contain 1 mg/L of sodium hypochlorite.

[17]~~Using selective ion monitoring, EPA Method 200.8 (ICP-MS) is capable of obtaining an MDL of 0.0001 mg/L~~ Reserved.

[18]The 18th, 19th, and 20th editions of Standard Methods for the Examination of Water and Wastewater, 1992, 1995, and 1998, respectively, American Public Health Association; any edition may be used, except that the versions of 3111B, 3111D, 3113B, and 3114B in the 20th edition may not be used. Copies may be obtained from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[19]The 20th edition of Standard Methods for the Examination of Water and Wastewater, 1998, American Public Health Association. Copies may be obtaining from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[20]The description for the Kelada 01 Method, "Kelada Automated Test Methods for Total Cyanide, Acid Dissociable Cyanide, and Thiocyanate," Revision 1.2, August 2001, EPA #821-B-01-009 for cyanide is available from NTIS PB 2001-108275. NOTE: A 450W UV lamp may be used in this method instead of the 550W lamp specified if it provides performance within the quality control acceptance criteria of the method in a given instrument. Similarly, modified flow cell configurations and flow conditions may be used in the method, provided that the quality control acceptance criteria are met.

[21]The description for the QuikChem Method 10-204-00-1-X, "Digestion and distillation of total cyanide in drinking water and wastewaters using MICRO DIST and determination of cyanide by flow injection analysis," Revision 2.1, November 30, 2000, for cyanide is available from Lachat Instruments, 6645 W. Mill Road, Milwaukee, WI 53218, telephone (414)358-4200.

[22]Measures total cyanides when UV-digestor is used, and "free" cyanides when UV-digestor is bypassed.

[23]"Methods for the Determination of Organic and Inorganic Compounds in Drinking Water," Volume 1, EPA 815-R-00-014, August 2000. Available at NTIC, PB2000-106981.

[24]Method D6508, Rev. 2, "Test Method for Determination of Dissolved Inorganic Anions in Aqueous Matrices Using Capillary Ion Electrophoresis and Chromate Electrolyte," available from Waters Corp., 34 Maple Street, Milford, MA 01757; telephone: (508)482-2131; fax: (508)482-3625.

[25]Method OIA-1677, DW "Available Cyanide by Flow Injection, Ligand Exchange, and Amperometry," January 2004. EPA-821-R-04-001. Available from ALPKEM, a division of OI Analytical, P.O. Box 9010, College Station, TX 77542-9010.

[26]Standard Methods Online is available at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[27]Standard Methods for the Examination of Water and Wastewater, 21st edition (2005). Available from American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[28]EPA Method 200.5, Revision 4.2: "Determination of Trace Elements in Drinking Water by Axially Viewed Inductively Coupled Plasma-Atomic Emission Spectrometry," 2003. EPA/600/R-06/115. Available at www.nemi.gov.

[29]Method ME355.01, Revision 1.0, "Determination of Cyanide in Drinking Water by GC/MS Headspace," May 26, 2009. Available at www.nemi.gov or from H & E Testing Laboratory, 221 State Street, Augusta, ME 04333; telephone: (207)287-2727.

[30]Systea Easy (1-Reagent), "Systea Easy (1-Reagent) Nitrate Method," February 4, 2009. Available at www.nemi.gov or from Systea Scientific, LLC, 900 Jorie Blvd., Suite 35, Oak Brook, IL 60523.

[31]Hach Company Method, "Hach Company SPADNS 2 (Arsenic-free) Fluoride Method 10225 – Spectrophotometric Measurement of Fluoride in Water and Wastewater," January 2011. 5600 Lindbergh Drive, P.O. Box 389, Loveland, CO 80539. Available at www.hach.com.

[32]Hach Company Method, "Hach Company TNTplus™ 835/836 Nitrate Method 10206 – Spectrophotometric Measurement of Nitrate in Water and Wastewater," January 2011. 5600 Lindbergh Drive, P.O. Box 389, Loveland, CO 80539. Available at www.hach.com.

[33]Standard Methods for the Examination of Water and Wastewater, 22nd edition (2012), American Public Health Association. Available from the American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[34]Nitrate Elimination Company, Inc. (NECi). "Method for Nitrate Reductase Nitrate-Nitrogen Analysis of Drinking Water," February 2016. Superior Enzymes, Inc., 334 Hecla Street, Lake Linden, MI 49945.

ITEM 12. Amend subrule 41.4(1), introductory paragraph, as follows:

41.4(1) *Lead, copper, and corrosivity regulation by the setting of a treatment technique requirement.* The lead and copper rules ~~do not set an MCL, although this could be changed in the future. The rules set two enforceable action levels, which trigger tap monitoring, corrosion control, source water treatment, lead service line replacement, and public education if exceeded.~~ establish a treatment technique that includes requirements for corrosion control treatment, source water treatment, lead service line replacement, and public education. These requirements are triggered, in some cases, by lead and copper action levels measured in samples collected at consumers' taps.

ITEM 13. Amend subparagraph **41.4(1)"b"(3)** as follows:

(3) Calculation of 90th percentile. The 90th percentile lead and copper levels shall be computed as follows:

1. The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning

with the number 1 for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken.

2. The number of samples taken during the monitoring period shall be multiplied by 0.9.

3. The contaminant concentration in the numbered sample yielded by this calculation is the 90th percentile contaminant level.

4. For water systems serving fewer than 100 people that collect five samples per monitoring period, the 90th percentile is computed by taking the average of the highest and second highest concentrations.

5. For a public water system that has been allowed by the department to collect fewer than five samples in accordance with 41.4(1)*"c"*(3), the sample result with the highest concentration is considered the 90th percentile value.

ITEM 14. Amend subparagraph **41.4(1)"c"(2)** as follows:

(2) Sample collection methods.

1. to 4. No change.

5. An NTNC system, or a CWS system that meets the criteria of ~~567—paragraphs 42.2(4)*"h"*(1)"1" and "2,"~~ 567—subparagraph 42.2(2)*"b"*(7) that does not have enough taps that can supply first-draw samples, as defined in 567—40.2(455B), may apply to the department in writing to substitute non-first-draw samples. Such systems must collect as many first-draw samples from appropriate taps as possible and identify sampling times and locations that would likely result in the longest standing time for the remaining sites. The department may waive the requirement for prior department approval of non-first-draw sample sites selected by the system, through written notification to the system.

ITEM 15. Amend subparagraph **41.4(1)"c"(3)**, introductory paragraph, as follows:

(3) Number of samples. Water systems shall collect at least one sample during each monitoring period specified in 41.4(1)*"c"*(4) from the number of sites as listed in the column below titled "standard monitoring." A system conducting reduced monitoring under 41.4(1)*"c"*(4) shall collect at least one sample from the number of sites specified in the column titled "reduced monitoring" during each monitoring period specified in 41.4(1)*"c"*(4). Such reduced monitoring sites shall be representative of the sites required for standard monitoring. A public water system that has fewer than five drinking water taps that can be used for human consumption meeting the sample site criteria of 41.4(1)*"c"*(1) to reach the required number of sample sites listed in 41.4(1)*"c"*(3) must collect at least one sample from each tap and then must collect additional samples from those taps on different days during the monitoring period to meet the required number of sites. Alternatively, the department may allow these systems to collect a number of samples less than the number of sites specified in 41.4(1)*"c"*(1), provided that 100 percent of all taps that can be used for human consumption are sampled. The department must approve this reduction of the minimum number of samples in writing based upon a request from the system or on-site verification by the department. The department may specify sampling locations when a system is conducting reduced monitoring.

ITEM 16. Amend subparagraph **41.4(1)"c"(4)** as follows:

(4) Timing of monitoring.

1. Initial tap sampling. The first six-month monitoring period for small, medium-size and large systems shall begin on the following dates:

System Size (Number of People Served)	First Six-month Monitoring Period Begins on:
greater than 50,000 (large system)	January 1, 1992
3,301 to 50,000 (medium system)	July 1, 1992
less than or equal to 3,300 (small system)	July 1, 1993

All large systems shall monitor during two consecutive six-month periods. All small and medium-size systems shall monitor during each six-month monitoring period until the system exceeds the lead or copper action level and is, therefore, required to implement the corrosion control treatment requirements

under 567—paragraph 43.7(1)*"a,"* in which case the system shall continue monitoring in accordance with 41.4(1)*"c"*(4), or the system meets the lead and copper action levels during two consecutive six-month monitoring periods, in which case the system may reduce monitoring in accordance with 41.4(1)*"c"*(4).

2. Monitoring after installation of corrosion control and source water treatment. Large systems which install optimal corrosion control treatment pursuant to 567—subparagraph 43.7(1)*"d"*(4) shall monitor during two consecutive six-month monitoring periods by the date specified in 567—subparagraph 43.7(1)*"d"*(5). Small or medium-size systems which install optimal corrosion control treatment pursuant to 567—subparagraph 43.7(1)*"e"*(5) shall monitor during two consecutive six-month monitoring periods as specified in 567—subparagraph 43.7(1)*"e"*(6). Systems which install source water treatment shall monitor during two consecutive six-month monitoring periods by the date specified in 567—subparagraph 43.7(3)*"a"*(4).

3. Monitoring after the department specifies water quality parameter values for optimal corrosion control. After the department specifies the values for water quality control parameters under 567—paragraph 43.7(2)*"f,"* the system shall monitor during each subsequent six-month monitoring period, with the first monitoring period to begin on the date the department specifies the optimal values under 567—paragraph 43.7(2)*"f."*

4. Reduced monitoring.

- A small or medium-size water system that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of lead and copper samples according to 41.4(1)*"c"*(3) and reduce the frequency of sampling to once per year. A small or medium-size water system collecting fewer than five samples as specified in 41.4(1)*"c"*(3) that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the frequency of sampling to once per year. The system may not ever reduce the number of samples required below the minimum of one sample per available tap. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.
- Any public water supply system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the department under 567—paragraph 43.7(2)*"f"* during each of two consecutive six-month monitoring periods may reduce the monitoring frequency to once per year and reduce the number of lead and copper samples according to 41.4(1)*"c"*(3), upon written approval by the department. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. The department shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with 567—subrule 42.4(2), and shall notify the system in writing when it determines that the system is eligible to commence reduced monitoring. ~~Where appropriate, the~~ The department will review and, where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.
- A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the department under 567—paragraph 43.7(2)*"f"* during three consecutive years of monitoring may reduce the frequency of monitoring from annually to once every three years if it receives written approval by the department. Samples collected once every three years shall be collected no later than every third calendar year. The department shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with 567—subrule 42.4(2), and shall notify the system in writing when it determines that the system is eligible to reduce the monitoring frequency to once every three years. ~~Where appropriate, the~~ The department will review and, where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

- A water system that reduces the number and frequency of sampling shall collect these samples from sites included in the pool of targeted sampling sites identified in 41.4(1)*"c"*(1). Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of June through September, unless the department, at its discretion, has approved a different sampling period. If approved by the department, the period shall be no longer than four consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. The department shall designate a period that represents a time of normal operation for an NTNC system that does not operate during the months of June through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known. This sampling shall begin during the period approved or designated by the department in the calendar year immediately following the end of the second consecutive six-month monitoring period for systems initiating annual monitoring and during the three-year period following the end of the third consecutive calendar year of annual monitoring for systems initiating triennial monitoring.

Systems monitoring annually that have been collecting samples during the months of June through September and that receive department approval to alter their sample collection period must collect their next round of samples during a time period that ends no later than 21 months after the previous round of sampling.

Systems monitoring triennially that have been collecting samples during the months of June through September and that receive department approval to alter the sampling collection period must collect their next round of samples during a time period that ends no later than 45 months after the previous round of sampling.

Subsequent rounds of sampling must be collected annually or triennially, as required by 41.4(1)*"c."*

Small systems that have been granted waivers pursuant to 41.4(1)*"c"*(7), that have been collecting samples during the months of June through September and that receive department approval to alter their sample collection period as previously stated, must collect their next round of samples before the end of the nine-year period.

- Any water system that demonstrates for two consecutive six-month monitoring periods that the 90th percentile tap water level computed under 41.4(1)*"b"*(3) is less than or equal to 0.005 mg/L for lead and is less than or equal to 0.65 mg/L for copper may reduce the number of samples in accordance with 41.4(1)*"c"*(3) and reduce the frequency of sampling to once every three calendar years, if approved by the department.
- A small or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling according to 41.4(1)*"c"*(4)"3" and collect the number of samples specified for standard monitoring in 41.4(1)*"c"*(3). Any such system shall also conduct water quality parameter monitoring in accordance with 41.4(1)*"d"*(2), (3), or (4), as appropriate, during the monitoring period in which it exceeded the action level. Any such system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in 41.4(1)*"c"*(3) after it has completed two subsequent consecutive six-month rounds of monitoring that meet the criteria of 41.4(1)*"c"*(4)"4," first bulleted paragraph, and may resume triennial monitoring for lead and copper at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either 41.4(1)*"c"*(4)"4," third bulleted paragraph or fifth bulleted paragraph, and has received department approval.

Any water system subject to reduced monitoring frequency that fails to meet the lead action level during any four-month monitoring period or that fails to operate at or above the minimum value or within the range of values for the water quality control parameters specified by the department under 567—paragraph 43.7(2)*"f"* for more than nine days in any six-month period specified in 41.4(1)*"d"*(4) shall resume tap water sampling according to 41.4(1)*"c"*(4)"3," collect the number of samples specified for standard monitoring in 41.4(1)*"c"*(3), and resume monitoring for water quality parameters within the distribution system in accordance with 41.4(1)*"d"*(4). This standard tap water sampling shall begin no later than the six-month period beginning January 1 of the calendar year following the lead action level exceedance or water quality parameter excursion. The system may resume reduced monitoring for lead

and copper at the tap and for water quality parameters within the distribution system under the following conditions:

The system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in 41.4(1)*"c"*(3) after it has completed two subsequent six-month rounds of monitoring that meet the criteria of 41.4(1)*"c"*(4)"4," second bulleted paragraph, and upon written approval from the department to resume reduced annual monitoring. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

The system may resume triennial monitoring for lead and copper at the tap at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria of either 41.4(1)*"c"*(4)"4," third bulleted paragraph or fifth bulleted paragraph, and upon written approval from the department to resume triennial monitoring.

The system may reduce the number of water quality parameter tap water samples required in 41.4(1)*"d"*(5)"1" and the sampling frequency required in 41.4(1)*"d"*(5)"2." Such a system may not resume triennial monitoring for water quality parameters at the tap until it demonstrates that it has requalified for triennial monitoring, pursuant to 41.4(1)*"d"*(5)"2."

- Any water system subject to a reduced monitoring frequency under 41.4(1)*"c"*(4)"4" ~~that either adds a new source of water or changes any water treatment shall inform~~ must notify the department in writing in accordance with 567—subparagraph 42.4(2)*"a"*(3) of any upcoming long-term change in treatment or addition of a new source as described in that paragraph. The department must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the system. The department may require the system to resume sampling pursuant to 41.4(1)*"c"*(4)"3" and collect the number of samples specified for standard monitoring under 41.4(1)*"c"*(3), or take other appropriate steps such as increased water quality parameter monitoring or reevaluation of its corrosion control treatment given the potentially different water quality considerations.

ITEM 17. Amend subparagraph **41.4(1)"c"(7)** as follows:

(7) Monitoring waivers for small systems. Any small system that meets the criteria of this subparagraph may apply to the department to reduce the frequency of monitoring for lead and copper under subrule 41.4(1) to once every nine years if it meets all of the materials criteria specified in 41.4(1)*"c"*(7)"1" and the monitoring criteria specified in 41.4(1)*"c"*(7)"2."

1. Materials criteria. The system must demonstrate that its distribution system and service lines and all drinking water supply plumbing, including plumbing conveying drinking water within all residences and buildings connected to the system, are free of lead-containing materials and copper-containing materials, as defined below:

- Lead. The water system must provide certification and supporting documentation to the department that the system is free of all lead-containing materials. The system does not contain any plastic pipes which contain lead plasticizers, or plastic service lines which contain lead plasticizers. The system must be free of lead service lines, lead pipes, lead soldered pipe joints, and leaded brass or bronze alloy fittings and fixtures, unless such fittings and fixtures meet the specifications of any standard established pursuant to 42 U.S.C. 300-g-6(e).
- Copper. The water system must provide certification and supporting documentation to the department that the system contains no copper pipes or copper service lines.

2. Monitoring criteria. The system must have completed at least one six-month round of standard tap water monitoring for lead and copper at sites approved by the department and from the number of sites required by 41.4(1)*"c"*(3), and demonstrate that the 90th percentile levels for any and all rounds of monitoring conducted since the system became free of all lead-containing and copper-containing materials meet the following criteria:

- Lead levels. The system must demonstrate that the 90th percentile lead level does not exceed 0.005 mg/L.
- Copper levels. The system must demonstrate that the 90th percentile copper level does not exceed 0.65 mg/L.

3. Department approval of waiver application. The department shall notify the system of its waiver determination in writing, including the basis of its decision and any condition of the waiver. The department may require as a waiver condition that the system conduct specific activities, such as limited monitoring and periodic outreach to customers to remind them to avoid installation of materials that would void the waiver. The system must continue monitoring for lead and copper at the tap as required by 41.4(1)*"c"*(4)"1" through "4," as appropriate, until the system receives written approval for the waiver from the department.

4. Monitoring frequency of systems with waivers.

- A system must conduct tap water monitoring for lead and copper in accordance with 41.4(1)*"c"*(4)"4" at the reduced number of sampling sites identified in subparagraph 41.4(1)*"c"*(3) at least once every nine years and provide the materials certification specified in 41.4(1)*"c"*(7)"1" for both lead and copper to the department along with the monitoring results. Samples collected every nine years shall be collected no later than every ninth calendar year.
- ~~If a~~ A system with a waiver ~~adds a new source of water or changes any water treatment, the system~~ must notify the department in writing pursuant to 567—subparagraph 42.4(2)*"a"*(3) of any upcoming long-term change in treatment or addition of a new source, as described in that subparagraph. The department must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the system. The department has the authority to require the system to add or modify waiver conditions, such as to require recertification that the system is free of lead-containing and copper-containing materials or to require additional monitoring, if the department deems such modifications are necessary to address treatment or source water changes at the system.
- If a system with a waiver becomes aware that it is no longer free of lead-containing or copper-containing materials, such as from new construction or repairs, the system shall notify the department in writing no later than 60 days after becoming aware of such a change.

5. Continued eligibility. If the system continues to satisfy the requirements of 41.4(1)*"c"*(7)"4," the waiver will be renewed automatically, unless any of the conditions listed below occur. A system whose waiver has been revoked may reapply for a waiver at such time as it again meets the appropriate materials and monitoring criteria of 41.4(1)*"c"*(7)"1" and 41.4(1)*"c"*(7)"2."

- A system no longer satisfies the materials criteria of 41.4(1)*"c"*(7)"1," or has a 90th percentile lead level greater than 0.005 mg/L or a 90th percentile copper level greater than 0.65 mg/L.
- The department notifies the system in writing that the waiver has been revoked, including the basis of its decision.

6. Requirements following waiver revocation. A system whose waiver has been revoked by the department is subject to the corrosion control treatment and lead and copper tap water monitoring requirements as follows:

- If the system exceeds the lead or copper action level, the system must implement corrosion control treatment in accordance with the deadlines specified in 567—paragraph 43.7(1)*"e,"* and any other applicable parts of 567—41.4(455B).
- If the system meets both the lead and copper action levels, the system must monitor for lead and copper at the tap no less frequently than once every three years using the reduced number of sample sites specified in subparagraph 41.4(1)*"c"*(3).

ITEM 18. Amend subparagraph **41.4(1)"d"(1)"2,"** second bullet, as follows:

- Except as provided in 41.4(1)*"d"*(3)*"*3," systems shall collect two samples for each applicable water quality parameter at each entry point to the distribution system during each six-month monitoring period specified in 41.4(1)*"d"*(2). ~~During each monitoring period specified in 41.4(1)*"d"*(2).~~ During each monitoring period specified in 41.4(1)*"d"*(3) through (5), systems shall collect one sample for each applicable water quality parameter at each entry point to the distribution system.

ITEM 19. Amend subparagraph **41.4(1)"d"(4)** as follows:

(4) Monitoring after the department specifies water quality parameter values for optimal corrosion control. After the department specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment, all large systems shall measure the applicable water

quality parameters according to 41.4(1)*"d"*(3) and determine compliance with the requirements of 567—paragraph 43.7(2)*"g"* every six months, with the first six-month period to begin on ~~the date~~ either January 1 or July 1, whichever comes first, after the department specifies the optimal values under 567—paragraph 43.7(2)*"f."* Any small or medium-size system shall conduct such monitoring during each monitoring period specified in 41.4(1)*"c"*(4)"3" in which the system exceeds the lead or copper action level. For any such small and medium-size system that is subject to a reduced monitoring frequency pursuant to 41.4(1)*"c"*(4)"4" at the time of the action level exceedance, the ~~end~~ start of the applicable six-month monitoring period under this paragraph shall coincide with the end of the applicable monitoring period under 41.4(1)*"c"*(4)"4." Compliance with department-designated optimal water quality parameter values shall be determined as specified in 567—paragraph 43.7(2)*"g."*

ITEM 20. Amend subparagraph **41.4(1)"d"(5)** as follows:

(5) Reduced monitoring.

1. Public water supply systems that maintain the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of two consecutive six-month monitoring periods under 41.4(1)*"c"*(4) shall continue monitoring at the entry point(s) to the distribution system as specified in 567—paragraph 43.7(2)*"f."* Such system may collect two tap samples for applicable water quality parameters from the following reduced number of sites during each six-month monitoring period.

REDUCED WATER QUALITY PARAMETER MONITORING

System Size (Number of People Served)	Reduced Number of Sites for Water Quality Parameters
greater than 100,000	10
10,001 to 100,000	7
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
less than or equal to 100	1

2. A public water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the department under 567—paragraph 43.7(2)*"f"* during three consecutive years of monitoring may reduce the frequency with which the system collects the number of tap samples for applicable water quality parameters specified in 41.4(1)*"d"*(5) from every six months to annually. This sampling shall begin during the calendar year immediately following the end of the monitoring period in which the third consecutive year of six-month monitoring occurs. Any system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the department under 567—paragraph 43.7(2)*"f"* during three consecutive years of annual monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in 41.4(1)*"d"*(5) from annually to every three years. This sampling shall begin no later than the third calendar year following the end of the monitoring period in which the third consecutive year of monitoring occurs.

A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters specified in 41.4(1)*"d"*(5)"1" to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to 0.005 mg/L, that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/L, and that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the department under 567—paragraph 43.7(2)*"f."* Monitoring conducted every three years shall be done no later than every third calendar year.

3. No change.

4. No change.

ITEM 21. Amend subparagraph **41.4(1)"e"(2)** as follows:

(2) Monitoring after system exceeds tap water action level. Any system which exceeds the lead or copper action level at the tap shall collect one source water sample from each entry point to the distribution system ~~within~~ no later than six months after the ~~exceedance~~ end of the monitoring period during which the lead or copper action level was exceeded. For monitoring periods that are annual or less frequent, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs or, if the department has established an alternate monitoring period, the last day of that period.

ITEM 22. Amend subparagraph **41.4(1)"e"(4)** as follows:

(4) Monitoring frequency after the department specifies maximum permissible source water levels or determines that source water treatment is not needed.

1. A system shall monitor at the frequency specified below in cases where the department specifies maximum permissible source water levels under 567—subparagraph 43.7(3)*"b"*(4) or determines that the system is not required to install source water treatment under 567—subparagraph 43.7(3)*"b"*(2). A water system using only groundwater shall collect samples once during the three-year compliance period in effect when the department makes this determination. Such systems shall collect samples once during each subsequent compliance period. Triennial samples shall be collected every third calendar year. A public water system using surface water (or a combination of surface and groundwater) shall collect samples once during each year, the first annual monitoring period to begin ~~on the date on~~ during the year in which the department ~~makes this~~ determination is made under this subparagraph.

2. No change.

ITEM 23. Amend subparagraph **41.4(1)"e"(5)** as follows:

(5) Reduced monitoring frequency.

1. A water system using only groundwater may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and if the system meets one of the following criteria:

- The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead or copper concentrations specified by the department in 567—subparagraph 43.7(3)*"b"*(4) during at least three consecutive compliance periods under 41.4(1)*"e"*(4)"1"; or
- The department has determined that source water treatment is not needed and the system demonstrates that, during at least three consecutive compliance periods in which sampling was conducted under 41.4(1)*"e"*(4)"1," the concentration of lead in source water was less than or equal to 0.005 mg/L and the concentration of copper in source water was less than or equal to 0.65 mg/L.

2. A water system using surface water (or a combination of surface water and groundwater) may reduce the monitoring frequency in 41.4(1)*"e"*(4)"1" to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and if that system meets one of the following criteria:

- The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the department in 567—subparagraph 43.7(3)*"b"*(4) for at least three consecutive years; or
- The department has determined that source water treatment is not needed and the system demonstrates that, during at least three consecutive years, the concentration of lead in source water was less than or equal to 0.005 mg/L and the concentration of copper in source water was less than or equal to 0.65 mg/L.

3. No change.

ITEM 24. Amend subparagraph **41.4(1)"f"(4)** as follows:

(4) Corrosivity indices methodology. The following methods must be used to calculate the corrosivity indices:

1. No change.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

2. Langelier Index—"Standard Methods for the Examination of Water and Wastewater," 14th edition, American Public Health Association, ~~1015 15th Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710, (1975), Method 203, pp. 61-63.

ITEM 25. Amend subparagraph **41.4(1)"g"(1)**, table, as follows:

LEAD, COPPER AND WATER QUALITY PARAMETER ANALYTICAL METHODS

Contaminant	~~EPA Contaminant Code~~	Methodology[9]	Reference (Method Number)				
			EPA	ASTM[3]	SM	SM Online[16]	USGS[5] or Other
Alkalinity	~~1927~~	Titrimetric		D1067-92B, 02B, 06B, 11 B	2320 B[11, 15, 18]	2320 B-97	
		Electrometric titration					I-1030-85
Calcium	~~1919~~	EDTA titrimetric		D511-93A, 03A, 09A, 14A	3500-Ca D[4]	3500-Ca B-97	
					3500-Ca B[12, 15, 18]	3500-Ca B-97	
		Atomic absorption; direct aspiration		D511-93B, 03B, 09B, 14B	3111 B[4, 15, 18]	3111 B-99	
		Inductively coupled plasma	200.7[2]		3120 B[11, 15, 18]	3120 B-99	
		Ion chromatography		D6919-03, 09			
		Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Rev. 4.2[17]				
Chloride	~~1017~~	Ion chromatography	300.0[8], 300.1[13]	D4327-97, 03	4110 B[11, 15]	4550 B-00	
		Potentiometric titration			4500-Cl^- D[11, 15]	4500-Cl- D-97	
		Argentometric titration		D512-89B, (reapproved 1999), D512-04B	4500-Cl^- B[11, 15]	4500-Cl- B-97	
		Capillary ion electrophoresis					D6508, Rev. 2[14]
Conductivity	~~1064~~	Conductance		D1125-95A, (reapproved 1999), 14A	2510 B[11, 15, 18]	2510 B-97	
Copper[6]	~~1022~~	Atomic absorption; furnace technique		D1688-95C, 02C, 07C, 12C	3113 B[4, 15, 18]	3113 B-99, 04, 10	
		Atomic absorption; direct aspiration		D1688-95A, 02A, 07A, 12A	3111 B[4, 15, 18]	3111 B-99	
		Inductively coupled plasma	200.7[2]		3120 B[11, 15, 18]	3120 B-99	
		Inductively coupled plasma; mass spectrometry	200.8[2]				
		Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Rev. 4.2[17]				
		Atomic absorption; platform furnace	200.9[2]				

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Contaminant	~~EPA Contaminant Code~~	Methodology[9]	Reference (Method Number)				
			EPA	ASTM[3]	SM	SM Online[16]	USGS[5] or Other
		Colorimetric					Hach Method 8026[19]; Hach Method 10272[20]
Lead[6]	~~1030~~	Atomic absorption; furnace technique		D3559-96D, 03D, 08D	3113 B[4, 15, 18]	3113 B-99, 04, 10	
		Inductively coupled plasma; mass spectrometry	200.8[2]				
		Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Rev. 4.2[17]				
		Atomic absorption; platform furnace technique	200.9[2]				
		Differential pulse anodic stripping ~~voltammatry~~ voltammetry					Method 1001[10]
pH	~~1925~~	Electrometric	150.1[1]	D1293-95, 99, 12	4500-H^+ B[11, 15, 18]	4500-H^+ B-00	
			150.2[1]				
Orthophosphate (Unfiltered, no digestion or hydrolysis)	~~1044~~	Colorimetric, automated, ascorbic acid	365.1[8]		4500-P F[11, 15, 18]	4500-P F-99	Thermo Fisher Discrete Analyzer[21]
		Colorimetric, ascorbic acid, single reagent		D515-88A	4500-P E[11, 15, 18]	4500-P E-99	
		Colorimetric, phosphomolybdate;					I-1602-85
		Automated-segmented flow					I-2601-90[8]
		Automated discrete					I-2598-85
		Ion chromatography	300.0[7], 300.1[13]	D4327-97, 03, 11	4110 B[11, 15, 18]	4110 B-00	
		Capillary ion electrophoresis					D6508, Rev. 2[14]
Silica	~~1049~~	Colorimetric, molybdate blue					I-1700-85
		Automated-segmented flow					I-2700-85
		Colorimetric		D859-95, 00, 05, 10			
		Molybdosilicate			4500-Si D[4]	4500-SiO_2 C-97	
					4500-SiO_2 C[12, 15, 18]	4500-SiO_2 C-97	
		Heteropoly blue			4500-Si E[15]	4500-SiO_2 D-97	
					4500-SiO_2 D[12, 15, 18]	4500-SiO_2 D-97	
		Automated method for molybdate-reactive silica			4500-Si F 4500-SiO_2 E[12, 15, 18]	4500-SiO_2 E-97	
		Inductively coupled plasma[6]	200.7[2]		3120 B[11, 15, 18]	3120 B-99	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Contaminant	~~EPA Contaminant Code~~	Methodology[9]	Reference (Method Number)				
			EPA	ASTM[3]	SM	SM Online[16]	USGS[5] or Other
		Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP-AES)	200.5, Rev. 4.2[17]				
Sulfate	~~1055~~	Ion chromatography	300.0[7], 300.1[13]	D4327-97, 03	4110[11, 15, 18]	4110 B-00	
		Automated methylthymol blue	375.2[7]		4500-SO_4 F[11, 15]	4500-SO_4-2 F-97	
		Gravimetric			4500-SO_4 C[11, 15] 4500-SO_4 D[11, 15]	4500-SO_4-2 C-97 4500-SO_4-2 D-97	
		Turbidimetric		D516-90, 02, 07	4500-SO_4 E[11, 15]	4500-SO_4-2 E-97	
		Capillary ion electrophoresis					D6508, Rev. 2[14]
Temperature	~~1996~~	Thermometric			2550 B[11, 15, 18]	2550-00, 10	
Total Filterable Residue (TDS)	~~1930~~	Gravimetric			2540 C[11, 15]	2540 C-97	

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at (800)426-4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street, SW, Washington, DC 20460 (telephone: (202)260-3027); or at the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

[1]"Methods for Chemical Analysis of Water and Wastes," EPA-600/4-79-020, March 1983. Available at NTIS as PB84-128677.

[2]"Methods for the Determination of Metals in Environmental Samples," EPA-600/4-91-010, June 1991. Available at NTIS as PB91-231498.

[3]Annual Book of ASTM Standards, 1994, 1996, ~~or~~ 1999, or 2003, Vols. 11.01 and 11.02, American Society for Testing and Materials, International; ~~any year containing the cited version of the method~~ the methods listed are the only versions that may be used. The previous versions of D1688-95A and D1688-95C (copper), D3559-95D (lead), D1293-95 (pH), D1125-91A (conductivity), and D859-94 (silica) are also approved. These previous versions, D1688-90A, C, D3559-90D, D1293-84, D1125-91A and D859-88, respectively, are located in the Annual Book of ASTM Standards, 1994, Volume 11.01. Copies may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428 or www.astm.org.

[4]18th and 19th editions of Standard Methods for the Examination of Water and Wastewater, 1992 and 1995, respectively, American Public Health Association. Either edition may be used. Copies may be obtained from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[5]Techniques of Water Resources Investigation of the U.S. Geological Survey, Book 5, Chapter A-1, 3rd ed., 1989. Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225-0425.

[6]Samples may not be filtered. Samples that contain less than 1 NTU (Nephelometric turbidity unit) and are properly preserved (concentrated nitric acid to pH < 2) may be analyzed directly (without digestion) for total metals; otherwise, digestion is required. When digestion is required, the total recoverable technique as defined in the method must be used.

[7]"Methods for the Determination of Inorganic Substances in Environmental Samples," EPA/600/R-93/100, August 1993. Available at NTIS as PB94-120821.

[8]"Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments, Open File Report 93-125." Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225-0425.

[9]Because MDLs reported in EPA Methods 200.7 and 200.9 were determined using a 2X preconcentration step during sample digestion, MDLs determined when samples are analyzed by direct analysis (i.e., no sample digestion) will be higher. Preconcentration may be required for direct analysis of lead by Methods 200.9, 3113B, and 3559-90D unless multiple in-furnace depositions are made.

[10]The description for Method 1001 is available from Palintest, Ltd., 21 Kenton Lands Road, P.O. Box 18395, Erlanger, KY 41018; or from the Hach Company, P.O. Box 389, Loveland, CO 80538.

[11]The 18th, 19th, and 20th editions of Standard Methods for the Examination of Water and Wastewater, 1992, 1995, and 1998, respectively, American Public Health Association. Any edition may be used, except that the versions of 3111B and 3113B in the 20th edition may not be used. Copies may be obtained from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[12]The 20th edition of Standard Methods for the Examination of Water and Wastewater, 1998, American Public Health Association. Copies may be obtained from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[13]"Methods for the Determination of Organic and Inorganic Compounds in Drinking Water," Vol. 1, EPA 815-R-00-014, August 2000. Available at NTIS, PB2000-106981.

[14]Method D6508, Rev. 2, "Test Method for Determination of Dissolved Inorganic Anions in Aqueous Matrices Using Capillary Ion Electrophoresis and Chromate Electrolyte," available from Waters Corp., 34 Maple Street, Milford, MA 01757; telephone: (508)482-2131.

[15]Standard Methods for the Examination of Water and Wastewater, 21st edition (2005), American Public Health Association. Available from the American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[16]Standard Methods Online is available at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[17]EPA Method 200.5, Revision 4.2: "Determination of Trace Elements in Drinking Water by Axially Viewed Inductively Coupled Plasma-Atomic Emission Spectrometry," 2003. EPA/600/R-06/115. Available at www.nemi.gov.

[18]Standard Methods for the Examination of Water and Wastewater, 22nd edition (2012), American Public Health Association. Available from the American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[19]Hach Company. "Hach Method 8026 – Spectrophotometric Measurement of Copper in Finished Drinking Water," December 2015, Revision 1.2. Available from www.hach.com.

[20]Hach Company. "Hach Method 10272 – Spectrophotometric Measurement of Copper in Finished Drinking Water," December 2015, Revision 1.2. Available from www.hach.com.

[21]Thermo Fisher. "Thermo Fisher Scientific Drinking Water Orthophosphate Method for Thermo Scientific Gallery Discrete Analyzer," February 2016. Revision 5. Thermo Fisher Scientific, Ratastie 2 01620 Vantaa, Finland.

ITEM 26. Amend paragraph **41.5(1)"b"** as follows:

b. Maximum contaminant levels (MCLs) and analytical methodology for organic compounds. The maximum contaminant levels for organic chemicals are listed in the table in subparagraph 41.5(1)*"b"*(1). Analyses for the contaminants in this subrule shall be conducted using the following methods, or their equivalent as approved by EPA. For analysis of a compliance sample, a certified laboratory must be able to achieve at least the method detection limit for the specific contaminant as listed in the following table.

(1) Table:

ORGANIC CHEMICAL CONTAMINANTS, CODES, MCLS, ANALYTICAL METHODS, AND DETECTION LIMITS

Contaminant	EPA Contaminant Code	MCL (mg/L)	Methodology[1]	Detection Limit (mg/L)
Volatile Organic Chemicals (VOCs):				
Benzene	2990	0.005	502.2, 524.2, 524.3, 524.4[7]	0.0005
Carbon tetrachloride	2982	0.005	502.2, 524.2, 524.3, 524.4[7], 551.1	0.0005
Chlorobenzene (mono)	2989	0.1	502.2, 524.2, 524.3, 524.4[7]	0.0005
1,2-Dichlorobenzene (ortho)	2968	0.6	502.2, 524.2, 524.3, 524.4[7]	0.0005
1,4-Dichlorobenzene (para)	2969	0.075	502.2, 524.2, 524.3, 524.4[7]	0.0005

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Contaminant	EPA Contaminant Code	MCL (mg/L)	Methodology[1]	Detection Limit (mg/L)
1,2-Dichloroethane	2980	0.005	502.2, 524.2, 524.3, 524.4[7]	0.0005
1,1-Dichloroethylene	2977	0.007	502.2, 524.2, 524.3, 524.4[7]	0.0005
cis-1,2-Dichloroethylene	2380	0.07	502.2, 524.2, 524.3, 524.4[7]	0.0005
trans-1,2-Dichloroethylene	2979	0.1	502.2, 524.2, 524.3, 524.4[7]	0.0005
Dichloromethane	2964	0.005	502.2, 524.2, 524.3, 524.4[7]	0.0005
1,2-Dichloropropane	2983*	0.005	502.2, 524.2, 524.3, 524.4[7]	0.0005
Ethylbenzene	2992	0.7	502.2, 524.2, 524.3, 524.4[7]	0.0005
Styrene	2996	0.1	502.2, 524.2, 524.3, 524.4[7]	0.0005
Tetrachloroethylene	2987	0.005	502.2, 524.2, 524.3, 524.4[7], 551.1	0.0005
Toluene	2991	1	502.2, 524.2, 524.3, 524.4[7]	0.0005
1,1,1-Trichloroethane	2981	0.2	502.2, 524.2, 524.3, 524.4[7], 551.1	0.0005
Trichloroethylene	2984	0.005	502.2, 524.2, 524.3, 524.4[7], 551.1	0.0005
1,2,4-Trichlorobenzene	2378	0.07	502.2, 524.2, 524.3, 524.4[7]	0.0005
1,1,2-Trichloroethane	2985	0.005	502.2, 524.2, 524.3, 524.4[7], 551.1	0.0005
Vinyl chloride	2976	0.002	502.2, 524.2, 524.3, 524.4[7]	0.0005
Xylenes (total)	2955*	10	502.2, 524.2, 524.3, 524.4[7]	0.0005
Synthetic Organic Chemicals (SOCs):				
Alachlor[3]	2051	0.002	505, 507, 508.1, 525.2, 525.3, 551.1	0.0002
Aldicarb	2047	0.003	531.1, 6610	0.0005
Aldicarb sulfone	2044	0.002	531.1, 6610	0.0008
Aldicarb sulfoxide	2043	0.004	531.1, 6610	0.0005
Atrazine[3]	2050	0.003	505, 507, 508.1, 523, 525.2, 525.3, 536, 551.1, Syngenta AG-625[5]	0.0001
Benzo(a)pyrene	2306	0.0002	525.2, 525.3, 550, 550.1	0.00002
Carbofuran	2046	0.04	531.1, 531.2, 6610, 6610B, 6610 B-04[2]	0.0009
Chlordane[3]	2959	0.002	505, 508, 508.1, 525.2, 525.3	0.0002
2,4-D[6] (as acids, salts, and esters)	2105	0.07	515.1, 515.2, 515.3, 515.4, 555, D5317-93, 98 (Reapproved 2003), 6610B, 6640-B, 6640 B-01, 6640 B-06	0.0001
Dalapon	2031	0.2	515.1, 515.3, 515.4, 552.1, 552.2, 552.3, 557, 6640, 6610B, 6640-B, 6640 B-01, 6640 B-06	0.001

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Contaminant	EPA Contaminant Code	MCL (mg/L)	Methodology[1]	Detection Limit (mg/L)
1,2-Dibromo-3-chloropropane (DBCP)	2931	0.0002	504.1, 524.3, 551.1	0.00002
Di(2-ethylhexyl)adipate	2035	0.4	506, 525.2, 525.3	0.0006
Di(2-ethylhexyl)phthalate	2039	0.006	506, 525.2, 525.3	0.0006
Dinoseb[6]	2041	0.007	515.1, 515.2, 515.3, 515.4, 555, 6610B, 6640-B, 6640 B-01, 6640 B-06	0.0002
Diquat	2032	0.02	549.2	0.0004
Endothall	2033	0.1	548.1	0.009
Endrin[3]	2005	0.002	505, 508, 508.1, 525.2, 525.3, 551.1	0.00001
Ethylene dibromide (EDB)	2946	0.00005	504.1, 524.3, 551.1	0.00001
Glyphosate	2034	0.7	547, 6651, 6651B, 6651 B-00, 6640 B-05	0.006
Heptachlor[3]	2065	0.0004	505, 508, 508.1, 525.2, 525.3, 551.1	0.00004
Heptachlor epoxide[3]	2067	0.0002	505, 508, 508.1, 525.2, 525.3, 551.1	0.00002
Hexachlorobenzene[3]	2274	0.001	505, 508, 508.1, 525.2, 525.3, 551.1	0.0001
Hexachlorocyclopentadiene[3]	2042	0.05	505, 508, 508.1, 525.2, 525.3, 551.1	0.0001
Lindane (gamma BHC)[3]	2010	0.0002	505, 508, 508.1, 525.2, 525.3, 551.1	0.00002
Methoxychlor[3]	2015	0.04	505, 508, 508.1, 525.2, 525.3, 551.1	0.0001
Oxamyl	2036	0.2	531.1, 531.2, 6610, 6610B, 6610 B-04[2]	0.002
Pentachlorophenol	2326	0.001	515.1, 515.2, 515.3, 515.4, 525.2, 525.3, 555, D5317-93, 98 (Reapproved 2003), 6610B, 6640-B, 6640 B-01, 6640 B-06	0.00004
Picloram[3, 6]	2040	0.5	515.1, 515.2, 515.3, 515.4, 555, D5317-93, 98 (Reapproved 2003), 6610B, 6640-B, 6640 B-01, 6640 B-06	0.0001
Polychlorinated biphenyls[4] (as decachlorobiphenyl) (as Arochlors)[3]	2383	0.0005	508A 505, 508, 508.1, 525.2, 525.3	0.0001
Simazine[3]	2037	0.004	505, 507, 508.1, 523, 525.2, 525.3, 536, 551.1	0.00007
2,3,7,8-TCDD (dioxin)	2063	$3x10^{-8}$	1613	$5x10^{-9}$
2,4,5-TP[6] (Silvex)	2110	0.05	515.1, 515.2, 515.3, 515.4, 555, D5317-93, 98 (Reapproved 2003), 6610B, 6640-B, 6640 B-01, 6640 B-06	0.0002
Toxaphene[3]	2020	0.003	505, 508, 508.1, 525.2, 525.3	0.001

*As of January 1, 1999, the contaminant codes for the following compounds were changed from the Iowa Contaminant Code to the EPA Contaminant Code:

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Contaminant	Iowa Contaminant Code (Old)	EPA Contaminant Code (New)
1,2 Dichloropropane	2325	2983
Xylenes (total)	2974	2955

[1]Analyses for the contaminants in this section shall be conducted using the following EPA methods or their equivalent as approved by EPA. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at EPA's Drinking Water Docket, EPA West, 1301 Constitution Avenue, NW, Room ~~B102~~ 3334, Washington, DC 20460 (telephone: (202) 566-2426); or at the ~~Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC~~ National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202)741-6030, or via Internet at www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

The following methods are available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161 (telephone: (800)553-6847).

Methods for the Determination of Organic Compounds in Drinking Water, EPA-600/4-88-039, December 1988, Revised July 1991 (NTIS PB91-231480): Methods 508A and 515.1.

Methods for the Determination of Organic Compounds in Drinking Water—Supplement I, EPA-600/4-90-020, July 1990 (NTIS PB91-146027): Methods 547, 550, 550.1.

Methods for the Determination of Organic Compounds in Drinking Water—Supplement II, EPA-600/R-92-129, August 1992 (NTIS PB92-207703): Methods 548.1, 552.1, 555.

Methods for the Determination of Organic Compounds in Drinking Water—Supplement III, EPA-600/R-95-131, August 1995 (NTIS PB95-261616): Methods 502.2, 504.1, 505, 506, 507, 508, 508.1, 515.2, 524.2, 525.2, 531.1, 551.1, 552.2.

EPA Method 523, "Determination of Triazine Pesticides and Their Degradates in Drinking Water by Gas Chromatography/Mass Spectrometry (GC/MS)," 2011. EPA-815-R-11-002. Available at www.nepis.epa.gov.

EPA Method 524.3, Version 1.0. "Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry," June 2009. EPA 815-B-09-009. Available at www.nemi.gov.

EPA Method 525.3, "Determination of Semivolatile Organic Chemicals in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatograph/Mass Spectrometry (GC/MS)," 2012. EPA/600/R-12-010. Available at www.nepis.epa.gov.

EPA Method 536, "Determination of Triazine Pesticides and Their Degradates in Drinking Water by Liquid Chromatography Electrospray Ionization Tandem Mass Spectrometry (LC/ESI-MS/MS)," 2007. EPA/815-B-07-002. Available at www.nepis.epa.gov.

EPA Method 557, "Determination of Haloacetic Acids, Bromate, and Dalapon in Drinking Water by Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry (IC-ESI-MS/MS)," September 2009. EPA 815-B-09-012. Available at www.nemi.gov.

Method 1613 "Tetra-through Octa-Chlorinated Dioxins and Furans by Isotope-Dilution HRGC/HRMS," EPA-821-B-94-005, October 1994 (NTIS PB95-104774).

The following American Public Health Association (APHA) documents are available from APHA, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

Supplement to the 18th Edition of Standard Methods for the Examination of Water and Wastewater, 1994, Standard Methods for the Examination of Water and Wastewater, 19th edition, 1995, ~~or~~ 20th edition, 1998, 21st edition, 2005, or 22nd edition, 2012 (any of ~~the three~~ these editions may be used), APHA: Method 6610 and (carbofuran and oxamyl only) 6610B and 6610 B-04; Method 6640B (21st and 22nd editions only) and SM online 6640 B-01 for 2,4-D, 2,4,5-TP Silvex, dalapon, dinoseb, pentachlorophenol, and picloram; Method 6651B (21st and 22nd editions only) and SM online 6670-B-00 for glyphosate.

Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992, 19th edition, 1995, or 20th edition, 1998, (any of ~~the three~~ these editions may be used), APHA: Method 6651.

The following American Society for Testing and Materials (ASTM) method is available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

Annual book of ASTM Standards, 1999, Vol. 11.02 (or any edition published after 1993), ASTM: D5317-93, 98 (Reapproved 2003).

Methods 515.3 and 549.2 are available from U.S. EPA NERL, 26 W. Martin Luther King Drive, Cincinnati, OH 45268.

Method 515.4, "Determination of Chlorinated Acids in Drinking Water by Liquid-Liquid Microextraction, Derivatization and Fast Gas Chromatography with Electron Capture Detection," Revision 1.0, April 2000, EPA 815/B-00/001 and EPA Method 552.3, "Determination of Haloacetic Acids and Dalapon in Drinking Water by Liquid-liquid Microextraction, Derivatization, and Gas Chromatography with Electron Capture Detection," Revision 1.0, July 2003, EPA 815-B-03-002, available at www.epa.gov/safewater/methods/sourcalt.html.

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Method 531.2, "Measurement of n-Methylcarbamoyloximes and n-Methylcarbamates in Water by Direct Aqueous Injection HPLC with ~~Photocol umn~~ Postcolumn Derivatization," Revision 1.0, September 2001, EPA 815/B-01/002, available at www.epa.gov/safewater/methods/sourcalt.html.

Syngenta AG-625 Method, "Atrazine in Drinking Water by Immunoassay," February 2001, is available from Syngenta Crop Protection, Inc., 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419, telephone (336)632-6000.

Other required analytical test procedures germane to the conduct of these analyses are contained in Technical Notes on Drinking Water Methods, EPA-600/R-94-173, October 1994 (NTIS PB95-104766).

[2]~~Reserved.~~ Standard Methods Online is available at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[3]Substitution of the detector specified in Method 505, 507, 508, or 508.1 for the purpose of achieving lower detection limits is allowed as follows. Either an electron capture or nitrogen-phosphorus detector may be used provided all regulatory requirements and quality control criteria are met.

[4]PCBs are qualitatively identified as Aroclors and measured for compliance purposes as decachlorobiphenyl. Users of Method 505 may have more difficulty in achieving the required detection limits than users of Method 508. 508.1, or 525.2.

[5]~~Reserved.~~ This method may not be used for the analysis of atrazine in any system where chlorine dioxide is used in the drinking water treatment. In samples from all other systems, any result for atrazine generated by Method AG-625 that is greater than one-half the MCL (i.e., greater than 0.0015 mg/L) must be confirmed using another approved method for this contaminant and should use additional volume of the original sample collected for compliance monitoring. In instances where a result from Method AG-625 triggers such confirmatory testing, the confirmatory result is to be used to determine compliance.

[6]Accurate determination of the chlorinated esters requires hydrolysis of the sample as described in EPA Methods 515.1, 515.2, 515.3, 515.4, and 555, and ASTM Method D5317-93, 98 (Reapproved 2003).

[7]EPA Method 524.4, Version 1.0. "Measurement of Purgeable Organic Compounds in Water by Gas Chromatography/Mass Spectrometry Using Nitrogen Purge Gas," May 2013, EPA 815-R-13-002.

(2) and (3) No change.

ITEM 27. Amend numbered paragraph **41.5(1)"c"(7)"4,"** table, fourth row, as follows:

Sources of Contamination	Shallow Wells as defined in 567—40.2(455B)	Deep Wells as defined in 567—40.2(455B)
Chemical and mineral storage (aboveground)	200 ft	l00 ft

ITEM 28. Amend subparagraph **41.6(1)"d"(2)** as follows:

(2) Systems must measure disinfection byproducts by the methods (as modified by the footnotes) listed in the following table:

Approved Methods for Disinfection Byproduct Compliance Monitoring

Contaminant and Methodology	EPA Method[1]	Standard Method[2]	ASTM Method[3]
TTHM			
P&T/GC/EICD & PID	502.2[4]		
P&T/GC/MS	524.2, 524.3, 524.4		
LLE/GC/ECD	551.1		
HAA5			
LLE (diazomethane)/GC/ECD		6251 B[5], 6251 B-07[12]	
SPE (acidic methanol)/GC/ECD	552.1[5]		
LLE (acidic methanol)/GC/ECD	552.2, 552.3		
Ion chromatography electrospray ionization tandem mass spectrometry (IC-ESI-MS/MS)	557[10]		
Bromate			

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Contaminant and Methodology	EPA Method[1]	Standard Method[2]	ASTM Method[3]
Ion chromatography	300.1		D 6581-00
Ion chromatography & postcolumn reaction[9]	317.0 Rev. 2.0[6], 326.0[6]		
IC/ICP-MS[9]	321.8[6,7]		
Two-dimensional ion chromatography (IC)	302.0[11]		
Ion chromatography electrospray ionization tandem mass spectrometry (IC-ESI-MS/MS)	557[10]		
Chemically suppressed ion chromatography			D 6581-08 A
Electrolytically suppressed ion chromatography			D 6581-08 B
Chlorite[8]			
Amperometric titration		4500-ClO_2 E[8]	
Amperometric sensor			ChlordioX Plus[8,13]
Spectophotometry	327.0 Rev. 1.1[8]		
Ion chromatography	300.0, 300.1, 317.0 Rev. 2, 326.0		
Chemically suppressed ion chromatography			D 6581-08 A
Electrolytically suppressed ion chromatography			D 6581-08 B

ECD = electron capture detector
EICD = electrolytic conductivity detector
GC = gas chromatography
IC = ion chromatography
LLE = liquid/liquid extraction
MS = mass spectrometer
P&T = purge and trap
PID = photoionization detector
SPE = solid phase extractor

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents was approved by the Director of the Federal Register on February 16, 1999, in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at (800)426-4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street, SW, Washington, DC 20460 (telephone: (202)260-3027); or at the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC 20408.

[1]EPA: The following methods are available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161 (telephone: (800)553-6847):

Methods 300.0 and 321.8: Methods for the Determination of Organic and Inorganic Compounds in Drinking Water, Volume 1, USEPA, August 2000, EPA 815-R-00-014 (available through NTIS, PB2000-106981).

Method 300.1: "Determination of Inorganic Anions in Drinking Water by Ion Chromatography, Revision 1.0," EPA-600/R-98/118, 1997 (available through NTIS, PB98-169196).

Method 317.0: "Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography with the Addition of a Postcolumn Reagent for Trace Bromate Analysis, Revision 2.0," USEPA, July 2001, EPA 815-B-01-001.

Method 326.0: "Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography Incorporating the Addition of a Suppressor Acidified Postcolumn Reagent for Trace Bromate Analysis, Revision 1.0," USEPA, June 2002, EPA 815-R-03-007.

Method 327.0: "Determination of Chlorine Dioxide and Chlorite Ion in Drinking Water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry, Revision 1.1," USEPA, May 2005, EPA 815-R-05-008.

Methods 502.2, 524.2, 551.1, and 552.2: Methods for the Determination of Organic Compounds in Drinking Water—Supplement III, EPA-600/R-95-131, August 1995 (NTIS PB95-261616).

Method 524.3: "Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry, Version 1.0," June 2009. EPA 815-B-09-009. Available at www.nemi.gov.

Method 524.4: "Measurement of Purgeable Organic Compounds in Water by Gas Chromatography/Mass Spectrometry Using Nitrogen Purge Gas, Version 1.0," May 2013. EPA 815-R-13-002. Available at www.nepis.epa.gov.

Method 552.1: Methods for the Determination of Organic Compounds in Drinking Water—Supplement II, EPA-600/R-92-129, August 1992 (NTIS PB92-207703).

Method 552.3: "Determination of Haloacetic Acids and Dalapon in Drinking Water by Liquid-liquid Microextraction, Derivatization, and Gas Chromatography with Electron Capture Detection, Revision 1.0," USEPA, July 2003, EPA-815-B-03-002.

[2]4500-ClO2 E and 6251B: Standard Methods for the Examination of Water and Wastewater, 19th (1995), ~~and~~ 20th (1998), 21st (2005), and 22nd (2012) editions, American Public Health Association, ~~1995 and 1998, respectively,~~ which ~~is~~ are available from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[3]Method D 6581-00: American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohoken, PA 19428: Annual Book of ASTM Standards, Volume 11.01, American Society for Testing and Materials, 2001 (or any year containing the cited version).

[4]If TTHMs are the only analytes being measured in the sample, then a PID is not required.

[5]The samples must be extracted within 14 days of sample collection.

[6]Ion chromatography and postcolumn reaction or IC/ICP-MS must be used for bromate analysis for purposes of demonstrating eligibility of reduced monitoring.

[7]Samples must be preserved at sample collection with 50 mg ethylenediamine (EDA)/L of sample and must be analyzed within 28 days.

[8]Amperometric titration or spectrophotometry may be used for routine daily monitoring of chlorite at the entrance to the distribution system, as prescribed in 41.6(1)*"c"*(3)"1." Ion chromatography must be used for routine monthly monitoring of chlorite and additional monitoring of chlorite in the distribution system, as prescribed in 41.6(1)*"c"*(3)"2" and "3."

[9]These are the only methods approved for reduced bromate monitoring under 41.6(1)*"c"*(2)"2."

[10]EPA Method 557, "Determination of Haloacetic Acids, Bromate, and Dalapon in Drinking Water by Ion Chromatography Electrospray Ionization Tandem Mass Spectrometry (IC-ESI-MS/MS)," August 2009. EPA 815-B-09-012. Available at www.nemi.gov.

[11]EPA Method 302.0, "Determination of Bromate in Drinking Water Using Two-Dimensional Ion Chromatography with Suppressed Conductivity Detection," September 2009. EPA 815-B-014. Available at www.nemi.gov.

[12]Standard Methods Online is available at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[13]ChlordioX Plus. "Chlorine Dioxide and Chlorite in Drinking Water by Amperometry Using Disposable Sensors," November 2013. Available from Palintest Ltd., Jamike Avenue (Suite 100), Erlanger, KY 41018.

ITEM 29. Amend paragraph **41.6(3)"c"** as follows:

c. Routine monitoring. Systems are required to start monitoring at the locations specified in the approved disinfection byproducts monitoring plan and on the schedule specified in 41.6(3)*"a"*(1). Each system must monitor the disinfection byproducts at the minimum number of locations identified in the Routine Monitoring table.

Routine Monitoring

Source water type	Population size category	Monitoring frequency	Total number of distribution system monitoring location sites per monitoring period
SW/IGW	<500	per year	2
	500-3,300	per quarter	2
	3,301-9,999	per quarter	2
	10,000-49,999	per quarter	4
	50,000-249,999	per quarter	8
	250,000-999,999	per quarter	12
Groundwater	<500	per year	2
	500-9,999	per year	2
	10,000-99,999	per quarter	4
	100,000-499,999	per quarter	6

(1) to (4) No change.

ITEM 30. Amend paragraph **41.6(3)"d"** as follows:

d. Reduced monitoring. A system may reduce monitoring to the level specified in the Reduced Monitoring table anytime the locational running annual average is less than or equal to half the MCL

for TTHM and HAA5 at all monitoring locations (i.e., less than or equal to 0.040 mg/L for TTHM and 0.030 mg/L for HAA5). Only data collected under the provisions of this rule may be used to qualify for reduced monitoring.

Reduced Monitoring

Source water type	Population size category	Monitoring frequency[1]	Distribution system monitoring location sites per monitoring period[2]
SW/IGW	<500	per year	Monitoring may not be reduced
	500-3,300	per year	1 sample per year at the same location if the highest TTHM and HAA5 measurements occurred at the same location and in the same quarter, analyzed for both TTHM and HAA5
	3,301-9,999	per year	2 samples: one at the location and during the quarter with the highest TTHM single measurement; one at the location and during the quarter with the highest HAA5 single measurement
	10,000-49,999	per quarter	2 samples: one at the highest TTHM LRAA location and one at the highest HAA5 LRAA location
	50,000-249,999	per quarter	4 samples: one sample each at the highest two TTHM LRAA locations and one sample each at the highest two HAA5 LRAA locations
	250,000-999,999	per quarter	6 samples: one sample each at the highest three TTHM LRAA locations and one sample each at the highest three HAA5 LRAA locations
Groundwater	<500	every third year	1 sample ~~per year~~ at the same location if the highest TTHM and HAA5 measurements occurred at the same location and in the same quarter, analyzed for both TTHM and HAA5
	500-9,999	per year	1 sample per year at the same location if the highest TTHM and HAA5 measurements occurred at the same location and in the same quarter, analyzed for both TTHM and HAA5
	10,000-99,999	per year	2 samples: one at the location and during the quarter with the highest TTHM single measurement; one at the location and during the quarter with the highest HAA5 single measurement
	100,000-499,999	per quarter	2 samples: one at the highest TTHM LRAA location and one at the highest HAA5 LRAA location

[1]Systems on a quarterly monitoring frequency must collect the sample(s) every 90 days.

[2]Each sample must be analyzed for all TTHM and HAA5 components.

(1) to (4) No change.

ITEM 31. Adopt the following **new** rule 567—41.7(455B):

567—41.7(455B) Groundwater rule: sanitary survey, microbial source water monitoring, treatment technique.

41.7(1) *General requirements.*

a. *Scope.* The requirements of this rule constitute national primary drinking water regulations.

b. *Applicability.* This rule applies to all public water systems that use groundwater except that it does not apply to public water systems that combine all of their groundwater with surface water or with influenced groundwater prior to treatment under 567—43.5(455B). For the purposes of this

rule, "groundwater system" is defined as any public water system meeting this applicability statement, including consecutive systems receiving finished groundwater. For the purposes of this rule, "4-log treatment of viruses" means treatment that includes inactivation, removal, or a department-approved combination of inactivation and removal before or at the first customer of 4-log (99.99%) of viruses.

c. General requirements. Systems subject to this rule must comply with the following requirements:

(1) Sanitary survey information requirements for all groundwater systems as described in 41.7(2).

(2) Microbial source water monitoring requirements for groundwater systems that do not treat all of their groundwater to at least 99.99 percent (4-log) treatment of viruses, using inactivation, removal, or a department-approved combination of inactivation and removal before or at the first customer, as described in 41.7(3).

(3) Treatment technique requirements, as described in 41.7(4), that apply to groundwater systems that have fecally contaminated source waters, as determined by source water monitoring conducted under 41.7(3), or that have significant deficiencies that are identified by the department. A groundwater system with fecally contaminated source water or with significant deficiencies subject to the treatment technique requirements of this rule must implement one or more of the following corrective action options:

1. Correct all significant deficiencies;
2. Provide an alternate source of water;
3. Eliminate the source of contamination; or
4. Provide treatment that reliably achieves at least 4-log treatment of viruses (using inactivation, removal, or a department-approved combination of 4-log virus inactivation and removal) before or at the first customer.

(4) Groundwater systems that provide at least 4-log treatment of viruses are required to conduct compliance monitoring to demonstrate treatment effectiveness, as described in 41.7(4).

(5) If requested by the department, groundwater systems must provide the department with any existing information that will enable the department to perform a hydrogeologic sensitivity assessment. For the purposes of this rule, "hydrogeologic sensitivity assessment" is a determination of whether groundwater systems obtain water from hydrogeologically sensitive settings.

(6) Certified laboratory requirements. Analyses under this rule shall only be conducted by laboratories that have been certified by the department and are in compliance with the requirements of 567—Chapter 83.

41.7(2) *Sanitary surveys for groundwater systems.* For the purposes of this rule, a "sanitary survey," as conducted by the department in accordance with 567—subrule 43.1(7), includes but is not limited to the following: an on-site review of the water sources (identifying sources of contamination using results of source water assessments or other relevant information where available), facilities, equipment, operation, maintenance, and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

41.7(3) *Groundwater source microbial monitoring and analytical methods.* A groundwater system that has a department-approved 4-log treatment process for viruses and is fulfilling the requirements of 41.7(4)*"b"* is not required to conduct the triggered source water monitoring under 41.7(3)*"a."*

a. Triggered source water monitoring.

(1) General requirements. A groundwater system must conduct triggered source water monitoring if the conditions identified as follows exist:

1. The system does not provide at least 4-log treatment of viruses for each groundwater source; and
2. The system is notified that a sample collected under 41.2(1)*"e"* through 41.2(1)*"i"* is total coliform-positive, and the sample is not invalidated under 41.2(1)*"d."*

(2) Sampling requirements. A groundwater system must collect at least one groundwater source sample from each groundwater source in use at the time the total coliform-positive sample was collected under 41.2(1)*"e"* through 41.2(1)*"i"* that could have reasonably contributed to the positive sample. The source sample must be collected within 24 hours of when the system is notified of the total coliform-positive sample.

1. The department may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the groundwater source water sample within 24 hours due to circumstances beyond the system's control. In the case of an extension, the department must specify how much time the system has to collect the sample.

2. A groundwater system serving 1,000 or fewer people may use a repeat sample collected from a groundwater source to meet both the requirements of 41.2(1)*"j"* and to satisfy the monitoring requirements of 41.7(3)*"a"* if:

- The department approves the use of *E. coli* as the fecal indicator,
- The system only has one groundwater source required to be sampled,
- The system has no treatment, and
- Should the source water sample be *E. coli*-positive, the system would incur an acute coliform bacteria maximum contaminant level violation, must comply with Tier 1 public notification requirements, and must also comply with the additional sample monitoring in 41.7(3)*"a"*(3).

(3) Additional samples required. Unless the department requires corrective action for a valid triggered source water sample that tested positive for the fecal indicator, the system must collect five additional source water samples from that same source within 24 hours of being notified of the fecal indicator-positive sample result.

(4) Further requirements for consecutive and wholesale systems.

1. In addition to the other requirements in 41.7(3)*"a,"* a consecutive groundwater system that has a total coliform-positive sample collected under 41.2(1)*"f"* through 41.2(1)*"i"* must notify the wholesale system(s) within 24 hours of being notified of the total coliform-positive sample.

2. In addition to the other requirements in 41.7(3)*"a,"* a wholesale groundwater system that does not provide the 4-log treatment of viruses as described in 41.7(3) must comply with the following:

- A wholesale groundwater system that receives notice from a consecutive system it serves that a sample collected under 41.2(1)*"f"* through 41.2(1)*"i"* is total coliform-positive must, within 24 hours of being notified, collect triggered sample(s) from its groundwater source(s) under 41.7(3)*"a"*(2) and analyze the sample(s) for a fecal indicator.
- If the triggered source sample(s) is fecal indicator-positive, the wholesale groundwater system must notify all consecutive systems served by that groundwater source of the fecal indicator-positive result within 24 hours of being notified of the result and must collect the required additional five samples from the source within 24 hours under 41.7(3)*"a"*(3).

(5) Exceptions to the triggered source water monitoring requirements. A groundwater system is not required to comply with the source water monitoring requirements of 41.7(3)*"a"* if either of the following conditions exists:

1. The department determines and documents in writing that the total coliform-positive sample collected under 41.2(1)*"e"* through 41.2(1)*"i"* is caused by a distribution system deficiency; or

2. The total coliform-positive sample collected under 41.2(1)*"e"* through 41.2(1)*"i"* is collected at a location that meets department criteria for distribution system conditions that will cause total coliform-positive samples.

b. Assessment source water monitoring. If directed by the department, groundwater systems must conduct assessment source water monitoring that meets department-determined requirements for such monitoring. A groundwater system conducting assessment source water monitoring may use a triggered source water sample collected under 41.7(3)*"a"*(2) to meet the requirements of this paragraph. Department-determined assessment source water monitoring requirements may include:

(1) Collection of a total of 12 groundwater source samples that represent each month the system provides groundwater to the public;

(2) Collection of samples from each well unless the system obtains written department approval to conduct monitoring at one or more wells within the groundwater system that are representative of multiple wells used by that system and that draw water from the same hydrogeologic setting;

(3) Collection of a standard sample volume of at least 100 mL for fecal indicator analysis regardless of technical indicator or analytical method used;

(4) Analysis of all groundwater source samples using one of the analytical methods listed in 41.7(3)*"c"* for the presence of *E. coli*, enterococci, or coliphage;

(5) Collection of groundwater source samples at a location before any treatment of the groundwater source unless the department approves a sampling location after treatment; and

(6) Collection of groundwater source samples at the well itself unless the system's configuration does not allow for sampling at the well itself and the department approves an alternate sampling location that is representative of the water quality of that well.

c. Analytical methods.

(1) A groundwater system subject to the source water monitoring requirements of this rule must collect a standard sample volume of at least 100 mL for fecal indicator analysis regardless of the fecal indicator or analytical method used.

(2) A groundwater system must analyze all groundwater source samples collected under 567—41.7(455B) using one of the analytical methods in the following table for the presence of *E. coli*, enterococci, or coliphage.

Analytical Methods for Source Water Monitoring

Fecal Indicator[1]	Methodology	Method Citation
E. coli	Colilert[3]	9223B[2, 12, 13] 9223 B-97, B-04[18]
	Colisure[3]	9223B[2, 12, 13] 9223B-97, B-04[18]
	Membrane filter method with MI agar	EPA Method 1604[4]
	Colilert-18	9223B[2, 12, 13] 9223B-97, B-04[18]
	m-ColiBlue24 Test[5]	
	E*Colite Test[6]	
	EC-MUG[7]	9221F[2, 13] 9221 F-06[18]
	NA-MUG[7]	9222G[2]
	Readycult	Readycult[14]
	Colitag	Modified Colitag[15]
	Chromocult	Chromocult[16]
	Tecta EC/TC	Tecta EC/TC[19]
Enterococci	Multiple-tube technique	9230B[2] 9230 B-04[18]
	Membrane filter technique	9230C[2]
	Membrane filter technique	EPA Method 1600[8]
	Enterolert[9]	
Coliphage	Two-step enrichment presence-absence procedure	EPA Method 1601[10], FastPhage[17]
	Single agar layer procedure	EPA Method 1602[11]

Analyses must be conducted in accordance with the documents listed below. The Director of the Federal Register approves the incorporation by reference of the documents listed in footnotes 2 through 11 in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Copies may be inspected at EPA's Drinking Water Docket, EPA West, 1301 Constitution Avenue, NW, EPA West Room B102, Washington, DC 20460; (telephone: (202)566-2426); or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202)741-6030, or go to: www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. The address for EPA's Water Resource Center, referenced in several of the footnotes, is EPA Water Resource Center (RC-4100T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

[1]The time from sample collection to initiation of analysis may not exceed 30 hours. The groundwater system is encouraged but is not required to hold samples below 10°C during transit.

[2]Methods are described in Standard Methods for the Examination of Water and Wastewater, 20th edition (1998), and copies may be obtained from the American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[3]Medium is available through IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, ME 04092.

[4]EPA Method 1604: Total Coliforms and *Escherichia coli* in Water by Membrane Filtration Using a Simultaneous Detection Technique (MI Medium); September 2002, EPA 821-R-02-024. Method is available at www.nemi.gov.

[5]A description of the m-ColiBlue24 Test, "Total Coliforms and *E. coli* Membrane Filtration Method with m-ColiBlue24 Broth," Method No. 10029, Revision 2, August 17, 1999, is available from Hach Company, 100 Dayton Avenue, Ames, IA 50010.

[6]A description of the E*Colite Test, "Charm E*Colite Presence/Absence Test for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Drinking Water," January 9, 1998, is available from Charm Sciences, Inc., 659 Andover Street, Lawrence, MA 01843-1032.

[7]EC-MUG (Method 9221F) or NA-MUG (Method 9222G) can be used for *E. coli* testing step as described in 41.2(1)*"f"*(6) or (7) after use of Standard Method 9221B, 9221D, 9222B, or 9222C.

[8]EPA Method 1600: Enterococci in Water by Membrane Filtration Using Membrane-Enterococcus Indoxyl-β-D-Glucoside Agar (MEI), EPA 821-R-02-022 (September 2002), is an approved variation of Standard Method 9230C. The method is available at www.nemi.gov. The holding time and temperature for groundwater samples is specified in footnote 1 above, rather than as specified in Section 8 of EPA Method 1600.

[9]Medium is available through IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, ME 04092. Preparation and use of the medium is set forth in the article "Evaluation of Enterolert for Enumeration of Enterococci in Recreational Waters" by Budnick, G.E., Howard, R.T., and Mayo, D.R., 1996, Applied and Environmental Microbiology, 62:3881-3884.

[10]EPA Method 1601: Male-Specific (F+) and Somatic Coliphage in Water by Two-Step Enrichment Procedure; April 2001, EPA 821-R-01-030. Method is available at www.nemi.gov.

[11]EPA Method 1602: Male-Specific (F+) and Somatic Coliphage in Water by Single Agar Layer (SAL) Procedure; April 2001, EPA 821-R-01-029. Method is available at www.nemi.gov.

[12]Standard Methods for the Examination of Water and Wastewater, 21st edition (2005). Available from the American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[13]Standard Methods for the Examination of Water and Wastewater, 22nd edition (2012). Available from the American Public Health Association, 800 I Street, NW, Washington, DC 20001-3710.

[14]Readycult Method, "Readycult Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters," January 2007, Version 1.1. Available from EMD Millipore, 290 Concord Road, Billerica, MA 01821.

[15]Modified Colitag Method, "Modified Colitag Test Method for the Simultaneous Detection of *E. coli* and Other Total Coliforms in Water (ATP D05-0035)," August 28, 2009. Available from www.nemi.gov or CPI International, 5580 Skylane Blvd., Santa Rosa, CA 95403.

[16]Chromocult Method, "Chromocult Coliform Agar Presence/Absence Membrane Filter Test Method for Detection and Identification of Coliform Bacteria and *Escherichia coli* in Finished Waters," November 2000, Version 1.0. Available from EMD Millipore, 290 Concord Road, Billerica, MA 01821.

[17]Charm Sciences, Inc., "FastPhage Test Procedure. Presence/Absence for Coliphage in Ground Water with Same Day Positive Prediction," Version 009, November 2012. Available at www.charmsciences.com.

[18]Standard Methods Online is available at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[19]Tecta EC/TC. "Presence/Absence Method for Simultaneous Detection of Total Coliforms and *Escherichia coli* in Drinking Water," April 2014. Available from Veolia Water Solutions and Technologies, Suite 4697, Biosciences Complex, 116 Barrie Street, Kingston, Ontario, Canada K7L 3N6.

d. Invalidation of a fecal indicator-positive groundwater source sample.

(1) A groundwater system may obtain invalidation from the department of a fecal indicator-positive groundwater source sample collected under 41.7(3)*"a"* only under these conditions:

1. The system provides the department with written notice from the laboratory that improper sample analysis occurred; or

2. The department determines and documents in writing that there is substantial evidence that a fecal indicator-positive groundwater source sample is not related to source water quality.

(2) If the department invalidates a fecal indicator-positive groundwater source sample, the system must collect another source water sample under 41.7(3)*"a"* within 24 hours of being notified by the department of its invalidation decision. The sample must be analyzed for the same fecal indicator using the analytical methods in 41.7(3)*"c."* The department may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the source water sample within 24 hours due to circumstances beyond the system's control. In the case of an extension, the department must specify how much time the system has to collect the sample.

e. Sampling location.

(1) Any groundwater source sample required under 41.7(3)*"a"* must be collected at a location prior to any treatment of the groundwater source unless the department approves a sampling location after treatment.

(2) If the system's configuration does not allow for sampling at the well itself, the system may collect a sample at a department-approved location to meet the requirements of 41.7(3)*"a"* if the sample is representative of the water quality of that well.

f. New sources. A groundwater system that places a new groundwater source into service must conduct assessment source water monitoring as directed by the department to include those items listed in 41.7(3)*"b"*(3) to (6). If directed by the department, the system must begin monitoring before the groundwater source is used to provide water to the public.

g. Public notification. A system with a groundwater source sample collected under 41.7(3)*"a"* or 41.7(3)*"b"* that is fecal indicator-positive and that is not invalidated under 41.7(3)*"d,"* including consecutive systems served by the groundwater source, must conduct Tier 1 public notification under 567—subrule 42.1(2).

h. Monitoring violations. Failure to meet the requirements of 41.7(3)*"a"* through 41.7(3)*"f"* is a monitoring violation and requires the system to provide Tier 3 public notification under 567—subrule 42.1(4).

41.7(4) *Treatment technique requirements for groundwater systems.*

a. Groundwater systems with significant deficiencies or source water fecal contamination.

(1) The treatment technique requirements of this subrule, 41.7(4), must be met by groundwater systems when a significant deficiency is identified or when a groundwater source sample collected under 41.7(3)*"a"*(3) is fecal indicator-positive.

(2) If directed by the department, a groundwater system with a groundwater source sample collected under 41.7(3)*"a"*(2), 41.7(3)*"a"*(4), or 41.7(3)*"b"* that is fecal indicator-positive must comply with the treatment technique requirements of 41.7(4).

(3) When a significant deficiency is identified at a surface water or influenced groundwater system that also uses a groundwater source not under the influence of surface water, the system must comply with provisions of 41.7(4)*"a"* except in cases where the department determines that the significant deficiency is in a portion of the distribution system that is served solely by the surface water or influenced groundwater source.

(4) Unless the department directs the groundwater system to implement a specific corrective action, the groundwater system must consult with the department regarding the appropriate corrective action within 30 days of receiving written notice from the department of a significant deficiency, written notice from a laboratory that a groundwater source sample collected under 41.7(3)*"a"*(3) was found to be fecal

indicator-positive, or direction from the department that a fecal indicator-positive sample collected under 41.7(3)*"a"*(2), 41.7(3)*"a"*(4), or 41.7(3)*"b"* requires corrective action. For the purposes of 41.7(4), significant deficiencies include, but are not limited to, defects in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the department determines to be causing, or have potential for causing, the introduction of contamination into the water delivered to consumers.

(5) Within 120 days, or earlier if directed by the department, of receiving written notification from the department of a significant deficiency, written notice from a laboratory that a groundwater source sample collected under 41.7(3)*"a"*(3) was found to be fecal indicator-positive, or direction from the department that a fecal indicator-positive sample collected under 41.7(3)*"a"*(2), 41.7(3)*"a"*(4), or 41.7(3)*"b"* requires corrective action, the groundwater system must either:

1. Have completed corrective action in accordance with applicable department plan review processes or other department guidance or direction, if any, including department-specified interim measures; or

2. Be in compliance with a department-approved corrective action plan and schedule subject to the specified conditions as follows:

- Any subsequent modifications to a department-approved corrective action plan and schedule must also be approved by the department; and
- If the department specifies interim measures for protection of the public health pending department approval of the corrective action plan and schedule, or pending completion of the corrective action plan, the system must comply with these interim measures as well as with any schedule specified by the department.

(6) Corrective action alternatives. Groundwater systems that meet the conditions of 41.7(4)*"a"*(1) or (2) must implement one or more of the following corrective action alternatives:

1. Correct all significant deficiencies;
2. Provide an alternate source of water;
3. Eliminate the source of contamination; or
4. Provide treatment that reliably achieves at least 4-log treatment of viruses for the groundwater source.

(7) Special notice to the public of significant deficiencies or source water fecal contamination.

1. In addition to the applicable Tier 1 public notification requirements of 567—subrule 42.1(2), a community groundwater system that receives notice from the department of a significant deficiency or notification of a fecal indicator-positive groundwater source sample that is not invalidated by the department under 41.7(3)*"d"* must inform the public served by the water system under 567—subparagraph 42.3(3)*"h"*(5) of the fecal indicator-positive source sample or of any significant deficiency that has not been corrected. The system must continue to inform the public annually until the significant deficiency is corrected or the fecal contamination in the groundwater source is determined by the department to be corrected under 41.7(3)*"a"*(5).

2. In addition to the applicable Tier 1 public notification requirements of 567—subrule 42.1(2), a noncommunity groundwater system that receives notice from the department of a significant deficiency must inform the public served by the water systems in a manner approved by the department of any significant deficiency that has not been corrected within 12 months of being notified by the department or earlier if directed by the department. The system must continue to inform the public annually until the significant deficiency is corrected. The information must include:

- The nature of the significant deficiency and the date the significant deficiency was identified by the department;
- The department-approved plan and schedule for correction of the significant deficiency, including interim measures, progress to date, and any interim measures completed; and
- For systems with a large proportion of non-English speaking consumers, as determined by the department, information in the applicable language(s) regarding the importance of the notice or a telephone number or address where consumers may contact the system to obtain a translated copy of the notice or assistance in the appropriate language.

3. If directed by the department, a noncommunity water system with significant deficiencies that have been corrected must inform its customers of the significant deficiencies, how the deficiencies were corrected, and the dates of correction under 41.7(4)*"a"*(7)"2."

b. Compliance monitoring.

(1) Existing groundwater sources. A groundwater system that provides at least 4-log treatment of viruses must make a written application to the department in order to avoid the source water monitoring requirements of 41.7(3). Notification to the department must include engineering, operational, or other information that the department requests to evaluate the submission. The department must approve the 4-log request in writing before the system can avoid the groundwater source monitoring requirements. The system's operation permit will include the mandatory operational requirements for the approved 4-log virus treatment. If the system subsequently discontinues 4-log treatment of viruses of a groundwater source or no longer wishes to be exempt from the groundwater source monitoring requirements, the system must conduct groundwater source monitoring as required under 41.7(3).

(2) New groundwater sources. A groundwater system that places a groundwater source in service that is not required to meet the source water monitoring requirements of 41.7(4) because the system provides at least 4-log treatment of viruses for the groundwater source must comply with the following requirements:

1. The system must notify the department in writing that it provides at least 4-log treatment of viruses for the groundwater source. Notification to the department must include engineering, operational, or other information that the department requests to evaluate the submission. The contact time values for inactivation of viruses using free chlorine, chlorine dioxide, and ozone are listed in 567—Chapter 43, Appendix C. No CT table is provided for chloramines and total chlorine because the CT values would be prohibitively high for groundwater systems.

2. The system must conduct compliance monitoring as required under 41.7(4)*"b"*(3) within 30 days of placing the source in service.

3. The system must conduct groundwater source monitoring under 41.7(3) if the system subsequently discontinues 4-log treatment of viruses for the groundwater source.

(3) Monitoring requirements. A groundwater system subject to the requirements of 41.7(4)*"a"* and 41.7(4)*"b"*(1) and (2) must monitor the effectiveness and reliability of treatment for that groundwater source before or at the first customer as follows:

1. Chemical disinfection.

- A groundwater system serving more than 3,300 people must continuously monitor the residual disinfectant concentration, using analytical methods specified in 567—subparagraph 43.5(4)*"a"*(5), at a location approved by the department and must record the lowest residual disinfectant concentration each day that water from the groundwater source is served to the public. The groundwater system must maintain the department-determined minimum residual disinfectant concentration every day the groundwater system serves water from the groundwater source to the public. If there is a failure in the continuous monitoring equipment, the groundwater system must conduct grab sampling every four hours until the continuous monitoring equipment is returned to service. The system must resume continuous residual disinfectant monitoring within 14 days.
- A groundwater system serving 3,300 or fewer people must monitor the residual disinfectant concentration using analytical methods specified in 567—subparagraph 43.5(4)*"a"*(5) at a location approved by the department and must record the residual disinfectant concentration each day that water from the groundwater source is served to the public. The groundwater system must maintain the department-determined minimum residual disinfectant concentration every day the groundwater system serves water from the groundwater source to the public. The groundwater system must take a daily grab sample during the hour of peak flow or at another time specified by the department. If any daily grab sample measurement falls below the department-determined minimum residual disinfectant concentration, the groundwater system must take follow-up samples every four hours until the residual disinfectant concentration is restored to the department-determined minimum level. Alternatively, a groundwater system that serves 3,300 or fewer people may monitor continuously and meet the requirements of 41.7(4)*"b"*(3)"1," first bulleted paragraph.

2. Membrane filtration. A groundwater system that uses membrane filtration to meet the requirements of 41.7(4)*"b"* to provide at least 4-log treatment of viruses must monitor the membrane filtration process in accordance with all department-specified monitoring requirements and must operate the membrane filtration in accordance with all department-specified compliance requirements. A groundwater system that uses membrane filtration is in compliance with the requirement to achieve at least 4-log removal of viruses when:

- The membrane has an absolute molecular weight cut-off (MWCO), or an alternate parameter that describes the exclusion characteristics of the membrane, that can reliably achieve at least 4-log removal of viruses;
- The membrane process is operated in accordance with department-specified compliance requirements; and
- The integrity of the membrane is intact.

3. Alternative treatment. A groundwater system that uses a department-approved alternative treatment to meet the requirements of 41.7(4)*"b"* by providing at least 4-log treatment of viruses must:

- Monitor the alternative treatment in accordance with all department-specified monitoring requirements; and
- Operate the alternative treatment in accordance with all compliance requirements that the department determines to be necessary to achieve at least 4-log treatment of viruses.

c. Discontinuing treatment. A groundwater system may discontinue 4-log treatment of viruses for a groundwater source if the department determines and documents in writing that 4-log treatment of viruses is no longer necessary for that groundwater source. A system that discontinues 4-log treatment of viruses is subject to the source water monitoring and analytical methods requirements of 41.7(3).

d. Monitoring violation. Failure to meet the monitoring requirements of 41.7(4)*"b"* is a monitoring violation and requires the groundwater system to provide Tier 3 public notification under 567—subrule 42.1(4).

41.7(5) *Treatment technique violations for groundwater systems.* A groundwater system must give Tier 2 public notification under 567—subrule 42.1(3) for the treatment technique violations specified in 41.7(5)*"a,"* 41.7(5)*"b,"* and 41.7(5)*"c."*

a. Significant deficiency. A groundwater system with a significant deficiency is in violation of the treatment technique requirement if, within 120 days (or earlier if directed by the department) of receiving written notice from the department of the significant deficiency, the system:

(1) Does not complete corrective action in accordance with any applicable department plan review processes or other department guidance and direction, including department-specified interim actions and measures; or

(2) Is not in compliance with a department-approved corrective action plan and schedule.

b. Fecal indicator-positive source sample. Unless the department invalidates a fecal indicator-positive groundwater source sample under 41.7(3)*"d"*(1), a groundwater system is in violation of the treatment technique requirement if, within 120 days (or earlier if directed by the department) of meeting the conditions of 41.7(4)*"a"*(1) or (2), the system:

(1) Does not complete corrective action in accordance with any applicable department plan review processes or other department guidance and direction, including department-specified interim measures; or

(2) Is not in compliance with a department-approved corrective action plan and schedule.

c. Failure to maintain 4-log treatment. A groundwater system subject to the requirements of 41.7(4)*"b"*(3) that fails to maintain at least 4-log treatment of viruses for a groundwater source is in violation of the treatment technique requirement if the failure is not corrected within four hours of the determination that the system is not maintaining at least 4-log treatment of viruses before or at the first customer.

41.7(6) *Reporting and record keeping for groundwater systems.*

a. Reporting. In addition to meeting the requirements of 567—subrule 42.4(1), a groundwater system regulated under this rule must provide the following information to the department:

(1) A groundwater system conducting compliance monitoring under 41.7(4)*"b"* must notify the department any time the system fails to meet any of the department-specified requirements for 4-log virus treatment including, but not limited to, minimum residual disinfectant concentration, membrane operating criteria or membrane integrity, and alternative treatment operating criteria, if operation in accordance with the criteria or requirements is not restored within four hours. The groundwater system must notify the department as soon as possible, but in no case later than the end of the next business day.

(2) After completing any corrective action under 41.7(4)*"a,"* a groundwater system must notify the department within 30 days of completion of the corrective action.

(3) If a groundwater system subject to the requirements of 41.7(3)*"a"* does not conduct source water monitoring under 41.7(3)*"a"*(5)"2," the system must provide documentation to the department within 30 days of the total coliform-positive sample that it met the department's criteria.

b. Record keeping. In addition to the requirements in 567—subrule 42.5(1), a groundwater system regulated under this rule must maintain the following information in its records:

(1) Documentation of corrective actions, which must be kept for a period of not less than ten years.

(2) Documentation of notice to the public as required under 41.7(4)*"a"*(7), which must be kept for a period of not less than three years.

(3) Records of decisions under 41.7(3)*"a"*(5)"2" and records of invalidation of fecal indicator-positive groundwater source samples under 41.7(3)*"d"*(1), both of which must be kept for a period of not less than five years.

(4) For consecutive systems, documentation of notification to the wholesale system(s) of total coliform-positive samples that are not invalidated under 41.2(1)*"d,"* which must be kept for a period of not less than five years.

(5) For systems, including wholesale systems, that are required to perform compliance monitoring under 41.7(4)*"b"*(1), the following documentation must be maintained:

1. Records of the department-specified minimum disinfectant residual, which must be kept for a period of not less than ten years.

2. Records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the department-prescribed minimum residual disinfectant concentration for a period of more than four hours, both of which must be kept for a period of not less than five years.

ITEM 32. Amend subparagraph **41.8(1)"d"(1)** as follows:

(1) Radionuclide Analytical Methodology Table.

RADIONUCLIDE ANALYTICAL METHODOLOGY

Contaminant	Methodology	Reference (method or page number)								
		EPA[1]	EPA[2]	EPA[3]	EPA[4]	SM[5]	ASTM[6]	USGS[7]	DOE[8]	Other
Naturally occurring:										
Gross alpha[11] & beta	Evaporation	900.0	p. 1	00-01	p. 1	302, 7110B, 7110 B-00		R-1120-76		
Gross alpha[11]	Co-precipitation			00-02		7110C, 7110 C-00				
Radium-226	Radon emanation	903.1	p. 16	Ra-04	p. 19	305, 7500-Ra C, 7500Ra C-01	D 3454-97, 05	R-1141-76	Ra-04	NY[9]
	Radiochemical	903.0	p. 13	Ra-03		304, 7500-Ra B, 7500-Ra B-01	D 2460-97, 07	R-1140-76		GA[14]
Radium-228	Radiochemical	904.0	p. 24	Ra-05	p. 19	7500-Ra D, 7500-Ra D-01		R-1142-76		NY[9] NJ[10] GA[14]
Uranium[12]	Radiochemical	908.0				7500-U B, 7500-U B-00				
	Fluorometric	908.1				7500-U C (17th edition)	D 2907-97	R-1180-76 R-1181-76	U-04	
	ICP-MS	200.8[13]				3125	D 5673-03, 05, 10			
	Alpha spectrometry			00-07	p. 33	7500-U C, 7500-U C-00	D 3972-97, 02, 09	R-1182-76	U-02	
	Laser phosphorimetry						D 5174-97, 02, 07			
	Alpha liquid scintillation spectrometry						D 6239-09			
Man-made:										
Radioactive Cesium	Radiochemical	901.0	p. 4			7500-Cs B, 7500-Cs B-00	D 2459-72	R-1111-76		

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Contaminant	Methodology	Reference (method or page number)								
		EPA[1]	EPA[2]	EPA[3]	EPA[4]	SM[5]	ASTM[6]	USGS[7]	DOE[8]	Other
	Gamma ray spectrometry	901.1			p. 92	7120, 7120-97	D 3649-91, 98a, 06	R-1110-76	4.5.2.3	
Radioactive Iodine	Radiochemical	902.0	p. 6 p. 9			7500-I B, 7500-I B-00 7500-I C, 7500-I C-00 7500-I D, 7500-I D-00	D 3649-91, 98a, 06			
	Gamma ray spectrometry	901.1			p. 92	7120, 7120-97	D 4785-93, 00a, 08		4.5.2.3	
Radioactive Strontium 89, 90	Radiochemical	905.0	p. 29	Sr-04	p. 65	303, 7500-Sr B, 7500-Sr B-01		R-1160-76	Sr-01 Sr-02	
Tritium	Liquid scintillation	906.0	p. 34	H-02	p. 87	306, 7500-^{3}H B, 7500-^{3}H B-00	D 4107-91, 98 (Reapproved 2002), 08	R-1171-76		
Gamma emitters	Gamma ray spectrometry	901.1 902.0 901.0			p. 92	7120 7500-Cs B, 7500-Cs B-00 7500-I B, 7500-I B-00	D 3649-91, 98a, 06 D 4785-93, 00a, 08	R-1110-76	Ga-01-R	

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of documents 1 through 10 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at (800)426-4791. Documents may be inspected at EPA's Drinking Water Docket, EPA West, 1301 Constitution Avenue, NW, Room B135, Washington, DC 20460 (telephone (202)566-2426); or at the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

[1]"Prescribed Procedures for Measurement of Radioactivity in Drinking Water," EPA 600/4-80-032, August 1980. Available at the US Department of Commerce, NTIS, 5285 Port Royal Road, Springfield, VA 22161 (telephone (800)553-6847) PB 80-224744.

[2]"Interim Radiochemical Methodology for Drinking Water," EPA 600/4-75-008(revised), March 1976. Available at NTIS, ibid. PB 253258.

[3]"Radiochemistry Procedures Manual," EPA 520/5-84-006, December 1987. Available at NTIS, ibid. PB 84-215581.

[4]"Radiochemical Analytical Procedures for Analysis of Environmental Samples," March 1979. Available at NTIS, ibid. EMSL LV 053917.

[5]Standard Methods for the Examination of Water and Wastewater, 13th, 17th, 18th, 19th, ~~or~~ 20th, 21st, and 22nd editions, 1971, 1989, 1992, 1995, 1998, 2005, and 2012. Available at American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710. Methods 302, 303, 304, 305, and 306 are only in the 13th edition. Methods 7110B, 7500-Ra B, 7500-Ra C, 7500-Ra D, 7500-U B, 7500-Cs B, 7500-I B, 7500-I C, 7500-I D, 7500-Sr B, 7500-3H B are in the 17th, 18th, 19th, ~~and~~ 20th, 21st, and 22nd editions. Method 7110C ~~is~~ and Method 7500-U C Alpha spectrometry are in the 18th, 19th, ~~and~~ 20th, 21st, and 22nd editions. Method 7500-U C Fluorimetric Uranium is only in the 17th ~~edition~~ and 21st editions. ~~Method 7500-U C Alpha spectrometry is only in the 18th, 19th, and 20th editions.~~ Method 7120 is only in the 19th, ~~and~~ 20th, 21st, and 22nd editions. Method 3125 is only in the 20th edition. Methods 7110 B-00, 7110 C-00, 7500-Ra B-01, 7500-Ra C-01, 7500-Ra D-01, 7500-U B-00, 7500-U C-00, 7500-I B-00, 7500-I C-00, 7500-I D-00, 7120-97, 7500-Sr B-01, and 7500-^{3}H B-00 are available online at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[6]Annual Book of ASTM Standards, ~~Vol.~~ Volumes 11.01 and 11.02, ~~1999~~ 2002. Any year containing the cited version of the method may be used. Available at ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[7]"Methods for Determination of Radioactive Substances in Water and Fluvial Sediments," Chapter A5 in Book 5 of Techniques of Water-Resources Investigations of the United States Geological Survey, 1977. Available at ~~US~~ U.S. Geological Survey (USGS) Information Services, Box 25286, Federal Center, Denver, CO 80225-0425.

[8]"EML Procedures Manual," 28th (1997) or 27th (1990) ~~editions~~ edition, Volumes 1 and 2; either edition may be used. In the 27th edition, Method Ra-04 is listed as Ra-05, and Method Ga-01-R is listed as Sect. 4.5.2.3. Available at the Environmental Measurements Laboratory, ~~US~~ U.S. Department of Energy (DOE), 376 Hudson Street, New York, NY 10014-3621.

[9]"Determination of Ra-226 and Ra-228 (Ra-02)," January 1980, revised June 1982. Available at Radiological Sciences Institute Center for Laboratories and Research, New York State Department of Health, Empire State Plaza, Albany, NY 12201.

[10]"Determination of Radium-228 in Drinking Water," August 1980. Available at State of New Jersey, Department of Environmental Protection, Division of Environmental Quality, Bureau of Radiation and Inorganic Analytical Services, 9 Ewing Street, Trenton, NJ 08625.

[11]Natural uranium and thorium-230 are approved as gross alpha calibration standards for gross alpha with co-precipitation and evaporation methods; americium-241 is approved with co-precipitation methods.

[12]If uranium (U) is determined by mass, a 0.67 pCi/μg of uranium conversion factor must be used. This conversion factor is based on the 1:1 activity ratio of U-234 to U-238 that is characteristic of naturally occurring uranium.

[13]"Determination of Trace Elements in Waters and Wastes by Inductively Coupled Plasma-Mass Spectrometry," Revision 5.4, which is published in "Methods for the Determination of Metals in Environmental Samples – Supplement 1," EPA 600-R-94-111, May 1994. Available at NTIS, PB 95-125472.

[14]"The Determination of Radium-226 and Radium-228 in Drinking Water by Gamma-Ray Spectrometry Using HPGW or Ge(Li) Detectors," Revision 1.2, December 2004. Available from Environmental Resources Center, Georgia Institute of Technology, 620 Cherry Street, Atlanta, GA 30332-0335; telephone: (404)894-3776.

ITEM 33. Amend subparagraph **42.1(2)"a"(1)** as follows:

(1) Violation of the MCL for ~~total coliforms when fecal coliform or~~ *E. coli* ~~are present in the water distribution system~~, as specified in 567—paragraph ~~41.2(1)*"b."*~~ 41.2(1)*"a."*

ITEM 34. Rescind and reserve subparagraph **42.1(2)"a"(2)**.

ITEM 35. Adopt the following **new** subparagraph **42.1(2)"a"(11)**:

(11) Detection of *E. coli*, enterococci, or coliphage in source water samples, as specified in 567—paragraphs 41.7(3)*"a"* and 41.7(3)*"b."*

ITEM 36. Amend subparagraph **42.1(2)"b"(2)** as follows:

(2) Initiate consultation with the department as soon as practical, but no later than 24 hours after the system learns of the violation or situation, to determine additional public notice requirements. For consultation with department staff after normal business hours, the system should contact the department via the ~~Emergency Response~~ department's Environmental Emergency Reporting Hotline telephone number ~~(515)281-8694~~ (515)725-8694; and

ITEM 37. Amend paragraph **42.1(3)"a"** as follows:

a. Violations and situations which require Tier 2 notice. The following types of violations or situations require Tier 2 public notice:

(1) and (2) No change.

(3) Failure to comply with the requirements of any compliance schedule prescribed in an operation permit, administrative order, or court order pursuant to 567—subrule 43.2(5); ~~and~~

(4) Failure to comply with a health advisory as determined by the department~~.~~; and

(5) Failure to take corrective action or failure to maintain at least 4-log treatment of viruses (using inactivation, removal, or a department-approved combination of 4-log virus inactivation and removal) before or at the first customer under 567—paragraph 41.7(4)*"a."*

ITEM 38. Amend subparagraph **42.1(3)"b"(2)** as follows:

(2) The public water system must repeat the notice every three months as long as the violation or situation persists, unless the department determines that appropriate circumstances warrant a different repeat frequency. If the department determines that a repeat notice frequency of longer than every three months is allowed, that decision must be made in writing by the department and must be on a case-by-case basis. In no circumstance may the repeat notice be given less frequently than once per year. Repeat notices for a ~~total~~ coliform bacteria MCL, a treatment technique violation under 567—paragraph 41.2(1)*"a"* or 41.2(1)*"l,"* or a turbidity treatment technique violation under rule 567—43.9(455B) or 567—43.10(455B) must be made every three months or more frequently.

ITEM 39. Amend subparagraph **42.1(3)"b"(3)** as follows:

(3) A public water system using surface water or influenced groundwater with a treatment technique violation resulting from a single exceedance of the maximum allowable turbidity limit pursuant to ~~rule 567—43.5(455B) or~~ 567—43.9(455B) or 567—43.10(455B) must consult with the department as soon as practical, but no later than 24 hours after the public water system learns of the violation, to determine whether a Tier 1 or Tier 2 public notice is required to protect public health. For consultation with department staff after normal business hours, the system should contact the department via the department's Environmental Emergency Reporting Hotline telephone number (515)725-8694. If the consultation does not occur within the 24-hour period, the public water system must distribute a Tier 1 notice of the violation within the next 24 hours, or no later than 48 hours after the system learns of the violation, following the requirements of paragraphs 42.1(2)*"b"* and 42.1(2)*"c."*

ITEM 40. Amend paragraph **42.1(4)"a"** as follows:

a. Violations and situations which require Tier 3 notice. The following types of violations or situations require Tier 3 public notice:

(1) to (6) No change.

(7) Failure to retain a certified operator in accordance with 567—subrule 43.1(5) and the department determines that public notification is required; ~~and~~

(8) Failure to maintain records required under 567—Chapters 41, 42, and 43; and

~~(8)~~ (9) Any other situation where the department determines public notification is needed.

ITEM 41. Rescind rule 567—42.2(455B) and adopt the following **new** rule in lieu thereof:

567—42.2(455B) Lead consumer notice and public education for lead action level exceedance. All CWS and NTNC systems must comply with the lead consumer notice in accordance with 42.2(1). A CWS or NTNC system that exceeds the lead action level based on tap water samples collected in accordance with 567—paragraph 41.4(1)*"c"* must comply with the public education requirements in accordance with 42.2(2).

42.2(1) *Lead consumer notice.* All CWS and NTNC systems must provide a consumer notice of lead tap water monitoring results to persons served at the sites (taps) that are tested as listed in 567—42.2(455B). Any system exceeding the lead action level shall also implement the public education requirements of 42.2(2).

a. Reporting requirement. All CWS and NTNC systems must provide a notice of the individual tap results from lead tap water monitoring carried out under the requirements of 567—paragraph 41.4(1)*"c"* to the persons served by the water system at the specific sampling site from which the sample was taken (e.g., the occupants of the residence where the tap was tested).

b. Timing of notification. A water system must provide the consumer notice as soon as practical, but no later than 30 days after the system learns of the tap monitoring results.

c. Content of notice. The consumer notice must include the following:

(1) Results of the lead tap water monitoring for the tap that was tested,

(2) An explanation of the health effects of lead,

(3) A list of steps consumers can take to reduce exposure to lead in drinking water,

(4) Contact information for the water utility, and

(5) The lead maximum contaminant level goal of 0 mg/L and the 90th percentile lead action level of 0.015 mg/L and the definitions for these two terms from rule 567—40.2(455B).

d. Delivery of notice. The consumer notice must be provided to persons served at the tap that was tested, either by mail or by another method approved by the department. For example, upon approval by the department, an NTNC system could post the results on a bulletin board in the facility to allow users to review the information. The system must provide the notice to customers at sample taps tested, including consumers who do not receive water bills.

e. Inclusion of copper results. The system may also include results of copper testing in the notice along with the 90th percentile copper action level of 1.3 mg/L, copper MCLG of 1.3 mg/L, and health effects language.

42.2(2) *Lead public education for lead action level exceedance.* A water system that exceeds the lead action level based on tap water samples collected in accordance with 567—paragraph 41.4(1)*"c"* shall deliver the public education materials contained in 42.2(2)*"a"* in accordance with 42.2(2)*"b."* Water systems that exceed the lead action level must sample the tap water of any customer who requests it in accordance with 42.2(2)*"c."*

a. Content of written public education materials. CWS and NTNC systems must include the following elements in printed materials (e.g., brochures and pamphlets) in the same order as listed in this paragraph. In addition, language in 42.2(2)*"a"*(1), (2), and (6) must be included in the materials exactly as written, except for the text in brackets in these paragraphs for which the water system must substitute system-specific information. Any additional information presented by a water system must be consistent with the information in 42.2(2)*"a"* and be in plain language that can be understood by the general public. Water systems must submit all written public education materials to the department prior to delivery. The department may require the system to obtain approval of the content of written public education materials prior to delivery.

(1) The following information must be included exactly as written. "IMPORTANT INFORMATION ABOUT LEAD IN YOUR DRINKING WATER. [*Insert name of water system*] found elevated levels of lead in drinking water in some homes/buildings. Lead can cause serious health problems, especially for pregnant women and young children. Please read this information closely to see what you can do to reduce lead in your drinking water."

(2) The following information must be included exactly as written. "Health effects of lead. Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of your body. The greatest risk of lead exposure is to infants, young children, and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones, and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development."

(3) Sources of lead. The printed materials must:

1. Explain what lead is.

2. Explain possible sources of lead in drinking water and how lead enters drinking water and include information on home/building plumbing materials and service lines that may contain lead.

3. Discuss other important sources of lead exposure in addition to drinking water (e.g., paint).

(4) Discuss the steps the consumers can take to reduce their exposure to lead in drinking water as follows:

1. Encourage running the water to flush out the lead.

2. Explain concerns with using hot water from the tap and specifically caution against the use of hot water for preparing baby formula.

3. Explain that boiling the water does not reduce lead levels.

4. Discuss other options consumers can take to reduce exposure to lead in drinking water, such as alternative sources or treatment of water.

5. Suggest that parents have their child's blood tested for lead.

(5) The printed materials must explain why there are elevated levels of lead in the system's drinking water (if known) and what the water system is doing to reduce the lead levels in homes/buildings in this area.

(6) The following information must be included exactly as written. "For more information, call us at [*insert your telephone number*] or visit our website at [*insert your website link here*]. For more information on reducing lead exposure around your home/building and the health effects of lead, visit EPA's website at www.epa.gov/lead or contact your health care provider."

(7) Community water systems must also include the following elements:

1. Tell consumers how to get their water tested.

2. Discuss lead in plumbing components and the difference between low lead and lead free.

b. Delivery of public education materials.

(1) Outreach to non-English speaking consumers. For public water systems serving a large proportion of non-English speaking consumers, as determined by the department, the public education materials must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the public education materials or to request assistance in the appropriate language.

(2) Delivery of public education at CWS. A CWS that exceeds the lead action level on the basis of tap water samples collected in accordance with 567—paragraph 41.4(1)*"c"* and that is not already conducting public education tasks under 42.2(2) must conduct the public education tasks within 60 days of the date of notification of the action level exceedance:

1. Deliver printed materials meeting the content requirements of 42.2(2)*"a"* to all bill-paying customers.

2. Contact customers who are most at risk by delivering education materials that meet the content requirements of 42.2(2)*"a"* to local public health agencies even if they are not located within the water system's service area, along with an informational notice that encourages distribution to all the organization's potentially affected customers or CWS's users. The water system must contact the local public health agencies directly by phone or in person. The local public health agencies may provide a specific list of additional community-based organizations serving target populations, which may include organizations outside the service area of the water system. If such lists are provided, systems

must deliver education materials that meet the content requirement of 42.2(2)*"a"* to all organizations on the provided lists.

3. Contact customers who are most at risk by delivering materials that meet the content requirements of 42.2(2)*"a"* to the following organizations that are located within the water system's service area, along with an informational notice that encourages distribution to all the organization's potentially affected customers or community public water supply system's users:

- Public and private schools or school boards;
- Women, Infants, and Children (WIC) and Head Start programs;
- Public and private hospitals and medical clinics;
- Pediatricians;
- Family planning clinics; and
- Local welfare agencies.

4. Make a good-faith effort to locate the following organizations within the service area and to deliver to them materials that meet the content requirements of 42.2(2)*"a,"* along with an informational notice that encourages distribution to all potentially affected customers or users. The good-faith effort to contact at-risk customers may include requesting a specific contact list of these organizations from the local public health agencies, even if the agencies are not located within the water system's service area:

- Licensed child care centers;
- Public and private preschools;
- Obstetricians, gynecologists, and midwives.

5. No less often than quarterly, provide information on or in each water bill as long as the system exceeds the action level for lead. The message on the water bill must include the following statement exactly as written except for the text in brackets for which the water system must substitute system-specific information: "[*insert name of water system*] found high levels of lead in drinking water in some homes. Lead can cause serious health problems. For more information, please call [*insert telephone number of water system*] or visit [*insert your website link here*]."

The message or delivery mechanisms can be modified in consultation with the department; specifically, the department may allow a separate mailing of public education materials to customers if the water system cannot place the information on water bills.

6. Post material meeting the content requirements of 42.2(2)*"a"* on the water system's website if the system serves a population greater than 100,000.

7. Submit a press release to newspaper, television, and radio stations.

8. In addition to including those items previously listed, systems must implement at least three activities from one or more of the following categories. The educational content and selection of these activities must be determined in consultation with the department.

- Public service announcement;
- Paid advertisement;
- Public area information displays;
- Emails to customers;
- Public meetings;
- Household deliveries;
- Targeted individual customer contact;
- Direct material distribution to all multifamily homes and institutions; and
- Other methods approved by the department.

For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or if the department has established an alternate monitoring period, the last day of that period.

(3) Continuing public education at a CWS. As long as a CWS exceeds the action level, it must repeat the activities pursuant to 42.2(2)*"b"*(2) as follows:

1. A CWS shall repeat the tasks contained in 42.2(2)*"b"*(2)"1," "2," and "8" every 12 months.
2. A CWS shall repeat the tasks contained in 42.2(2)*"b"*(2)"5" with each billing cycle.

3. A CWS serving a population greater than 100,000 shall post and retain material on a publicly accessible website pursuant to 42.2(2)*"b"*(2)"6."

4. A CWS shall repeat the task in 42.2(2)*"b"*(2)"7" twice every 12 months on a schedule agreed upon with the department. The department can allow activities in 42.2(2)*"b"*(2) to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the department in advance of the 60-day deadline, and the system must already have initiated public education activities prior to the end of the 60-day deadline.

(4) Delivery of public education at an NTNC system. Within 60 days of the date of notification of the action level exceedance, an NTNC system shall deliver the public education materials specified as follows:

1. Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system; and

2. Distribute informational pamphlets or brochures on lead in drinking water to each person served by the nontransient noncommunity water system. The department may allow the system to utilize electronic transmission in lieu of or combined with printed materials as long as at least the same coverage is achieved. If the system serves children 18 years of age and under, such as a school or child care facility, the public education notice must be provided to the parents or legal guardians of the children.

For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs or, if the department has established an alternate monitoring period, the last day of that period.

(5) Continuing public education at an NTNC system. An NTNC system shall repeat the tasks contained in 42.2(2)*"b"*(4) at least once during each calendar year in which the system exceeds the lead action level. The department can allow activities in 42.2(2)*"b"*(4) to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the department in advance of the 60-day deadline, and the system must already have initiated public education activities prior to the end of the 60-day deadline.

(6) Discontinuation of public education activities. A CWS or NTNC system may discontinue delivery of public education materials if the system has met the lead action level during the most recent six-month monitoring period conducted pursuant to 567—paragraph 41.4(1)*"c."* Such system shall recommence public education in accordance with 42.2(2) if the system subsequently exceeds the lead action level during any monitoring period.

(7) Special population CWS allowance. A CWS that meets the following criteria may apply to the department in writing for reduced public education and notification requirements:

1. The CWS is a facility, such as a prison or hospital, where the population served is not capable of or is prevented from making improvements to plumbing or installing point-of-use treatment devices; and

2. The CWS provides water as part of the cost of services provided and does not separately charge for water consumption.

If the department approves the request in writing, the CWS is not required to include the language in 42.2(2)*"a"*(7) and must deliver the public education in accordance with 42.2(2)*"b"*(4) and (5), in lieu of 42.2(2)*"b"*(2) and (3).

(8) CWS serving 3,300 or fewer people. A CWS serving 3,300 or fewer people may limit certain aspects of its public education programs as follows:

1. The system must implement at least one of the activities listed in 42.2(2)*"b"*(2)"8."

2. The system may limit the distribution of the public education materials in 42.2(2)*"b"*(2)"2" and "3" to facilities and organizations served by the system that are most likely to be visited regularly by pregnant women and children.

3. The department may waive the requirements of 42.2(2)*"b"*(2)"7" for the system provided the system distributes notices to every household served by the system.

c. Supplemental monitoring and notification of results. A water system that fails to meet the lead action level on the basis of tap samples collected in accordance with 567—paragraph 41.4(1)*"c"* shall

offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the system itself required to collect and analyze the sample.

ITEM 42. Adopt the following **new** subparagraph **42.3(3)"b"(6)**:

(6) A report that contains information regarding a Level 1 or Level 2 assessment required under 567—subrule 41.2(1) must include the applicable definitions:

1. "Level 1 Assessment" is a study of the water system to identify potential problems and determine (if possible) why total coliform bacteria have been found in our water system.

2. "Level 2 Assessment" is a very detailed study of the water system to identify potential problems and determine (if possible) why an *E. coli* MCL violation has occurred or why total coliform bacteria have been found in our water system on multiple occasions.

ITEM 43. Rescind and reserve numbered paragraph **42.3(3)"c"(1)"6."**

ITEM 44. Amend numbered paragraph **42.3(3)"c"(1)"7"** as follows:

7. For ~~fecal coliform~~ *E. coli* analytical results under 567—subrule 41.2(1), the total number of positive samples.

ITEM 45. Amend subparagraph **42.3(3)"f"(3)** as follows:

(3) In order to ensure that tap water is safe to drink, the department prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. The United States Food and Drug Administration regulations establish limits for contaminants in bottled water which must provide the same protection for public ~~heath~~ health.

ITEM 46. Amend subparagraph **42.3(3)"g"(5)** as follows:

(5) ~~Lead 95th percentile levels above the action level (0.015 mg/L). Systems which detect lead above the action level in more than 5 percent (95th percentile) and up to and including 10 percent (90th percentile) of homes sampled.~~ Lead information statement for all CWS. Every report must include the following lead-specific information:

1. ~~Must include a short informational statement about the special impact of lead on children using language such as: Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested and flush your tap for 30 seconds to 2 minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline ((800)426-4791).~~ A short informational statement about lead in drinking water and the effects it has on children. The statement must include the following information:

"If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from material and components associated with service lines and home plumbing. [*insert name of system*] is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline (800)426-4791 or at www.epa.gov/safewater/lead."

2. ~~May~~ A system may write its own educational statement, but only in consultation with the department.

ITEM 47. Amend paragraph **42.3(3)"h"** as follows:

h. Additional mandatory report requirements.

(1) to (4) No change.

(5) Systems required to comply with 567—41.7(455B), the groundwater rule, must include the following when applicable:

1. Any groundwater system that receives notice from the department of a significant deficiency must inform its customers of any significant deficiency that is uncorrected at the time of the next report.

The system must continue to inform the public annually until the department determines that particular significant deficiency is corrected. Each report must include the following elements:

- The nature of the particular significant deficiency and the date the significant deficiency was identified by the department; and
- For each significant deficiency, the department-approved plan and schedule for correction, including interim measures, progress to date, and any interim measures completed.

Only if directed by the department, a system with significant deficiencies that have been corrected before the next report is issued must inform its customers of the significant deficiency, how the deficiency was corrected, and the date of correction.

2. Any groundwater system that receives notice from the department or laboratory of a fecal indicator-positive groundwater source sample that is not invalidated by the department under 567—paragraph 41.7(3)*"d"* must inform its customers of any fecal indicator-positive groundwater source sample in the next report. The system must continue to inform the public annually until the department determines that the fecal contamination in the groundwater source is addressed under 567—paragraph 41.7(4)*"a."* Each report must include the following elements:

- The source of the fecal contamination (if the source is known) and the dates of the fecal indicator-positive groundwater source samples;
- Whether the fecal contamination in the groundwater source has been addressed under 567—paragraph 41.7(4)*"a"* and the date of such action;
- For each fecal contamination in the groundwater source that has not been addressed under 567—paragraph 41.7(4)*"a,"* the department-approved plan and schedule for correction, including interim measures, progress to date, and any interim measures completed; and
- If the system receives notice of a fecal indicator-positive groundwater source sample that is not invalidated by the department under 567—paragraph 41.7(3)*"d,"* the potential health effects, using the "Fecal coliform or *E. coli*" or "Fecal Indicators (enterococci or coliphage)" health effects language of Appendix C in Chapter 42.

(6) Pursuant to 567—subrule 41.2(1), any system required to comply with the Level 1 assessment requirement or a Level 2 assessment requirement that is not due to an *E. coli* MCL violation must include in the report the text in 42.3(3)*"h"*(6)"1" to "3" as appropriate, filling in the blanks accordingly and including the text found in the bulleted paragraphs of 42.3(3)*"h"*(6)"4" if appropriate.

1. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that the potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments.

2. During the past year, we were required to conduct [*insert number of required Level 1 assessments*] Level 1 assessment(s). [*insert number of completed Level 1 assessments*] Level 1 assessment(s) were completed. In addition, we were required to take [*insert number of required corrective actions*] corrective actions, and we completed [*insert number of completed corrective actions*] of these actions.

3. During the past year, [*insert number of required Level 2 assessments*] Level 2 assessments were required to be completed for our water system. [*insert number of completed Level 2 assessments*] Level 2 assessment(s) were completed. In addition, we were required to take [*insert number of required corrective actions*] corrective actions, and we completed [*insert number of completed corrective actions*] of these actions.

4. Any system that has failed to complete all the required assessments or correct all identified sanitary defects is in violation of the treatment technique requirement and must also include one or both of the following statements, as appropriate:

- During the past year, we failed to conduct all of the required assessment(s).
- During the past year, we failed to correct all identified defects that were found during the assessment.

(7) Pursuant to 567—subrule 41.2(1), any system required to conduct a Level 2 assessment due to an *E. coli* MCL violation must include in the report the text in 42.3(3)*"h"*(7)"1" and "2" as appropriate, filling in the blanks accordingly and including the text found in the bulleted paragraphs of 42.3(3)*"h"*(7)"3" if appropriate.

1. *E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. We found *E. coli* bacteria, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments.

2. We were required to complete a Level 2 assessment because we found *E. coli* bacteria in our water system. In addition, we were required to take [*insert number of required corrective actions*] corrective actions and we completed [*insert number of completed corrective actions*] of these actions.

3. Any system that has failed to complete the required assessment or correct all identified sanitary defects is in violation of the treatment technique requirement and must also include one or both of the following statements, as appropriate:

- We failed to conduct the required assessment.
- We failed to correct all sanitary defects that were identified during the assessment that we conducted.

(8) Pursuant to 567—subrule 41.2(1), if a system detects *E. coli* and violated the *E. coli* MCL, in addition to completing the table as required in 42.3(3)*"c,"* the system must include one or more of the following statements to describe any noncompliance, as applicable:

1. We had an *E. coli*-positive repeat sample following a total coliform-positive routine sample.
2. We had a total coliform-positive repeat sample following an *E. coli*-positive routine sample.
3. We failed to take all required repeat samples following an *E. coli*-positive routine sample.
4. We failed to test for *E. coli* when any repeat sample tested positive for total coliform.

(9) Pursuant to 567—subrule 41.2(1), if a system detects *E. coli* and has not violated the *E. coli* MCL, in addition to completing the table as required in 42.3(3)*"c,"* the system may include a statement that explains that although the system has detected *E. coli*, the system is not in violation of the *E. coli* MCL.

ITEM 48. Amend paragraph **42.3(4)"c,"** introductory paragraph, as follows:

c. Waiver from mailing requirements for systems serving fewer than 10,000 persons. All community public water supply systems with fewer than 10,000 persons served will be granted the waiver, except for those systems which have the following: one or more exceedances of a maximum contaminant level, treatment technique, action level, or health advisory; an administrative order; a court order; significant noncompliance with monitoring or reporting requirements; or an extended compliance schedule contained in the operation permit. Even though a public water supply system has been granted a mailing waiver, subparagraphs 42.3(4)*"a"*(2) ~~to (4)~~ and (3) and paragraph 42.3(4)*"b"* still apply to all community public water supply systems. A mailing waiver is not allowed for the report covering the year during which one of the previously listed exceptions occurred. Systems which use the mailing waiver must:

ITEM 49. Amend paragraph **42.3(4)"d"** as follows:

d. Waiver from mailing requirements for systems serving 500 or fewer in population. All community public water supply systems serving 500 or fewer persons will be granted the waiver, except for those systems which have the following: one or more exceedances of a maximum contaminant level, treatment technique, action level, or health advisory; an administrative order; a court order; significant noncompliance with monitoring or reporting requirements; or an extended compliance schedule contained in the operation permit. Systems serving 500 or fewer persons which use the waiver may forego the requirements of subparagraphs 42.3(4)*"c"*(1) and (2) if they provide notice at least once per year to their customers by mail, door-to-door delivery, or by posting that the report is

available upon request, in conspicuous places within the area served by the system acceptable to the department. A mailing waiver is not allowed for the report covering the year during which one of the previously listed exceptions occurred. Even though a public water supply system has been granted a mailing waiver, subparagraphs 42.3(4)*"a"*(2) ~~to (4)~~ and (3) and paragraph 42.3(4)*"b"* still apply to all community public water supply systems.

ITEM 50. Adopt the following **new** paragraph **42.4(1)"d"**:

d. Groundwater rule. Additional reporting requirements for the groundwater rule are listed in 567—paragraph 41.7(6)*"a."*

ITEM 51. Adopt the following **new** paragraph **42.4(1)"e"**:

e. Coliform rule. Additional reporting requirements for the coliform rule are listed in 567—paragraph 41.2(1)*"n."*

ITEM 52. Amend subparagraph **42.4(2)"a"(1)**, introductory paragraph, as follows:

(1) Except as provided in 42.4(2)*"a"*(1)"8," a water system shall report the information specified below for all tap water samples specified in 567—paragraph 41.4(1)*"c"* and for all water quality parameter samples specified in 567—paragraph 41.4(1)*"d"* within the first ten days following the end of each applicable monitoring period specified in 567—41.4(455B) (i.e., every six months, annually, or every three years). For monitoring periods with a duration of less than six months, the end of the monitoring period is the last date samples can be collected during that period as specified in 567—paragraphs 41.4(1)*"c"* and 41.4(1)*"d."*

ITEM 53. Amend subparagraph **42.4(2)"a"(2)**, introductory paragraph, as follows:

(2) Certain systems that do not have enough taps that can provide first-draw samples that have met the six-hour stand time criteria, such as an NTNC that has 24-hour operation or a CWS that meets the criteria of ~~42.2(4)*"g"*(1) and (2)~~ 42.2(2)*"b"*(7), must either:

ITEM 54. Amend subparagraph **42.4(2)"a"(3)** as follows:

(3) ~~No later than 60 days after the addition of a new source or any change in water treatment, unless the department specifies earlier notification~~ At a time specified by the department or, if no specific time is designated by the department, then as early as possible prior to the addition of a new source or any long-term change in water treatment, a water system that has optimized corrosion control under 567—subparagraph 43.7(1)*"b"*(3), a water system subject to reduced monitoring pursuant to 567—paragraph 41.4(1)*"c"*(4)"4," or a water system subject to a monitoring waiver pursuant to 567—subparagraph 41.4(1)*"c"*(7)~~,~~ shall send written documentation to the department describing the change or addition. The department must review and approve the addition of a new source or long-term change in treatment before it is implemented by the water system. Examples of long-term treatment changes include the addition of a new treatment process or modification of an existing treatment process. Examples of modifications include the switching of secondary disinfectants, switching of coagulants (e.g., alum to ferric chloride), and switching of corrosion inhibitor products (e.g., orthophosphate to blended phosphate). Long-term changes can include dose changes to existing chemicals if the system is planning long-term changes to its finished water pH or residual inhibitor concentration. Long-term treatment changes would not include chemical dose fluctuations associated with daily water quality changes. In those instances where prior department approval of the treatment change or new source is not required, water systems are encouraged to provide the notification to the department beforehand to minimize the risk that the treatment change or new source will adversely affect optimal corrosion control.

ITEM 55. Amend subparagraph **42.4(2)"e"(1)** as follows:

(1) ~~Within~~ No later than 12 months after the end of a monitoring period in which a system exceeds the lead action level in sampling referred to in 567—paragraph 43.7(4)*"a,"* the system ~~shall demonstrate in writing~~ must submit to the department ~~that it has conducted a materials evaluation, including~~ written documentation of the material evaluation pursuant to 567—subparagraph 41.4(1)*"c"*(1), ~~to~~ identify the initial number of lead service lines in its distribution system at the time the system exceeds the lead

action level, and ~~shall~~ provide the department with the system's schedule for replacing annually at least 7 percent of the initial number of lead service lines in its distribution system.

ITEM 56. Amend subparagraph **42.4(2)"e"(2)** as follows:

(2) ~~Within~~ No later than 12 months after the end of a monitoring period in which a system exceeds the lead action level in sampling referred to in 567—paragraph 43.7(4)*"a"* and every 12 months thereafter, the system shall demonstrate in writing that the system has either:

1. Replaced in the previous 12 months at least 7 percent of the initial lead service lines (or a greater number of lines specified by the department under 567—paragraph 43.7(4)*"e"* in its distribution system), or

2. Conducted sampling which demonstrates that the lead concentration in all service line samples from individual line(s), taken pursuant to 567—paragraph 41.4(1)*"c"*(2)"3," is less than or equal to 0.015 mg/L. In such cases, the total number of lines replaced and those lines which meet the criteria in 567—paragraph 43.7(4)*"c"* shall equal at least 7 percent of the initial number of lead lines identified under ~~567—paragraph 43.7(4)*"b"*~~ 42.4(2)*"e"*(1) or the percentage specified by the department under 567—paragraph 43.7(4)*"e."* A lead service line meeting the criteria of 567—paragraph 43.7(4)*"c"* may only be used to comply with the 7 percent criteria for a specific year, and may not be used again to calculate compliance with the 7 percent criteria in future years.

ITEM 57. Amend paragraph **42.4(2)"f"** as follows:

f. Public education program reporting requirements.

(1) Any water system that is subject to the public education requirements in ~~567—42.2(455B)~~ 42.2(2) shall, within ten days after the end of each period in which the system is required to perform public education ~~tasks~~ in accordance ~~within 42.2(4),~~ with 42.2(2)*"b,"* send written documentation to the department that contains:

1. A demonstration that the system has delivered the public education materials that meet the content requirements in ~~42.2(2) and 42.2(3)~~ 42.2(2)*"a"* and the delivery requirements in ~~42.2(4)~~ 42.2(2)*"b"*; and

2. A list of all the newspapers, radio stations, television stations, facilities and organizations to which the system delivered public education materials during the period in which the system was required to perform public education tasks.

(2) Unless required by the department, a system that previously has submitted the information required by 42.4(2)*"f"*(1)"2" need not resubmit the same information, provided there have been no changes in the distribution list and the system certifies that the public education materials were distributed to the same list previously submitted. The certification is due within ten days after the end of each period in which the system is required to perform public education.

(3) No later than three months following the end of the monitoring period, each system must mail a sample copy of the consumer notification of tap results to the department along with a certification that the notification has been distributed in a manner consistent with the requirements of 42.2(1).

ITEM 58. Amend subparagraph **42.4(3)"a"(1)** as follows:

(1) Applicability. Monthly records of operation shall be completed by all public water supplies, on forms provided by the department or on similar forms, unless a public water supply meets all of the following conditions:

1. and 2. No change.

3. Does not utilize either a surface water or a groundwater under the direct influence of surface water either in whole or in part as a water source~~.~~;

4. Does not use a treatment technique such as blending to achieve compliance with a maximum contaminant level, treatment technique, action level, or health advisory.

The reports shall be completed as described in 42.4(3)*"a"*(2) and maintained at the facility for inspection by the department for a period of five years. For CWS and NTNC PWSs, the monthly operation report must be signed by the certified operator in charge. For TNC PWSs, the monthly operation report, if required by the department, must be signed by the owner or the owner's designee.

All public water supplies using a surface water or influenced groundwater source must also comply with the applicable record-keeping requirements in 567—43.5(455B), 567—43.9(455B), ~~and~~ 567—43.10(455B), and 567—43.11(455B).

ITEM 59. Amend paragraph **42.4(3)"b,"** introductory paragraph, as follows:

b. Chemical quality and application. Any drinking water system chemical which is added to raw, partially treated, or finished water must be suitable for the intended use in a potable water system. Effective on October 1, 2000, the chemical must be certified ~~to meet the current~~ by an American National Standards Institute (ANSI) accredited third party for conformance with American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 60, if such certification exists for the particular product, unless certified chemicals are not reasonably available for use, in accordance with guidelines provided by the department. If the chemical is not certified ~~by~~ to meet the ANSI/NSF Standard 60 or no certification is available, the person seeking to supply or use the chemical must prove to the satisfaction of the department that the chemical is not toxic or otherwise a potential hazard in a potable public water supply system.

ITEM 60. Amend subparagraph **42.4(3)"b"(1)** as follows:

(1) Continuous disinfection.

1. When required. Continuous disinfection must be provided at all public water supply systems, except for the following: groundwater supplies that have no treatment facilities or have only fluoride, sodium hydroxide or soda ash addition and that meet the bacterial standards as provided in ~~567—41.2(455B)~~ 567—subrule 41.2(1) and do not show other actual or potential hazardous contamination by microorganisms. For a noncommunity system that only uses a cation-exchange softening unit that meets the requirements of 42.3(4)*"a"*(7), the requirement for continuous disinfection is based upon the system's history of both coliform bacteria detection and compliance with the coliform bacteria monitoring requirements as provided in 567—subrule 41.2(1).

2. No change.

3. Chlorine residual. A minimum free available chlorine residual of 0.3 mg/L or a minimum total available chlorine residual of 1.5 mg/L must be continuously maintained throughout the water distribution system, except for those points in the distribution system that terminate as dead ends or areas that represent very low use when compared to usage throughout the rest of the distribution system as determined by the department. All systems using water to which chlorine has been added must monitor daily in the distribution system to ensure the minimum disinfectant residual concentration is met, including both wholesale systems and consecutive systems.

4. to 6. No change.

ITEM 61. Amend subparagraph **42.4(3)"c"(2)** as follows:

(2) Disinfection information specified in 567—subrule 43.5(2) and paragraph 42.4(3)*"b"* must be reported to the department within ten days after the end of each month the system serves water to the public. Information that must be reported includes:

1. and 2. No change.

3. The information on the samples taken in the distribution system in conjunction with total coliform monitoring listed in 567—paragraph 43.5(2)*"d"* and pursuant to ~~567—paragraph 41.2(1)*"c."*~~ 567—subparagraph 41.2(1)*"c"*(7).

ITEM 62. Adopt the following **new** subparagraph **42.4(3)"c"(3)**:

(3) Total inactivation ratio. The total inactivation ratio must be calculated each day the treatment plant is in operation, pursuant to 567—paragraph 43.5(2)*"a,"* and reported on the monthly operation report. If the total inactivation ratio is below 1.0, the system must notify the department within 24 hours.

ITEM 63. Amend subparagraph **42.4(3)"d"(3)**, introductory paragraph, as follows:

(3) Disinfectants. In addition to the requirements in 567—subparagraph ~~41.2(1)*"c"*(2)~~ 41.2(1)*"c"*(7), systems must report the information specified in the following table:

ITEM 64. Adopt the following **new** paragraph **42.5(1)"i"**:

i. Groundwater rule. Additional record-keeping requirements for the groundwater rule are listed in 567—paragraph 41.7(6)*"b."*

ITEM 65. Adopt the following **new** paragraph **42.5(1)"j"**:

j. Level 1 and 2 assessment forms and corrective action. These record-keeping requirements pertain to the coliform bacteria requirements in 567—subrule 41.2(1).

(1) The system must maintain any assessment form, regardless of who conducts the assessment, and documentation of corrective actions completed as a result of those assessments, or other available summary documentation of the sanitary defects and corrective actions taken under 567—paragraph 41.2(1)*"m"* for department review. This record must be maintained by the system for a period not less than five years after completion of the assessment or corrective action.

(2) The system must maintain a record of any repeat sample taken that meets department criteria for an extension of the 24-hour period for collecting repeat samples as provided for under 567—paragraph 41.2(1)*"j."*

ITEM 66. Rescind the "Microbiological Contaminants" section of **567—Chapter 42**, Appendix A, and adopt the following **new** section in lieu thereof:

Contaminant	Standard Health Effects Language
Microbiological Contaminants	
Coliform assessment and/or corrective action violations, under 567—subrule 41.2(1)	Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other potentially harmful waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessments to identify problems and to correct any problems that are found. [THE SYSTEM MUST INCLUDE THE FOLLOWING APPLICABLE SENTENCES] ● We failed to conduct the required assessment. ● We failed to correct all identified sanitary defects that were found during the assessment(s).
E. coli	*E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems.
E. coli assessment and/or corrective action violations, under 567—subrule 41.2(1)	*E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems. We violated the standard for *E. coli*, indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct a detailed assessment to identify problems and to correct any problems that are found. [THE SYSTEM MUST INCLUDE THE FOLLOWING APPLICABLE SENTENCES] ● We failed to conduct the required assessment. ● We failed to correct all identified sanitary defects that were found during the assessment(s).
Seasonal system treatment technique violation	● When this violation includes the failure to monitor for total coliforms or *E. coli* prior to serving water to the public, the mandatory language for monitoring violation in 42.1(5)*"c"*(2) must be used.

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Contaminant	Standard Health Effects Language
	• When this violation includes failure to complete other actions, the appropriate elements found in 42.1(5)*"c"* to describe the violation must be used.
Fecal indicators for the groundwater rule (*E. coli*, enterococci, and coliphage)	Fecal indicators are microbes whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

ITEM 67. Adopt the following **new** "Groundwater Treatment Technique Requirements" section in **567—Chapter 42**, Appendix A, after "Microbiological Contaminants" section:

Contaminant	Standard Health Effects Language
Groundwater Treatment Technique Requirements	
Groundwater rule treatment technique violations	Inadequately treated or inadequately protected water may contain disease-causing organisms. These organisms can cause symptoms such as diarrhea, nausea, cramps, and associated headaches.

ITEM 68. Rescind the "Bacteria" section of **567—Chapter 42**, Appendix C, and adopt the following **new** "Microbiological Contaminants" section in lieu thereof:

Contaminant (CCR units)	MCL, in mg/L	To convert for CCR, multiply by	MCL in CCR units	MCLG in CCR units	Major sources in drinking water	Health effects language
Microbiological Contaminants						
Total coliform bacteria	TT		TT	n/a	Naturally present in the environment	Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system.
E. coli	Routine and repeat samples are total coliform-positive and either is *E. coli*-positive, or system fails to take repeat samples following *E. coli*-positive routine sample, or system fails to analyze total coliform-positive repeat sample for *E. coli*		Routine and repeat samples are total coliform-positive and either is *E. coli*-positive, or system fails to take repeat samples following *E. coli*-positive routine sample, or system fails to analyze total coliform-positive repeat sample for *E. coli*	0	Human and animal fecal waste	*E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely compromised immune systems.
Fecal indicators (enterococci or coliphage)	TT		TT	n/a	Human and animal fecal waste	Fecal indicators are microbes whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

ITEM 69. Amend subrule 43.1(7) as follows:

43.1(7) *Sanitary surveys.* Each public water supply system must have a periodic sanitary survey, conducted by the department or its designee, which is a records review and on-site inspection of the system. Systems must provide the department, at its request, any existing information that will enable the department to conduct the sanitary survey. The inspection evaluates the system's ability to produce and distribute safe drinking water and identifies improvements necessary to maintain or improve drinking water quality. The sanitary survey includes review and inspection of the following areas: water source; treatment facilities ~~(treatment, storage, distribution system)~~; distribution system; finished water storage; pumps, pump facilities, controls and other equipment; monitoring, reporting, and data verification, including self-monitoring requirements; system operation and management; maintenance; ~~self-monitoring requirements;~~ properly certified operators; and records. A report of the sanitary survey is issued by the department or its designee, and may include both enforceable required actions for remedying significant deficiencies and nonenforceable recommended actions. The frequency of the sanitary survey inspection must be at least once every five years for noncommunity systems~~,~~ and once every ~~five~~ three years for community systems ~~using groundwater, and once every three years for community systems using surface water or influenced groundwater sources~~. The department or its designee must provide the system with a written notice describing any significant deficiencies identified no later than 30 days after the department identifies the significant deficiency. The notice may be included in the sanitary survey report and may specify corrective actions and deadlines for completion of corrective actions. Systems must respond in writing to significant deficiencies outlined in the sanitary survey report or written notice within the time period specified in the report, indicating how and on what schedule the system will address significant deficiencies noted in the survey. At a maximum, the written response must be received within ~~45~~ 30 days of receiving the survey report. All systems must take the steps necessary to address significant deficiencies identified in the sanitary survey report that are within the control of the system and its governing body.

ITEM 70. Amend paragraph **43.3(2)"a,"** introductory paragraph, as follows:

a. The standards for a project are the Ten States Standards as adopted through ~~2007~~ 2012 and the American Water Works Association (AWWA) Standards as adopted through ~~2010~~ 2016 and 43.3(7) to 43.3(9). To the extent of any conflict between the Ten States Standards and the American Water Works Association Standards and 43.3(7) to 43.3(9), the Ten States Standards, 43.3(2), and 43.3(7) to 43.3(9) shall prevail. Additional standards include the following:

ITEM 71. Amend subparagraph **43.3(7)"c"(2)** as follows:

(2) Groundwater sources. Water samples collected from groundwater sources in accordance with 43.3(7)*"c"*(1) shall be conducted at the conclusion of the drawdown/yield test pumping procedure, with the exception of bacteriological monitoring. Bacteriological monitoring must be conducted after disinfection of each new well and subsequent pumping of the chlorinated water to waste. Water samples must be analyzed for ammonia. Water samples should also be analyzed for alkalinity, ~~ammonia,~~ pH, calcium, chloride, copper, hardness, iron, magnesium, manganese, potassium, silica, specific conductance, sodium, sulfate, filterable and nonfilterable solids, and zinc.

ITEM 72. Amend subparagraph **43.3(7)"c"(3)** as follows:

(3) Surface water sources. Water samples collected from surface water sources in accordance with 43.3(7)*"c"*(1) should be collected prior to the design of the surface water treatment facility and shall be conducted and analyzed prior to utilization of the source. The samples shall be collected during June, July, and August. In addition, quarterly monitoring shall be conducted in March, June, September, and December at a location representative of the raw water at its point of withdrawal. Monitoring shall be for turbidity, alkalinity, pH, calcium, chloride, color, copper, hardness, iron, magnesium, manganese, potassium, silica, specific conductance, sodium, sulfate, filterable and nonfilterable solids, carbonate, bicarbonate, algae (qualitative and quantitative), total organic carbon, five-day biochemical oxygen demand, dissolved oxygen, surfactants, nitrogen series (organic, ammonia, nitrite, and nitrate), and phosphate.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

TABLE A: SEPARATION DISTANCES

SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well[1]	Shallow Well[1]
WASTEWATER STRUCTURES:		
Point of Discharge to Ground Surface		
Sanitary & industrial discharges	400	400
Water treatment plant wastes	50	50
Well house floor drains	5	5
Sewers & Drains[2]		
Sanitary & storm sewers, drains	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Sewer force mains	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1000 feet if ~~water main or~~ sanitary sewer pipe	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1000 feet if ~~water main or~~ sanitary sewer main pipe
Water plant treatment process wastes that are treated onsite	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Water plant wastes to sanitary sewer	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to sewers	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to surface	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Land Disposal of Treated Wastes		
Irrigation of wastewater	200	400
Land application of solid wastes[3]	200	400
Other		
Cesspools & earth pit privies	200	400
Concrete vaults & septic tanks	100	200
Lagoons	400	1000
Mechanical wastewater treatment plants	200	400
Soil absorption fields	200	400
CHEMICALS:		
Chemical application to ground surface	100	200
Chemical & mineral storage above ground	100	200
Chemical & mineral storage on or under ground	200	400
Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia)	200	400
ANIMALS:		
Animal pasturage	50	50

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well[1]	Shallow Well[1]
Animal enclosure	200	400
Earthen silage storage trench or pit	100	200
Animal Wastes		
Land application of liquid or slurry	200	400
Land application of solids	200	400
Solids stockpile	200	400
Storage basin or lagoon	400	1000
Storage tank	200	400
MISCELLANEOUS:		
Basements, pits, sumps	10	10
Cemeteries	200	200
Cisterns	50	100
Flowing streams or other surface water bodies	50	50
GHEX loop boreholes	200	200
Railroads	100	200
Private wells	200	400
Solid waste landfills and disposal sites[4]	1000	1000

[1]Deep and shallow wells, as defined in 567—40.2(455B): A deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

[2]The separation distances are dependent upon two factors: the type of piping that is in the existing sewer or drain, as noted in the table, and that the piping was properly installed in accordance with the standards.

[3]Solid wastes are those derived from the treatment of water or wastewater. Certain types of solid wastes from water treatment processes may be land-applied within the separation distance on an individual, case-by-case basis.

[4]Solid waste means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities.

ITEM 73. Amend subrule 43.3(8) as follows:

43.3(8) *Drinking water system components.* Any drinking water system component which comes into contact with raw, partially treated, or finished water must be suitable for the intended use in a potable water system. The component must ~~meet the current~~ be certified by an American National Standards Institute (ANSI) accredited third party for conformance with American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 61 specifications, if such specification exists for the particular product, unless approved components are not reasonably available for use, in accordance with guidance provided by the department. If the component does not meet the ANSI/NSF Standard 61 specifications or no specification is available, the person seeking to supply or use the component must prove to the satisfaction of the department that the component is not toxic or otherwise a potential hazard in a potable public water supply system.

ITEM 74. Amend subparagraph **43.3(10)"b"(1)**, introductory paragraph, as follows:

(1) Inorganic compounds. The department identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for the inorganic contaminants listed in 567—paragraph 41.3(1)*"b,"* except ~~arsenic and~~ fluoride.

ITEM 75. Amend paragraph **43.5(2)"a"** as follows:

a. Disinfection treatment criteria. The disinfection treatment must be sufficient to ensure that the total treatment processes of that system achieve at least 99.9 percent (3-log) inactivation or removal of *Giardia lamblia* cysts and at least 99.99 percent (4-log) inactivation or removal of viruses, acceptable to the department. At least 0.5 log inactivation of *Giardia lamblia* cysts must be achieved through disinfection treatment using a chemical disinfectant even if the required inactivation or removal is met or exceeded through physical treatment processes. Each system is required to calculate the total inactivation ratio ($CT_{calculated}/CT_{required}$) each day the treatment plant is in operation. The system's total inactivation ratio must be equal to or greater than 1.0 in order to ensure that the minimum inactivation and removal requirements have been achieved. If the system's total inactivation ratio for the day is below 1.0, the system must notify the department within 24 hours.

ITEM 76. Amend subparagraph **43.5(4)"a"(1)** as follows:

(1) Turbidity analytical methodology. Turbidity analysis shall be conducted using the ~~following methodology:~~ methodology in the following table. Each turbidimeter must be calibrated at least once every 90 days with a primary standard. The calibration of each turbidimeter used for compliance must be verified at least once per week with a primary standard, secondary standards, or the manufacturer's proprietary calibration confirmation device or by a method approved by the department. If the verification is not within plus or minus 0.05 NTU for measurements of less than or equal to 0.5 NTU, or within plus or minus 10 percent of measurements greater than 0.5 NTU, the turbidimeter must be recalibrated.

Methodology	Analytical Method				
	EPA	SM	GLI	HACH	Other
Nephelometric[5]	180.1[1]	2130B[2]	Method 2[3]	FilterTrak 10133[4]	
Laser Nephelometry (online)					Mitchell M5271[6]; Mitchell M5331 Rev. 1.2[10]
LED Nephelometry (online)					Mitchell M5331[7]; Mitchell M5331 Rev. 1.2[10]; AMI Turbiwell[9]
LED Nephelometry (portable)					Orion AQ4500[8]
360-degree Nephelometry					Hach Method 10258[11]

[1]"Methods for the Determination of Inorganic Substances in Environmental Samples," EPA-600/R-93-100, August 1993. Available at NTIS, PB94-121811.

[2]Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992, 19th edition, 1995, ~~or~~ 20th edition, 1998, 21st edition, 2005, and 22nd edition, 2012 (any of ~~the three~~ these editions may be used), American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[3]GLI Method 2, "Turbidity," November 2, 1992, Great Lakes Instruments, Inc., 8855 North 55th Street, Milwaukee, WI 53223.

[4]Hach FilterTrak Method 10133, "Determination of Turbidity by Laser Nephelometry," January 2000, Revision 2.0, Hach Co., P.O. Box 389, Loveland, CO 80539-0389, telephone (800)227-4224.

[5]Styrene divinyl benzene beads (e.g., AMCO-AEPA-1 or equivalent) and stabilized formazin (e.g., Hach StablCal™ or equivalent) are acceptable substitutes for formazin.

[6]Mitchell Method M5271, Revision 1.1. "Determination of Turbidity by Laser Nephelometry," March 5, 2009. Available at www.nemi.gov or from Leck Mitchell, 656 Independence Valley Drive, Grand Junction, CO 81507.

[7]Mitchell Method M5331, Revision 1.1. "Determination of Turbidity by LED Nephelometry," March 5, 2009. Available at www.nemi.gov or from Leck Mitchell, 656 Independence Valley Drive, Grand Junction, CO 81507.

[8]Orion Method AQ4500, Revision 1.0. "Determination of Turbidity by LED Nephelometry," May 8, 2009. Available at www.nemi.gov or from Thermo Scientific, 166 Cummings Center, Beverly, MA 01915, www.thermo.com.

[9]AMI Turbiwell, "Continuous Measurement of Turbidity Using a SWAN AMI Turbiwell Turbidimeter," August 2009. Available at www.nemi.gov or from Markus Bernasconi, SWAN Analytische Instrumente AG, Studbachstrasse 13, CH-8340 Hinwil, Switzerland.

[10]Mitchell Method M5331, Revision 1.2. "Determination of Turbidity by LED or Laser Nephelometry," February 2016. Available from Leck Mitchell, 656 Independence Valley Drive, Grand Junction, CO 81507.

[11]Hach Company. "Hach Method 10258 – Determination of Turbidity by 360-Degree Nephelometry," January 2016. Available at www.hach.com.

ITEM 77. Amend subparagraph **43.5(4)"a"(5)** as follows:

(5) Residual disinfectant analytical methodology. The residual disinfectant concentrations shall be determined in compliance with one of the analytical methods in the following table. Residual disinfectant concentrations for free chlorine and combined chlorine may also be measured by using DPD colorimetric test kits. Free and total chlorine residuals may be measured continuously by adapting a specified chlorine residual method for use with a continuous monitoring instrument provided the chemistry, accuracy and precision remain the same. Instruments used for continuous monitoring must be ~~calibrated~~ verified with a grab sample measurement at least every ~~five~~ seven days. The analyzer concentration must be within plus or minus 0.1 mg/L or plus or minus 15 percent (whichever is larger) of the grab sample measurement. If the verification is not within this range, immediate actions must be taken to resolve the issue and another verification must be conducted.

Disinfectant Analytical Methodology

Residual	Methodology	Standard Methods[1,2]	Standard Methods Online[6]	Other
Free chlorine	Amperometric Titration	4500-Cl D	4500-Cl D-00	D1253-03[4], 08, 14
	DPD Ferrous Titrimetric	4500-Cl F	4500-Cl F-00	
	DPD Colorimetric	4500-Cl G	4500-Cl G-00	Hach Method 10260[10]
	Syringaldazine (FACTS)	4500-Cl H	4500-Cl H-00	
	Online Chlorine Analyzer			EPA 334.0[7]
	Amperometric Sensor			ChloroSense[8]
	Indophenol Colorimetric			Hach Method 10241[11]
Total chlorine	Amperometric Titration	4500-Cl D	4500-Cl D-00	D1253-03[4], 08, 14
	Amperometric Titration (low-level measurement)	4500-Cl E	4500-Cl E-00	
	DPD Ferrous Titrimetric	4500-Cl F	4500-Cl F-00	
	DPD Colorimetric	4500-Cl G	4500-Cl G-00	Hach Method 10260[10]
	Iodometric Electrode	4500-Cl I	4500-Cl I-00	
	Online Chlorine Analyzer			EPA 334.0[7]
	Amperometric Sensor			ChloroSense[8]
Chlorine dioxide	Amperometric Titration	4500-ClO_2 C	4500-$C10_2$ C-00	
	DPD Method	4500-ClO_2 D		
	Amperometric Titration	4500-ClO_2 E	4500-$C10_2$ E-00	
	Amperometric Sensor			ChlordioX Plus[9]
	Spectrophotometric			327.0, Revision 1.1[5]
Ozone	Indigo method	4500-O_3 B[3]	4500-O_3 B-97	

[1]Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992, 19th edition, 1995, ~~or~~ 20th edition, 1998, 21st edition, 2005, or 22nd edition, 2012 (any of ~~the three~~ these editions may be used), American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710. Only the 18th, 19th, and 20th editions may be used for chlorine dioxide Method 4500-ClO_2 D.

[2]Other analytical test procedures are contained within Technical Notes on Drinking Water Methods, EPA-600/R- 94-173, October 1994, which is available as NTIS PB95-104766.

[3]Standard Methods for the Examination of Water and Wastewater, 18th edition (1992), ~~and~~ 19th edition (1995), 21st edition (2005), and 22nd edition (2012) (~~either~~ any edition may be used); American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710.

[4]Annual Book of ASTM Standards, Vol. 11.01, 2004; ASTM International; any year containing the cited version of the method may be used. Copies of this method may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959.

[5]EPA Method 327.0, Revision 1.1, "Determination of Chlorine Dioxide and Chlorite Ion in Drinking Water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry," US EPA, May 2005, EPA 815-R-05-008. Available online at www.nemi.gov.

[6]Standard Methods Online is available at www.standardmethods.org. The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[7]EPA Method 334.0, "Determination of Residual Chlorine in Drinking Water Using an On-Line Chlorine Analyzer," August 2009. EPA 815-B-09-013. Available at www.nemi.gov.

[8]ChloroSense, "Measurement of Free and Total Chlorine in Drinking Water by Palintest ChloroSense," September 2009. Available at www.nemi.gov or from Palintest Ltd., 21 Kenton Lands Road, P.O. Box 18395, Erlanger, KY 41018.

[9]ChlordioX Plus. "Chlorine Dioxide and Chlorite in Drinking Water by Amperometry Using Disposable Sensors," November 2013. Available from Palintest Ltd., Jamike Avenue (Suite 100), Erlanger, KY 41018.

[10]Hach Company. "Hach Method 10260 – Determination of Chlorinated Oxidants (Free and Total) in Water Using Disposable Planar Reagent-Filled Cuvettes and Mesofluidic Channel Colorimetry," April 2013. Available at www.hach.com.

[11]Hach Company. "Hach Method 10241 – Spectophotometric Measurement of Free Chlorine in Finished Drinking Water," November 2015, Revision 1.2. Available at www.hach.com.

ITEM 78. Amend paragraph **43.5(4)"b,"** introductory paragraph, as follows:

b. Monitoring requirements. A public water system that uses a surface water source or groundwater source under the influence of surface water must monitor in accordance with this paragraph ~~or some interim requirements required by the department, until filtration is installed~~.

ITEM 79. Amend subparagraph **43.5(4)"b"(1)** as follows:

(1) Turbidity.

1. Routine turbidity monitoring requirements. Turbidity measurements as required by 43.5(3) must be performed on representative samples of the system's filtered water every four hours (or more frequently as long as measurements are recorded at equal time intervals and detailed in the turbidity protocol) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring or may monitor more frequently than every four hours if it validates the continuous measurement for accuracy on a regular basis using a ~~calibration~~ turbidity protocol approved by the department and audited for compliance during sanitary surveys. Major elements of the protocol shall include, but are not limited to: sample measurement location, method of calibration, calibration frequency, calibration standards, method of verification, verification frequency, documentation, data collection, data recording frequency, and data reporting. For any systems using slow sand filtration or filtration treatment other than conventional treatment, direct filtration, or diatomaceous earth filtration, the department may reduce the sampling frequency to once per day if it determines that less frequent monitoring is sufficient to indicate effective filtration performance. For systems serving 500 or fewer persons, the department may reduce the turbidity sampling frequency to once per day, regardless of the type of filtration treatment used, if the department determines that less frequent monitoring is sufficient to indicate effective filtration performance. Approval shall be

based upon documentation provided by the system, acceptable to the department and pursuant to the conditions of an operation permit.

2. Turbidity monitoring requirements for population greater than 100,000. A supplier of water serving a population or population equivalent of greater than 100,000 persons shall provide a continuous or rotating cycle turbidity monitoring and recording device or take hourly grab samples to determine compliance with 43.5(3). The system must meet the requirements in 43.5(4)*"b"*(1)"1," including the turbidity protocol.

3. Failure of the continuous turbidity monitoring equipment. If there is a failure in the continuous turbidity monitoring equipment, the system must conduct grab sampling every four hours in lieu of continuous monitoring until the turbidimeter is repaired and back online. A system has a maximum of five working days after failure to repair the equipment or else the system is in violation. The system must notify the department within 24 hours of both when the turbidimeter was taken offline and when it was returned online.

ITEM 80. Amend numbered paragraph **43.5(4)"b"(2)"2"** as follows:

2. Residual disinfectant in the system. The residual disinfectant concentration must be measured at least daily in the distribution system. Residual disinfectant measurements that are required as part of the total coliform bacteria sample collection under ~~567—paragraph 41.2(1)*"c"*~~ 567—subparagraph 41.2(1)*"c"*(7) shall be used to satisfy this requirement on the day(s) when a bacteria sample(s) is collected. The department may allow a public water system that uses both a groundwater source and a surface water source or a groundwater source under direct influence of surface water to take residual disinfectant samples at points other than the total coliform sampling points, if these points are included as a part of the coliform sample site plan meeting the requirements of 567—paragraph 41.2(1)*"c"*(1)"1" and if the department determines that such points are representative of treated (disinfected) water quality within the distribution system. Heterotrophic plate count bacteria (HPC) may be measured in lieu of residual disinfectant concentration, using ~~Method 9215B, Pour Plate Method, Standard Methods for the Examination of Water and Wastewater, 18th edition, 1992~~ the analytical methods specified in 567—subparagraph 41.2(3)*"e"*(1). The time from sample collection to initiation of analysis shall not exceed eight hours. ~~Samples~~ HPC samples must be kept below 10 degrees C during transit to the laboratory. All HPC samples must be analyzed by a department-certified laboratory meeting the requirements of 567—Chapter 83.

ITEM 81. Adopt the following **new** paragraph **43.5(5)"e"**:

e. Total inactivation ratio below 1.0. If the system's total inactivation ratio for the day is below 1.0, the system must notify the department within 24 hours.

ITEM 82. Amend subparagraph **43.6(1)"d"(1)** as follows:

(1) Analytical methods. Systems must measure residual disinfectant concentrations for free chlorine, combined chlorine (chloramines), and chlorine dioxide by the methods listed in the following table:

Approved Methods for Residual Disinfectant Compliance Monitoring

Methodology	Standard Methods	Other Method	Residual measured[1]			
			Free Chlorine	Combined Chlorine	Total Chlorine	Chlorine Dioxide
Amperometric Titration	4500-Cl D	ASTM: D 1253-86 (96), 03, 08, 14	X	X	X	
Low Level Amperometric Titration	4500-Cl E				X	
DPD Ferrous Titrimetric	4500-Cl F		X	X	X	
DPD Colorimetric	4500-Cl G	Hach Method 10260[4]	X	X	X	
Syringaldazine (FACTS)	4500-Cl H		X			
Amperometric Sensor		ChloroSense[3]	X		X	

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Methodology	Standard Methods	Other Method	Residual measured[1]			
			Free Chlorine	Combined Chlorine	Total Chlorine	Chlorine Dioxide
Online Chlorine Analyzer		EPA 334.0[2]	X		X	
Indophenol Colorimetric		Hach Method 10241[6]	X	X	X	
Iodometric Electrode	4500-Cl I				X	
DPD	4500-ClO_2 D					X
Amperometric Method II	4500-ClO_2 E					X
Lissamine Green Spectrophotometric		EPA: 327.0 Rev. 1.1				X
Amperometric Sensor		ChlordioX Plus[5]				X

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents was approved by the Director of the Federal Register on February 16, 1999, in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at (800)426-4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street, SW, Washington, DC 20460 (telephone: (202)260-3027); or at the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC 20408.

The following method is available from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428:

Annual Book of ASTM Standards, Volume 11.01, American Society for Testing and Materials, 1996: Method D 1253-86.

The following methods are available from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710:

Standard Methods for the Examination of Water and Wastewater, 19th ~~and~~ (1995), 20th (1998), 21st (2005), and 22nd (2012) editions, American Public Health Association~~, 1995 and 1998, respectively (both editions are acceptable)~~: Methods: 4500-Cl D, 4500-Cl E, 4500-Cl F, 4500-Cl G, 4500-Cl H, 4500-Cl I, ~~4500-ClO_2 D,~~ 4500-ClO_2 E. Only the 19th and 20th editions may be used for the chlorine dioxide Method 4500-ClO_2 D.

The following methods are available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161 (telephone: (800)553-6847):

"Determination of Chlorine Dioxide and Chlorite Ion in Drinking Water Using Lissamine Green B and Horseradish Peroxidase with Detection by Visible Spectrophotometry, Revision 1.1," USEPA, May 2005, EPA 815-R-05-008.

[1]X indicates method is approved for measuring specified residual disinfectant. Free chlorine or total chlorine may be measured for demonstrating compliance with the chlorine MRDL, and combined chlorine or total chlorine may be measured for demonstrating compliance with the chloramine MRDL.

[2]EPA Method 334.0, "Determination of Residual Chlorine in Drinking Water Using an On-Line Chlorine Analyzer," August 2009. EPA 815-B-09-013. Available at www.epa/gov/safewater/methods/analyticalmethods_ogwdw.html.

[3]ChloroSense, "Measurement of Free and Total Chlorine in Drinking Water by Palintest ChloroSense," September 2009. Available at www.nemi.gov or from Palintest Ltd., 21 Kenton Lands Road, P.O. Box 18395, Erlanger, KY 41018.

[4]Hach Method 10260, "Determination of Chlorinated Oxidants (Free and Total) in Water Using Disposable Planar Reagent-Filled Cuvettes and Mesofluidic Channel Colorimetry," April 2013. Available at Hach Company, P.O. Box 389, Loveland, CO 80539, or www.hach.com.

[5]ChlordioX Plus. "Chlorine Dioxide and Chlorite in Drinking Water by Amperometry Using Disposable Sensors," November 2013. Available from Palintest Ltd., Jamike Avenue (Suite 100), Erlanger, KY 41018.

[3~~4~~]Hach Company. "Hach Method 10241 – Spectrophotometric Measurement of Free Chlorine in Finished Drinking Water," November 2015, Revision 1.2. Available at www.hach.com.

ITEM 83. Amend subparagraph **43.6(2)"c"(1)** as follows:

(1) Analytical methods. Systems required to monitor disinfectant byproduct precursors must use the following methods, which must be conducted by a certified laboratory pursuant to 567—Chapter 83, unless otherwise specified.

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Approved Methods for Disinfection Byproduct Precursor Monitoring[1]

Analyte	Methodology	EPA	Standard Methods	ASTM	Other
Alkalinity[6]	Titrimetric		2320B	D 1067-92B	
	Electrometric titration				I-1030-85
Bromide	Ion chromatography	300.0			
		300.1			
		317.0 Rev. 2.0			
		326.0			
				D 6581-00	
Dissolved Organic Carbon[2] (DOC)	High temperature combustion	415.3 Rev. 1.2	5310B or 5310B-00		
	Persulfate-UV or heated-persulfate oxidation	415.3 Rev. 1.2	5310C or 5310C-00		
	Wet oxidation	415.3 Rev. 1.1, 415.3 Rev. 1.2	5310D or 5310D-00		
pH[3]	Electrometric	150.1	4500-H^+-B	D 1293-84	
		150.2			
Specific Ultraviolet Absorbance (SUVA)	Calculation using DOC and UV_{254} data	415.3 Rev. 1.2			
Total Organic Carbon[4]	High temperature combustion	415.3 Rev. 1.2	5310B or 5310B-00		
	Persulfate-UV or heated-persulfate oxidation	415.3 Rev. 1.2	5310C or 5310C-00		Hach Method 10267[7]
	Wet oxidation	415.3 Rev. 1.1, 415.3 Rev. 1.2	5310D or 5310D-00		
	Ozone Oxidation				Hach Method 10261[8]
Ultraviolet Absorption at 254 nm[5]	~~UV absorption~~ Spectrophotometry	415.3 Rev. 1.1, 415.3 Rev. 1.2	5910B or 5910B-00, 11		

[1]The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents was approved by the Director of the Federal Register on February 16, 1999, in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at (800)426-4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street SW, Washington, DC 20460 (telephone: (202)260-3027); or at the Office of Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC 20408.

The following methods are available from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428:

Annual Book of ASTM Standards, Volume 11.01, American Society for Testing and Materials, 1996: Method D 1067-92B and Method D 1293-84.

Annual Book of ASTM Standards, Volume 11.01, American Society for Testing and Materials, 2001 (or any year containing the cited version): Method D 6581-00.

The following methods are available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161 (telephone: (800)553-6847):

"Determination of Inorganic Anions in Drinking Water by Ion Chromatography, Revision 1.0," EPA-600/R-98/118, 1997 (NTIS, PB98-169196): Method 300.1.

Methods for Chemical Analysis of Water and Wastes, EPA-600/4-79-020, March 1983, (NTIS PB84-128677): Methods 150.1 and 150.2.

Methods for the Determination of Inorganic Substances in Environmental Samples, EPA-600/R-93/100, August 1993, (NTIS PB94-121811): Method 300.0.

"Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography with the Addition of a Postcolumn Reagent for Trace Bromate Analysis, Revision 2.0," USEPA, July 2001, EPA 815-B-01-001: Method 317.0.

"Determination of Inorganic Oxyhalide Disinfection By-Products in Drinking Water Using Ion Chromatography Incorporating the Addition of a Suppressor Acidified Postcolumn Reagent for Trace Bromate Analysis, Revision 1.0," USEPA, June 2002, EPA 815-R-03-007: Method 326.0.

"Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water, Revision 1.1," USEPA, February 2005, EPA/600/R-05/055: Method 415.3 Revision 1.1.

"Determination of Total Organic Carbon and Specific UV Absorbance at 254 nm in Source Water and Drinking Water, Revision 1.2," USEPA, September 2009, EPA/600/R-09/122: Method 415.3 Revision 1.2.

The following methods are available from the American Public Health Association, ~~1015 Fifteenth Street NW,~~ 800 I Street, NW, Washington, DC ~~20005~~ 20001-3710:

Standard Methods for the Examination of Water and Wastewater, 19th ~~edition~~ (1995), 21st (2005), and 22nd (2012) editions, American Public Health Association~~, 1995~~: Methods: 2320B (20th edition, 1998, is also accepted for this method), 4500-H^+-B, and 5910B (22nd edition, 2012, is also accepted for this method).

Standard Methods for the Examination of Water and Wastewater, Supplement to the 19th edition (1996), 21st (2005), and 22nd editions, American Public Health Association~~, 1996~~: Methods: 5310B, 5310C, and 5310D.

For method numbers ending "-00", the year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that are IBR-approved.

Method I-1030-85 is available from the Books and Open-File Reports Section, U.S. Geological Survey, Federal Center, Box 25425, Denver, CO 80225-0425.

[2]Dissolved Organic Carbon (DOC). DOC and UV_{254} samples used to determine a SUVA value must be taken at the same time and at the same location, prior to the addition of any disinfectant or oxidant by the system. Prior to analysis, DOC samples must be filtered through a 0.45 μ pore-diameter filter, as soon as practical after sampling, not to exceed 48 hours. After filtration, DOC samples must be acidified to achieve pH less than or equal to 2 with minimal addition of the acid specified in the method or by the instrument manufacturer. Acidified DOC samples must be analyzed within 28 days. Inorganic carbon must be removed from the samples prior to analysis. Water passed through the filter prior to filtration of the sample must serve as the filtered blank. This filtered blank must be analyzed using procedures identical to those used for analysis of the samples and must meet a DOC concentration of <0.5 mg/L.

[3]pH must be measured by a laboratory certified by the department to perform analysis under 567—Chapter 83; a Grade II, III or IV operator meeting the requirements of 567—Chapter 81; or any person under the supervision of a Grade II, III or IV operator meeting the requirements of 567—Chapter 81.

[4]Total Organic Carbon (TOC). Inorganic carbon must be removed from the samples prior to analysis. TOC samples may not be filtered prior to analysis. TOC samples must be acidified at the time of sample collection to achieve a pH less than or equal to 2 with minimal addition of the acid specified in the method or by the instrument manufacturer. Acidified TOC samples must be analyzed within 28 days.

[5]Ultraviolet Absorption at 254 nm (UV_{254}). DOC and UV_{254} samples used to determine a SUVA value must be taken at the same time and at the same location, prior to the addition of any disinfectant or oxidant by the system. UV absorption must be measured at 253.7 nm (may be rounded off to 254 nm). Prior to analysis, UV_{254} samples must be filtered through a 0.45 μ pore-diameter filter. The pH of UV_{254} samples may not be adjusted. Samples must be analyzed as soon as practical after sampling, not to exceed 48 hours.

[6]Alkalinity must be measured by a laboratory certified by the department to perform analysis under 567—Chapter 83; a Grade II, III or IV operator meeting the requirements of 567—Chapter 81; or any person under the supervision of a Grade II, III or IV operator meeting the requirements of 567—Chapter 81. Only the listed titrimetric methods are acceptable.

[7]Hach Company. "Hach Method 10267 – Spectrophotometric Measurement of Total Organic Carbon (TOC) in Finished Drinking Water," December 2015, Revision 1.2. Available at www.hach.com.

[8]Hach Company. "Hach Method 10261 – Total Organic Carbon in Finished Drinking Water by Catalyzed Ozone Hydroxyl Radical Oxidation Infrared Analysis," December 2015, Revision 1.2. Available at www.hach.com.

ITEM 84. Amend subparagraph **43.7(1)"b"(3)** as follows:

(3) Any water system has optimized corrosion control if it submits results of tap water monitoring conducted in accordance with 567—paragraph 41.4(1)*"c"* and source water monitoring conducted in accordance with 567—paragraph 41.4(1)*"e"* that demonstrate for two consecutive six-month monitoring periods that the difference between the 90th percentile tap water lead level computed under

567—subparagraph 41.4(1)*"b"*(3) and the highest source water lead concentration is less than the practical quantitation level for lead specified in 567—paragraph 41.4(1)*"g."*

1. and 2. No change.

3. Any water system deemed to have optimized corrosion control pursuant to this paragraph shall notify the department in writing pursuant to 567—subparagraph 42.4(2)*"a"*(3) of any upcoming long-term change in treatment or the addition of a new source as described in 567—subparagraph 42.4(2)*"a"*(3). The department ~~may require any such system to conduct additional monitoring or to take other action the department deems appropriate to ensure that the system maintains minimal levels of corrosion in the distribution system~~ must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system.

4. and 5. No change.

ITEM 85. Amend subparagraph **43.7(1)"e"(1)** as follows:

(1) Step 1. The system shall conduct initial tap sampling pursuant to 567—paragraph 41.4(1)*"c"*(4)"1" and 567—subparagraph 41.4(1)*"d"*(2) until the system either exceeds the lead or copper action level or becomes eligible for reduced monitoring under 567—paragraph 41.4(1)*"c"*(4)"4." A system exceeding the lead or copper action level shall recommend optimal corrosion control treatment under 43.7(2)*"a"* within six months after the end of the monitoring period during which it exceeds one of the action levels.

ITEM 86. Amend subparagraph **43.7(1)"e"(2)** as follows:

(2) Step 2. Within 12 months after the end of the monitoring period during which a system exceeds the lead or copper action level, the department may require the system to perform corrosion control studies under 43.7(2)*"b."* If the system is not required to perform such studies, the department will specify optimal corrosion control treatment under 43.7(2)*"d"* as follows: for medium-size systems, within 18 months after the end of the monitoring period during which such system exceeds the lead or copper action level, and, for small systems, within 24 months after the end of the monitoring period during which such system exceeds the lead or copper action level.

ITEM 87. Amend subparagraph **43.7(3)"a"(1)** as follows:

(1) Step 1. A public water supply system exceeding the lead or copper action level shall complete lead and copper source water monitoring under 567—subparagraph 41.4(1)*"e"*(2) and make a written treatment recommendation to the department ~~within six months after exceeding~~ no later than 180 days after the end of the monitoring period during which the lead or copper action level was exceeded.

ITEM 88. Amend paragraph **43.7(4)"b"** as follows:

b. Lead service line replacement schedule. A public water supply system shall replace annually at least 7 percent of the initial number of lead service lines in its distribution system. The initial number of lead service lines is the number of lead lines in place at the time the replacement program begins. The system shall identify the initial number of lead service lines in its distribution system, including an identification of the portion(s) owned by the system, based upon a materials evaluation, including the evaluation required under 567—subparagraph 41.4(1)*"c"*(1), and relevant legal authorities regarding the portion owned by the system such as contracts and local ordinances.

(1) The first year of lead service line replacement shall begin on the ~~date~~ first day following the end of the monitoring period in which the action level was exceeded in tap sampling referenced in 43.7(4)*"a."* If monitoring is required annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs. If the department has established an alternate monitoring period, then the end of the monitoring period will be the last day of that period.

(2) Any water system resuming a lead service line replacement program after the cessation of its lead service line replacement program as allowed by 43.7(4)*"g"* shall update its inventory of lead service lines to include those sites that were previously determined not to require replacement through the sampling provision under 43.7(4)*"c."* The system will then divide the updated number of remaining lead service lines by the number of remaining years in the program to determine the number of lines that must be replaced per year. Seven percent lead service line replacement is based on a 15-year replacement

program. For example, systems resuming lead service line replacement after previously conducting two years of replacement would divide the updated inventory by 13.

(3) For those systems that have completed a 15-year lead service line replacement program, the department will determine a schedule for replacing or retesting lines that were previously exempted through testing under 43.7(4)*"c"* from the replacement program when the system re-exceeds the action level.

ITEM 89. Amend paragraph **43.9(3)"a"** as follows:

a. Conventional filtration treatment or direct filtration.

(1) Turbidity requirement in 95 percent of samples. For systems using conventional filtration or direct filtration, the turbidity level of representative samples of a system's filtered water (combined filter effluent or CFE) must be less than or equal to 0.3 NTU in at least 95 percent of the measurements taken each month, measured as specified in 43.5(4)*"a"*(1) and 43.5(4)*"b"*(1).

(2) Maximum turbidity level. The turbidity level of representative samples of a system's filtered water (combined filter effluent or CFE) must at no time exceed 1 NTU, measured as specified in 43.5(4)*"a"*(1) and 43.5(4)*"b"*(1). If at any time the combined filter effluent turbidity exceeds 1 NTU, either in a grab sample used for compliance or in a continuously monitored flow, the system must inform the department as soon as possible, but no later than 24 hours after the exceedance is known, in accordance with the public notification requirements under 567—subparagraph 42.1(3)*"b"*(3).

(3) Systems with lime-softening treatment. A system that uses lime softening may acidify representative samples prior to analysis using a protocol approved by the department.

ITEM 90. Amend paragraph **43.9(4)"a"** as follows:

a. Monitoring requirements for systems using filtration treatment. In addition to monitoring required by 43.5(4), a public water system subject to the requirements of this rule that provides conventional filtration treatment or direct filtration must conduct continuous monitoring of turbidity for each individual filter using an approved method in 43.5(4)*"a"*(1) and must calibrate turbidimeters ~~using the procedure specified by the manufacturer~~ at least every 90 days with a primary standard. The calibration of each turbidimeter used for compliance must be verified at least once per week with a primary standard, secondary standards, or the manufacturer's proprietary calibration confirmation device or by a method approved by the department. If the verification is not within plus or minus 0.05 NTU for measurements of less than or equal to 0.5 NTU, or within plus or minus 10 percent of measurements greater than 0.5 NTU, then the turbidimeter must be recalibrated. Systems must record the results of individual filter monitoring every 15 minutes.

ITEM 91. Amend paragraph **43.9(5)"a"** as follows:

a. Turbidity. Turbidity measurements as required by 43.9(3) must be reported in a format acceptable to the department and within ten days after the end of each month that the system serves water to the public. Information that must be reported includes:

(1) The total number of filtered water (combined filter effluent or CFE) turbidity measurements taken during the month;

(2) The number and percentage of filtered water (combined filter effluent or CFE) turbidity measurements taken during the month which are less than or equal to the turbidity limits specified in 43.9(3)*"a"* or *"b"*; and

(3) The date and value of any combined filter effluent or CFE turbidity measurements taken during the month which exceed 1 NTU for systems using conventional filtration treatment or direct filtration or which exceed the maximum level set by the department under 43.9(3)*"b."*

(4) The dates and summary of calibration and verification of all compliance turbidimeters.

ITEM 92. Amend subparagraph **43.9(5)"b"(2)** as follows:

(2) For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart ~~at the end of~~ anytime following the first four hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the system must report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition,

the system must either produce a filter profile for the filter within seven days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

ITEM 93. Amend paragraph **43.9(5)"c"** as follows:

c. Additional reporting requirement for turbidity combined filter effluent.

(1) If at any time the turbidity exceeds 1 NTU in representative samples of filtered water (combined filter effluent or CFE) in a system using conventional filtration treatment or direct filtration, the system must consult with the department as soon as practical, but no later than 24 hours after the exceedance is known, in accordance with the public notification requirements under 567—subparagraph 42.1(3)*"b"*(3).

(2) If at any time the turbidity in representative samples of filtered water (combined filter effluent or CFE) exceeds the maximum level set by the department under 43.9(3)*"b"* for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the system must consult with the department as soon as practical, but no later than 24 hours after the exceedance is known, in accordance with the public notification requirements under 567—subparagraph 42.1(3)*"b"*(3).

ITEM 94. Amend subparagraph **43.10(4)"a"(3)** as follows:

(3) The turbidity in the combined filter effluent must never exceed 1 NTU at any time during the month. If at any time the combined filter effluent turbidity exceeds 1 NTU, either in a grab sample used for compliance or in a continuously monitored flow, the system must inform the department as soon as possible, but no later than 24 hours after the exceedance is known, in accordance with the public notification requirements under 567—subparagraphs 42.1(3)*"b"*(3) and 42.1(2)*"a"*(8).

ITEM 95. Amend subparagraph **43.10(5)"a"(2)** as follows:

(2) Calibration of turbidimeters must be conducted ~~using procedures specified by the manufacturer~~ at least every 90 days with a primary standard. The calibration of each turbidimeter used for compliance must be verified at least once per week with a primary standard, secondary standards, or the manufacturer's proprietary calibration confirmation device or by a method approved by the department. If the verification is not within plus or minus 0.05 NTU for measurements of less than or equal to 0.5 NTU, or within plus or minus 10 percent of measurements greater than 0.5 NTU, the turbidimeter must be recalibrated;

ITEM 96. Amend subparagraph **43.10(6)"a"(1)** as follows:

(1) The following information must be reported in the monthly operation report to the department by the tenth day of the following month.

1. to 3. No change.

4. The dates and summary of calibration and verification of all compliance turbidimeters.

ITEM 97. Amend subparagraph **43.10(6)"b"(2)** as follows:

(2) For any filter that had two consecutive measurements taken 15 minutes apart that exceeded 1.0 NTU, the following information must be reported:

1. The filter number(s);
2. The corresponding dates; ~~and~~
3. The turbidity values that exceeded 1.0 NTU~~.~~; and
4. The cause, if known, of the exceedance.

ITEM 98. Adopt the following **new** subparagraph **43.10(6)"b"(5)**:

(5) The dates and summary of calibration and verification of all compliance turbidimeters.

ITEM 99. Amend subparagraph **43.11(3)"b"(3)** as follows:

(3) Plants operating only part of the year. Systems with surface water or influenced groundwater treatment plants that operate for only part of the year must conduct source water monitoring in accordance with this rule, but with the following modifications.

1. No change.

2. Systems with plants that operate less than six months per year and that monitor for must collect at least six samples per year for two years. The samples must be evenly spaced throughout the period the plant operates.

ITEM 100. Amend paragraph **43.11(3)"d,"** introductory paragraph, as follows:

d. Sampling locations. Systems must collect samples for each treatment plant that treats a surface water or influenced groundwater source. If multiple plants draw water from the same influent (same pipe or intake), the department may approve one set of monitoring results to be used to satisfy the requirements for those plants.

ITEM 101. Amend subparagraph **43.11(3)"e"(1)** as follows:

(1) *Cryptosporidium.* Systems must have *Cryptosporidium* samples analyzed by a laboratory that is approved under EPA's Laboratory Quality Assurance Evaluation Program for Analysis of *Cryptosporidium* in Water.

1. ~~There are two~~ These are the approved analytical methods for *Cryptosporidium*:

- "Method 1623: *Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA," 2005, US EPA, EPA-815-R-05-002. Available at www.nemi.gov; ~~and,~~
- "Method 1622: *Cryptosporidium* in Water by Filtration/IMS/FA," 2005, US EPA, EPA-815-R-05-001. Available at www.nemi.gov; and
- "Method 1623.1: "*Cryptosporidium* and *Giardia* in Water by Filtration/Immunomagnetic Separation/Immunofluorescence Assay Microscopy," 2012, EPA-816-R-12-001. Available at www.nepis.epa.gov.

2. Using one of the ~~two~~ approved methods, the laboratory must analyze at least a 10 L sample or a packed pellet volume of at least 2 mL. Systems unable to process a 10 L sample must analyze as much sample volume as can be filtered by two filters specified in the method, up to a packed pellet volume of at least 2 mL.

3. to 5. No change.

ITEM 102. Amend subparagraph **43.11(3)"e"(2)** as follows:

(2) *E. coli.* Systems must have the *E. coli* samples analyzed by a laboratory certified by EPA, the National Environmental Laboratory Accreditation Conference, or the department for total coliform or fecal coliform analysis in drinking water samples using the same approved *E. coli* method for the analysis of source water.

1. The approved analytical methods for the enumeration of *E. coli* in source water are shown in Table 2.

Table 2: *E. coli* Analytical Methods

Method	EPA	Standard Methods~~: 18th, 19th, and 20th editions~~	Other
Most probable number with multiple tube or multiple well[1,2]		9223 B[3] [11]	991.15[4] Colilert[3,5] Colilert-18[3,5,6]
Membrane filtration, single step[1,7,8]	1603[9]		m-ColiBlue24[10]
Membrane filtration, two step		9222D/9222G[12]	

[1]Tests must be conducted to provide organism enumeration (i.e., density). Select the appropriate configuration of tubes/filtrations and dilutions/volumes to account for the quality, consistency, and anticipated organism density in the water sample.

[2]Samples shall be enumerated by the multiple-tube or multiple-well procedure. Using multiple-tube procedures, employ an appropriate tube and dilution configuration of the sample as needed and report the Most Probable Number (MPN). Samples tested with Colilert® may be enumerated with the multiple-well procedures, Quanti-Tray®, Quanti-Tray® 2000, and the MPN calculated from the table provided by the manufacturer.

[3]These tests are collectively known as defined enzyme substrate tests, where, for example, a substrate is used to detect the enzyme beta-glucouronidase produced by *E. coli*.

[4]Association of Official Analytical Chemists, International. "Official Methods of Analysis of AOAC International, 16th Ed., Volume 1, Chapter 17, 1995. AOAC, 481 N. Frederick Ave., Suite 500, Gaithersburg, MD 20877-2417.

[5]Descriptions of the Colilert®, Colilert-18®, Quanti-Tray®, and Quanti-Tray® 2000 may be obtained from IDEXX Laboratories, Inc., 1 IDEXX Drive, Westbrook, ME 04092.

[6]Colilert-18® is an optimized formulation of the Colilert® for the determination of total coliforms and *E. coli* that provides results within 18 hours of incubation at 35 degrees C rather than the 24 hours required for the Colilert® test.

[7]The filter must be a 0.45 micron membrane filter or a membrane filter with another pore size certified by the manufacturer to fully retain organisms to be cultivated and to be free of extractables which could interfere with organism growth.

[8]When the membrane filter method has been used previously to test waters with high turbidity or large numbers of noncoliform bacteria, a parallel test should be conducted with a multiple-tube technique to demonstrate applicability and comparability of results.

[9]"Method 1603: *Escherichia coli (E. coli)* in Water by Membrane Filtration Using Modified Membrane-Thermotolerant *Escherichia coli* Agar (modified mTEC), USEPA, July 2006." US EPA, Office of Water, Washington, DC, EPA 821-R-06-011. Available at www.nepis.epa.gov.

[10]A description of the m-ColiBlue24® test, Total Coliforms and *E. coli*, is available from Hach Company, 100 Dayton Ave., Ames, IA 50010.

[11]Standard Methods for the Analysis of Water and Wastewater, 18th (1992), 19th (1995), and 20th (1998) editions, American Public Health Association. Available from APHA, 800 I Street, NW, Washington, DC 20001-3710.

[12]Standard Methods for the Examination of Water and Wastewater, 20th edition (1998). Available from APHA, 800 I Street, NW, Washington, DC 20001-3710.

2. The holding time (the time period from sample collection to initiation of analysis) shall not exceed 30 hours. The department may approve on a case-by-case basis an extension of the holding time to 48 hours, if the 30-hour holding time is not feasible. If the extension is allowed, the laboratory must use the Colilert® reagent version of the Standard Methods 9223B to conduct the analysis.

3. The samples must be maintained between 0 and 10 degrees C during storage and transit to the laboratory.

4. The following data elements must be reported for each *E. coli* analysis:

- PWSID.
- Facility ID.
- Sample collection date.
- Analytical method number.
- Method type.
- Source type (flowing stream or river; lake or reservoir; or influenced groundwater).
- Number of *E. coli* per 100 mL.
- Turbidity in NTU.

ITEM 103. Adopt the following **new** subparagraph **43.11(10)"c"(6)**:

(6) Springs and infiltration galleries. This treatment credit is not eligible for springs and infiltration galleries. Springs and infiltration galleries are eligible for credit through demonstration of performance study under 43.11(11)*"c."*

ITEM 104. Adopt the following **new** subparagraph **43.11(10)"c"(7)**:

(7) Bank filtration demonstration of performance. The department may approve *Cryptosporidium* treatment credit for bank filtration based on a demonstration of performance study that meets the criteria in this subparagraph. This treatment credit may be greater than 1.0-log and may be awarded to bank filtration that does not meet the criteria in 43.11(10)*"c"*(1) to (5).

1. The study must follow a protocol approved by the department and must involve the collection of data on the removal of *Cryptosporidium* or a surrogate for *Cryptosporidium* and related hydrogeologic and water quality parameters during the full range of operating conditions.

2. The study must include sampling both from the production well(s) and from monitoring wells that are screened and located along the shortest flow path between the surface water source and the production well(s).

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ITEM 105. Adopt the following **new** appendix C in **567—Chapter 43**:

APPENDIX C: CT TABLES FOR VIRUS INACTIVATION UNDER THE GROUNDWATER RULE, 567—41.7(455B)

TABLE 1: CT Values (mg-min/L) for Inactivation of Viruses by Free Chlorine, pH 6.0-9.0[1]

Inactivation	Water Temperature, °C																								
Log Credit	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
2	5.8	5.3	4.9	4.4	4.0	3.8	3.6	3.4	3.2	3.0	2.8	2.6	2.4	2.2	2.0	1.8	1.6	1.4	1.2	1.0	1.0	1.0	1.0	1.0	1.0
3	8.7	8.0	7.3	6.7	6.0	5.6	5.2	4.8	4.4	4.0	3.8	3.6	3.4	3.2	3.0	2.8	2.6	2.4	2.2	2.0	1.8	1.6	1.4	1.2	1.0
4	11.6	10.7	9.8	8.9	8.0	7.6	7.2	6.8	6.4	6.0	5.6	5.2	4.8	4.4	4.0	3.8	3.6	3.4	3.2	3.0	2.8	2.6	2.4	2.2	2.0

[1]CT values provided in the table are modified by linear interpolation between 0.5 °C increments.

TABLE 2: CT Values (mg-min/L) for Inactivation of Viruses by Free Chlorine, pH 9.1 — 10.0

Inactivation Log Credit	Water Temperature, °C					
	0.5	5	10	15	20	25
2	45	30	22	15	11	7
3	66	44	33	22	16	11
4	90	60	45	30	22	15

TABLE 3: CT Values (mg-min/L) for Inactivation of Viruses by Chlorine Dioxide, pH 6.0 - 9.0[1]

Inactivation Log Credit	Water Temperature, °C											
	1	2	3	4	5	6	7	8	9	10	11	12
2	8.4	7.7	7.0	6.3	5.6	5.3	5.0	4.8	4.5	4.2	3.9	3.6
3	25.6	23.5	21.4	19.2	17.1	16.2	15.4	14.5	13.7	12.8	12.0	11.1
4	50.1	45.9	41.8	37.6	33.4	31.7	30.1	28.4	26.8	25.1	23.4	21.7

[1]CT values provided in the table are modified by linear interpolation between 0.5 °C increments.

Inactivation Log Credit	Water Temperature, °C												
	13	14	15	16	17	18	19	20	21	22	23	24	25
2	3.4	3.1	2.8	2.7	2.5	2.4	2.2	2.1	2.0	1.8	1.7	1.5	1.4
3	10.3	9.4	8.6	8.2	7.7	7.3	6.8	6.4	6.0	5.6	5.1	4.7	4.3
4	20.1	18.4	16.7	15.9	15.0	14.2	13.3	12.5	11.7	10.9	10.0	9.2	8.4

[1]CT values provided in the table are modified by linear interpolation between 0.5 °C increments.

TABLE 4: CT Values (mg-min/L) for Inactivation of Viruses by Ozone[1]

Inactivation Log Credit	Water Temperature, °C											
	1	2	3	4	5	6	7	8	9	10	11	12
2	0.90	0.83	0.75	0.68	0.60	0.58	0.56	0.54	0.52	0.50	0.46	0.42
3	1.40	1.28	1.15	1.03	0.90	0.88	0.86	0.84	0.82	0.80	0.74	0.68
4	1.80	1.65	1.50	1.35	1.20	1.16	1.12	1.08	1.04	1.00	0.92	0.84

[1]CT values provided in the table are modified by linear interpolation between 0.5 °C increments.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Inactivation Log Credit	Water Temperature, °C												
	13	14	15	16	17	18	19	20	21	22	23	24	25
2	0.38	0.34	0.30	0.29	0.28	0.27	0.26	0.25	0.23	0.21	0.19	0.17	0.15
3	0.62	0.56	0.50	0.48	0.46	0.44	0.42	0.40	0.37	0.34	0.31	0.28	0.25
4	0.76	0.68	0.60	0.58	0.56	0.54	0.52	0.50	0.46	0.42	0.38	0.34	0.30

[1]CT values provided in the table are modified by linear interpolation between 0.5 °C increments.

No CT table is provided for chloramines or total chlorine because the CT values would be prohibitively high for groundwater systems.

Tables are from the EPA Groundwater Rule Implementation Guidance, EPA 816-R-09-004, January 2009, pages 97-98.

ITEM 106. Amend subrule 44.10(1) as follows:

44.10(1) *Allowable costs.* Allowable costs shall be limited to those costs deemed necessary, reasonable, and directly related to the efficient completion of the project. The director will determine project costs eligible for state assistance in accordance with rule 567—44.6(455B). Land purchase, easement, or rights-of-way costs are ineligible with the exception of land which is integral to a project needed to meet or maintain public health protection and which is needed to locate eligible treatment or distribution works. Source water protection easements are considered to be integral to a project. (The acquisition of land or easements has to be from a willing seller.) In addition to those costs identified in this chapter, unallowable costs include the following:

a. Costs of service lines ~~and~~, except lead-containing service lines and connectors which are exterior to a home.

b. Costs of in-house plumbing.

~~*b.*~~ *c.* Administrative costs of the loan recipient.

~~*c.*~~ *d.* Vehicles and tools.

ITEM 107. Adopt the following **new** definitions of "Operating shift" and "Shift operator" in rule **567—81.1(455B)**:

"Operating shift" means a specified period of time when an operator is present to conduct testing or evaluation to control operations of the plant or distribution system, to make process control changes, and to be responsible for the repair or maintenance of a plant or distribution system. An operating shift may include on-call shifts.

"Shift operator" means the operator on site who has responsibility for making process control changes and adjustments to the operation, repair, and maintenance of a plant or distribution system during any operating shift. Duties include testing or evaluation to control operations of the plant or distribution system.

ITEM 108. Amend rule **567—81.1(455B)**, definition of "Rural water district," as follows:

"Rural water district" means a water supply incorporated and organized as such pursuant to Iowa Code chapter 357, 357A or ~~504A~~ 358.

ITEM 109. Adopt the following **new** paragraph **81.6(1)"c"**:

c. Transient noncommunity water system. A transient noncommunity water system which serves a population of 500 or fewer persons and provides no treatment other than hypochlorination or treatment which does not require any chemical addition, process adjustment, backwashing or media regeneration by an operator shall be classified as a Grade A water system.

ITEM 110. Amend subrule 81.7(1), introductory paragraph, as follows:

81.7(1) *Education and experience requirements.* All applicants shall meet the education and experience requirements for the grade of certificate shown in the table below prior to being allowed to take the examination. Experience shall be in the same classification for which the applicant is applying except that partial credit may be given in accordance with 81.7(2) and 81.7(3). Directly related post-high school education shall be in the same subject matter as the classification in which the applicant is applying. ~~Directly related post-high school education will be granted education credit 2.0 times the number of semester, quarter or CEU credits until January 1, 2006.~~ The director will determine which courses qualify as "directly related" in cases which are not clearly defined. A military service applicant may apply for credit for verified military education, training, or service toward any education or experience requirement for certification, pursuant to subrule 81.7(4).

ITEM 111. Rescind and reserve subrule **81.8(2)**.

ITEM 112. Amend subrule 81.9(5) as follows:

81.9(5) *Reexamination.* Upon failure of the first examination, the applicant may ~~be reexamined at the next scheduled examination~~ apply for reexamination. Upon failure of the second examination, the applicant shall be required to wait a period of ~~180~~ at least 30 days between each subsequent examination.

ITEM 113. Rescind and reserve subrule **81.9(9)**.

ITEM 114. Amend subrule 81.9(10) as follows:

81.9(10) *Reasonable accommodation.* Upon request for certification by an applicant, the director will consider on an individual basis reasonable accommodation to allow administration of the examination without discrimination on the basis of disability. The applicant shall request the accommodation 30 days prior to the date of the examination. The applicant must provide documentation of eligibility for the accommodation. Documentation shall be submitted with the completed examination application. ~~Accommodations based on documentation may include site accessibility, oral examination, extended time, separate testing area, or other concerns.~~

ITEM 115. Amend rule 567—81.12(455B) as follows:

567—81.12(455B) Restricted ~~and temporary~~ certification.

~~**81.12(1)** *Restricted certification.*~~ Upon written request by an operator, the director may determine that further education requirements be waived when a plant or distribution system grade has been increased and the operator has been in direct responsible charge of the existing plant or distribution system. An operator successfully completing the examination will be restricted to that plant or distribution system until the education requirements are met.

~~**81.12(2)** *Temporary certification.* Upon written request by the owner of a plant or system not previously required to have a certified operator, the director may issue a temporary certificate of the appropriate grade and classification to the operator(s)-in-charge. The temporary certificate holder will be restricted to that plant or distribution system until all certification requirements, in accordance with rules 567—81.6(455B), 567—81.8(455B) and 567—81.9(455B), are met. The temporary certificate is not renewable and will expire 24 months after issuance. No temporary certificates will be issued to operators of new water plants or distribution systems, as defined in 567—subrule 43.8(1).~~

ITEM 116. Amend rule **567—83.2(455B)**, definition of "Manual for the Certification of Laboratories Analyzing Environmental Samples for the Iowa Department of Natural Resources," as follows:

"Manual for the Certification of Laboratories Analyzing Environmental Samples for the Iowa Department of Natural Resources" ~~(2003)~~ (2017) (Iowa Manual) is incorporated by reference in this chapter.

Chapter 1 of the Iowa Manual pertains to certification of laboratories analyzing samples of drinking water and incorporates by reference the Manual for the Certification of Laboratories Analyzing Drinking Water, ~~4th edition, March 1997, EPA document 815-B-97-001~~ 5th edition, January 2005, EPA document 815-R-05-004, January 2005; Supplement 1, June 2008, EPA 815-F-08-006; and Supplement 2, November 2012, EPA 815-F-12-006.

Chapter 2 of the Iowa Manual, ~~2003~~ (2017), pertains to laboratories analyzing samples for the underground storage tank program.

Chapter 3 of the Iowa Manual, ~~2003~~ (2017), pertains to laboratories analyzing samples for wastewater and sewage sludge disposal programs.

Chapter 4 of the Iowa Manual, ~~2003~~ (2017), pertains to laboratories analyzing samples for the solid waste and contaminated site programs.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 117. Amend paragraph **83.3(2)"c,"** table, entry for "Basic Drinking Water," as follows:

ANALYTICAL GROUP	REGULATORY PROGRAM & PARAMETERS[1]	FEE
Basic Drinking Water	SDWA (includes total ~~and fecal~~ coliform bacteria, *E. coli*, heterotrophic plate count, nitrate, nitrite, and fluoride)	$800

ITEM 118. Amend paragraph **83.3(2)"c,"** table, entry for "Bacteria," as follows:

ANALYTICAL GROUP	REGULATORY PROGRAM & PARAMETERS[1]	FEE
Bacteria	CWA (includes total coliform, fecal coliform, and *E. coli* ~~and enterococci bacteria~~)	$800
	SDWA (includes total coliform, ~~fecal coliform,~~ *E. coli*, and heterotrophic plate count)	$800
	SDWA & CWA combined	$1,300

ITEM 119. Amend paragraph **83.3(2)"d"** as follows:

d. Payment of fees. Fees shall be paid by bank draft, check, money order, credit card, electronic payment, or other means acceptable to the department, made payable to the Iowa Department of Natural Resources. Credit card or electronic payment may incur an additional fee. Purchase orders are not an acceptable form of payment.

ITEM 120. Amend subrule 83.3(3), introductory paragraph, as follows:

83.3(3) *Reciprocity.* Reciprocal certification of out-of-state laboratories by Iowa, and of Iowa laboratories by other states or accreditation providers, is ~~encouraged~~ allowed. A laboratory must meet all Iowa certification criteria and pay all applicable fees as listed in this chapter. Any laboratory which is granted reciprocal certification in Iowa using primary certification from another state or provider is required to report any change in certification status from the accrediting state or provider to the department within ~~14~~ 15 days of notification. A laboratory that loses primary certification, either in its resident state program or third-party accreditation program, will also immediately lose certification for the same program area and parameters in Iowa, pursuant to 83.7(5)*"a"*(9).

ITEM 121. Rescind and reserve rule **567—83.4(455B)**.

ITEM 122. Amend subrule 83.6(1) as follows:

83.6(1) *Approved methodology required.* Laboratories must use the approved methodology for all analyses the results of which are to be submitted to the department. A laboratory may not analyze and report data from samples collected for an environmental program area until certified in that area.

ITEM 123. Amend subrule 83.6(2) as follows:

83.6(2) *Performance evaluation (proficiency testing) samples required.* Certified laboratories must satisfactorily analyze PEs at least once every 12 months for each analyte by each method for which the laboratory wishes to retain certification unless a PE sample is not available for the particular analyte or method. Results must be submitted to Iowa department of natural resources and the state of Iowa hygienic laboratory, or as otherwise directed, along with a statement of the method used within 30 days of receipt from the provider. The laboratory must maintain records of all PE samples for a minimum of 5 years.

ITEM 124. Amend subrule 83.6(3) as follows:

83.6(3) *Notification of major changes.* Laboratories must notify the department, in writing, within 15 days of major changes in essential personnel, equipment, laboratory location, or other major change which might alter or impair analytical capability. An example of a major change in essential personnel includes the loss or replacement of the laboratory supervisor, or a trained and experienced analyst is no longer available to analyze a particular parameter for which certification has been granted.

ITEM 125. Amend paragraph **83.6(6)"a"** as follows:

a. Water supply program.

(1) Certified laboratories must report to the department, or its designee ~~such as SHL~~, all analytical test results for all public water supplies~~,~~ in a manner acceptable to the department, using forms, including electronic forms, provided or approved by the department or by electronic means acceptable to the department. If a public water supply is required by the department to collect and analyze a sample for an analyte not normally required by 567—Chapters 41 and 43, the laboratory testing for that analyte must also be certified and report the results of that analyte to the department. It is the responsibility of the laboratory to correctly assign and track the sample identification number as well as facility ID and source/entry point data for all reported samples.

1. The following are examples of sample types for which data results must be reported:

- Routine: a regular sample which includes samples collected for compliance purposes from such locations as the source/entry point and in the distribution system, at various sampling frequencies;
- Repeat: a sample which must be collected after a positive result from a routine or previous repeat total coliform sample, per ~~567—41.2(455B).~~ 567—paragraph 41.2(1)*"j."* Repeat samples must be analyzed at the same laboratory from which the associated original routine sample was analyzed;
- Confirmation: a sample which verifies a routine sample, normally used in determination of compliance with a health-based standard, such as nitrate;
- Special: a nonroutine sample, such as raw, plant, and troubleshooting samples, which cannot be used to comply with monitoring requirements assigned by the department;
- Maximum residence time: a sample which is collected at the maximum residence time location in the distribution system, usually for disinfection byproduct measurement; and
- Replacement: a sample which replaces a missed sample from a prior monitoring period resulting in a monitoring violation.

2. to 4. No change.

(2) No change.

(3) Analytical results must be reported to and received by the ~~department's designee~~ department by the seventh day of the month following the month in which the samples were analyzed.

(4) In addition to the monthly reporting of the analytical results, the following results must be reported within 24 hours of the completion of the analysis to the department by ~~facsimile transmission (fax)~~ email or other method acceptable to the department, and to the public water supply for which the analyses were conducted:

1. No change.

2. Results of any contaminant which exceeds public drinking water standards (maximum contaminant level, treatment technique, action level, or health advisory), and any subsequent confirmation samples~~, excluding lead and copper~~.

For results available outside of routine business hours, the results must also be reported to the department's Environmental Emergency Reporting Hotline number at (515)725-8694.

(5) No change.

ITEM 126. Adopt the following **new** subrule 83.6(8):

83.6(8) *Record keeping.* The laboratory certification program appraisal authority must retain the records for on-site laboratory assessments and certification program reviews. The records must be maintained in an easily accessible manner for a period of at least six years to include the last two on-site audits. The records include correspondence used to determine compliance with the laboratory certification program requirements and may include checklists, corrective action reports, final reports, certificates, performance evaluation/proficiency testing study results, and any other related documents.

ITEM 127. Amend paragraph **83.7(1)"c"** as follows:

c. A laboratory will not be granted provisional certification by the department for water supply contaminants which pose an acute risk to human health, including nitrate, nitrite, ~~fecal coliform bacteria,~~ and *Escherichia coli* bacteria.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 128. Amend subparagraph **83.7(3)"a"(1)** as follows:

(1) Failure to analyze a PE sample annually for water supply contaminants which pose an acute risk to human health, including nitrate, nitrite, ~~fecal coliform bacteria,~~ and *Escherichia coli* bacteria, or which pose an imminent risk to the environment;

ITEM 129. Amend subparagraph **83.7(3)"a"(2)** as follows:

(2) Failure to analyze a PE sample annually within Iowa acceptance limits for water supply contaminants which pose an acute risk to human health, including nitrate, nitrite, ~~fecal coliform bacteria,~~ and *Escherichia coli* bacteria, or which pose an imminent risk to the environment;

ARC 3569C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rule making related to environmental management systems and providing an opportunity for public comment

The Environmental Protection Commission hereby proposes to amend Chapter 111, "Annual Reports of Solid Waste Environmental Management Systems," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 455J.4(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 455J.

Purpose and Summary

Many of the proposed amendments are necessary to conform Chapter 111 to 2017 Iowa Acts, House File 202, signed by Governor Branstad on April 12, 2017. House File 202 amended the Iowa Code chapter related to Environmental Management Systems, Iowa Code chapter 455J. This legislation removed the Solid Waste Alternatives Program Advisory Council (council) from Iowa Code chapter 455J. This council had been vital in the oversight of the establishment of the Environmental Management Systems program; however, once the program was established, it was determined that the council was no longer necessary. House File 202 shifted the duties of the council to the Department of Natural Resources. This legislation also changed the due date by which the Department of Natural Resources must review the annual report submitted by each designated system to determine if that system remains in compliance with Iowa Code chapter 455J (formerly the council's duty). The proposed amendments implement these changes from House File 202. The amendments also reformat and clarify the required annual report submittal information.

Specifically, the proposed amendments:

- Eliminate the council and move the council's prior responsibilities to the Department of Natural Resources;
- Amend definitions to be consistent with terminology used in Iowa Code chapter 455J;
- Reorganize rule 567—111.6(455J) to clarify annual report submittal information requirements for program participants; and
- Amend rule 567—111.7(455J) to change the annual report review date from October 1 to January 1 of each year.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Fiscal Impact

This rule making has no negative fiscal impact to the State of Iowa. This rule making may result in a small cost savings to the Environmental Management Systems program because the program will no longer have to pay for council members' travel costs and for the routine meetings held by the council. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2018. Comments should be directed to:

Leslie B. Goldsmith
Iowa Department of Natural Resources
Wallace State Office Building
502 E. 9th Street
Des Moines, Iowa 50319
Email: leslie.goldsmith@dnr.iowa.gov
Phone: 515.725.8319

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held. Upon arrival, attendees should proceed to the 4th floor to check in at the DNR Reception Desk to sign in and be directed to the appropriate hearing location:

February 13, 2018, from 10 a.m. to 1 p.m.
Conference Room 5 West
Wallace State Office Bldg.
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

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

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **567—111.4(455J)**, definition of "Plan component," as follows:

"Plan component" means each of the six areas that are required to be addressed in an environmental management system, including: ~~yard~~ organics waste management, hazardous household ~~waste~~ materials collection, water quality improvement, greenhouse gas reduction, recycling services, and environmental education.

ITEM 2. Adopt the following **new** definition of "Department" in rule **567—111.4(455J)**:

"Department" means the department of natural resources.

ITEM 3. Rescind the definition of "Council" in rule **567—111.4(455J)**.

ITEM 4. Amend rule 567—111.6(455J) as follows:

567—111.6(455J) Contents of annual reports. The following elements shall be included in the annual report.

111.6(1) to **111.6(4)** No change.

111.6(5) ~~*Plan components.*~~ *Objectives and targets.* ~~The following elements shall be addressed for each of the six plan components.~~

~~*a. Objectives and targets.* This element describes~~ The annual report shall describe the objective(s) relevant to ~~the~~ each of the six plan ~~component~~ components and the targets established for achieving the objective(s).

~~*b.*~~ **111.6(6)** *Action plan.* ~~This element provides~~ The annual report shall provide a plan that describes the actions necessary to achieve the objectives and targets. The plan includes the identification of ~~the individuals and organizations responsible for carrying out~~ specific tasks, time lines for completion of each step in the plan, and a schedule for periodically reviewing and updating, as conditions dictate, the objectives and targets.

111.6(7) *Roles and responsibilities.* The annual report shall include identification and documentation of individuals and organizations responsible for specific tasks to carry out the objectives.

~~*c.*~~ **111.6(8)** *Communication and training.* ~~This element describes~~ The annual report shall describe the processes that have been established for internal and external communication.

~~(1)~~ *a.* External communication includes reaching out to those groups and organizations that have been identified as having an interest, stake, or role in the planning or service area's ongoing EMS program. There shall also be procedures for receiving and responding to relevant communication from external interested parties.

~~(2)~~ *b.* Internal communication is directed to individuals, organizations and entities that have a role or responsibility within the action plan. Internal communication includes a process to ensure that all responsible parties are familiar with the EMS and have the training necessary to capably execute their roles. A description of the training provided to responsible parties shall be included.

~~*d.*~~ **111.6(9)** *Monitoring and measurement.* ~~This element describes~~ The annual report shall describe the documented process for monitoring key activities and, at a minimum, measuring performance related to each objective and target.

~~*e.*~~ **111.6(10)** ~~*Assessment.*~~ *Audit/Assessment.* ~~This element provides~~ The annual report shall provide documented procedures for assessing the performance of the component's action plan(s) in terms of achieving the stated objectives and targets and conformance with the overall EMS. The assessment ~~element~~ shall draw conclusions from the performance measurements.

a. Internal audit. A copy of the result of the latest internal audit that includes the date(s) it was conducted and the identity of the auditor(s) shall be provided as part of the report. An internal audit shall be conducted each state fiscal year.

b. External audit. An external audit shall occur each state fiscal year. The date of the latest external audit or the date the audit will take place, along with the identity and pertinent qualifications

of the independent, third-party auditor(s), shall be provided. The results of the external audit shall be incorporated into the report. The department has a prequalification process for external auditors.

~~*f.*~~ **111.6(11)** *Reevaluation and modification.* ~~The reevaluation~~ Reevaluation and modification ~~element is an activity~~ are activities that ~~allows~~ allow a planning or service area to improve and strengthen the EMS on an ongoing basis. ~~This element considers~~ The annual report shall describe areas where the EMS has met, exceeded, or failed to meet expectations. For each plan component, the report shall identify root causes of those outcomes and develop revised goals and activities appropriate to each.

~~**111.6(6)** *Internal audit.* A copy of the result of the latest internal audit that includes the date(s) it was conducted and the identity of the auditor(s) shall be provided as part of the report. An internal audit shall be conducted each state fiscal year.~~

~~**111.6(7)** *External audit.* An external audit shall occur each state fiscal year. The date of the latest external audit or the date the audit will take place, along with the identity and pertinent qualifications of the independent, third-party auditor(s) shall be provided. The results of the external audit shall be incorporated into the report. The department has a prequalification process for external auditors.~~

ITEM 5. Amend rule 567—111.7(455J) as follows:

567—111.7(455J) Evaluation criteria. Each annual report shall be reviewed by the ~~council~~ department, and a determination as to whether a planning or service area's EMS is in compliance with Iowa Code section 455J.3 shall be made by ~~October~~ January 1 of each year. Reports shall be reviewed for the following:

1. Completeness in terms of addressing all of the elements set forth in 567—111.6(455J).
2. Progress toward achieving the objectives and targets set forth in the EMS.
3. Clear demonstration of continuous improvement in terms of progress toward achieving the objectives and targets set forth in the EMS.

Upon achievement of these objectives and targets, a reevaluation and decision will be needed to verify whether a new target should be assigned to an objective or, if the objectives and targets were not achieved, what new initiatives should be incorporated into the EMS. Planning and service areas shall review procedures on a regular basis and revise as appropriate.

ITEM 6. Amend rule 567—111.8(455J) as follows:

567—111.8(455J) Evaluation outcomes.

111.8(1) If the ~~council~~ department determines that the annual report adequately demonstrates compliance with the requirements of Iowa Code section 455J.3, the planning or service area shall remain designated as an EMS and shall continue to be qualified for the incentives set forth in Iowa Code section 455J.5.

111.8(2) If the ~~council~~ department determines that the annual report clearly demonstrates that the planning or service area's EMS is no longer in compliance with Iowa Code section 455J.3, the ~~council~~ department may recommend to the environmental protection commission the revocation of the EMS designation. If the commission concurs with the ~~council's~~ department's recommendation, the planning or service area shall adhere to the comprehensive planning requirements in 567—Chapter 101.

111.8(3) Failure by a planning or service area to submit an annual report by September 1 in any year will result in revocation of the EMS designation, following which the planning or service area shall adhere to the comprehensive planning requirements in 567—Chapter 101.

ARC 3573C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to civil money penalty fund and providing an opportunity for public comment

HUMAN SERVICES DEPARTMENT[441](cont'd)

The Department of Human Services hereby proposes to amend Chapter 81, "Nursing Facilities," and to rescind Chapter 166, "Quality Improvement Initiative Grants," Iowa Administrative Code, and to adopt a new Chapter 166 with the same title.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 249A.57.

Purpose and Summary

These amendments align administrative rules with federal regulations regarding the use of civil money penalties (CMP) imposed by the Centers for Medicare and Medicaid Services (CMS). These amendments also update the Department's process in how and when the Department requests applications for grant proposals. These amendments remove the evaluation and scoring criteria from administrative rules as this information will be incorporated in the formal request for application and will allow flexibility to update Departmentwide processes without having to change administrative rules.

Fiscal Impact

There are no costs associated with this rule making. A change in the criteria and process for awarding these grants could potentially change which entities qualify, but funding is already set aside in the civil money penalty fund and at no time shall the grant set-aside cause the civil money penalty fund to drop below $1 million.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

Harry Rossander
Bureau of Policy Coordination
Department of Human Services
Hoover Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: policyanalysis@dhs.state.ia.us

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Hearing

No public hearing is scheduled at this time. An oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, an agency, or an association of 25 or more persons as provided in Iowa Code section 17A.4(1)"b."

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **441—81.1(249A)**, definition of "Facility," as follows:

"Facility" means a licensed nursing facility certified in accordance with the provisions of 42 CFR ~~Part 483,~~ 483.5 as amended to ~~September 23, 1992~~ December 4, 2017, to provide health services and includes hospital-based nursing facilities that are Medicare-certified and provide only skilled level of care and swing-bed hospitals unless stated otherwise.

ITEM 2. Amend rule 441—81.53(249A) as follows:

441—81.53(249A) Use of penalties collected by the department. Civil money penalties collected by the department shall be applied to the protection of the health or property of residents of facilities that the department of inspections and appeals finds deficient. Funds may be used for:

1. ~~Payment for the cost~~ Time-limited expenses incurred in the process of relocating residents to home- and community-based settings or other facilities when a facility is closed or downsized pursuant to an agreement with the department;

2. Recovery of state costs related to the operation of a facility pending correction of deficiencies or closure;

3. ~~Reimbursement of residents for personal funds or property lost at a facility as a result of actions by the facility or by individuals used by the facility to provide services to residents; and~~ Support and protection of residents of a facility that closes;

4. Funding of projects to improve the quality of life ~~or~~ and quality of care of nursing facility residents through quality improvement initiative grants awarded pursuant to 441—Chapter 166~~.~~;

5. Projects that support resident and family councils and other consumer involvement in ensuring quality care in facilities; and

6. Reasonable expenses incurred by the department to administer, monitor, or evaluate the effectiveness of grants utilizing civil money penalty funds.

ITEM 3. Rescind 441—Chapter 166 and adopt the following **new** chapter in lieu thereof:

CHAPTER 166
QUALITY IMPROVEMENT INITIATIVE GRANTS

PREAMBLE

These rules define and structure grants to be funded from collected civil money penalties. The grant funds are available for activities that protect or improve the quality of care and quality of life for residents of a nursing facility.

441—166.1(249A) Definitions.

"Eligible entities" means nursing facilities, state agencies, nursing facility advocacy groups, resident and family councils, and other nursing facility stakeholder groups.

"Nursing facility" means a Medicaid-enrolled facility that is defined in rule 441—81.1(249A) as "facility."

"Quality improvement initiative" or *"initiative"* means a project or training in accordance with provisions of 42 CFR 488.433 as amended to December 4, 2017, that directly or indirectly supports and benefits the quality of care and quality of life of nursing facility residents.

441—166.2(249A) Availability of grants. The department shall set aside an annual amount from the civil money penalty fund established pursuant to Iowa Code section 249A.57 to be awarded in the form of grants to eligible entities for approved quality improvement initiatives. At no time shall the grant set-aside cause the civil money penalty fund to drop below $1 million.

166.2(1) In any calendar year in which sufficient funds are available in the civil money penalty fund to support quality improvement initiative grants, the department may issue a notice for applications for grants.

166.2(2) There is no entitlement to any funds available for grants awarded pursuant to this chapter. The department may award grants to the extent funds are available and, within its discretion, to the extent that applications are approved.

166.2(3) The allocation of funds shall be in compliance with state and federal law and approved by the Centers for Medicare and Medicaid Services (CMS).

441—166.3(249A) Grant eligibility. Grants are available only for quality improvement initiatives that are outside the scope of normal operations for the nursing facility or other applicants. Grants cannot be used as replacement funding for goods or services that the applicant already offers.

166.3(1) Grants may be awarded for:

a. Short-term quality improvement initiatives (three years or less), and

b. Initiatives with a longer term that involve collaborative efforts of state government and various stakeholders.

166.3(2) The department will comply with CMS guidance on civil money penalty uses.

441—166.4(249A) Grant application process and selection of proposals. The department will announce through a request for proposals the opening of an application period. The request will state the purpose for which grant funds may be sought. Applicants shall submit their grant proposals by the deadline specified in the announcement.

166.4(1) Evaluation of proposals. All proposals completed as directed and submitted within the time frames allowed will be evaluated by the grant review committee to determine which applicants' project plans will be submitted for CMS approval.

166.4(2) The department will submit the project plan for each grant the department intends to award, along with any required documentation, to CMS to seek approval or denial of the proposed project. All activities and plans for utilizing civil money penalty funds must be approved in advance by CMS.

441—166.5(249A) Project contracts. Grants for approved applicant project plans will be awarded through a contract entered into by the department and the applicant. The contract period shall not exceed the time frames allowed by state and federal laws. The department will reimburse expenditures pursuant to contract terms and the regular reimbursement procedures of the state of Iowa.

These rules are intended to implement Iowa Code section 249A.57.

ARC 3571C

INSURANCE DIVISION[191]

Notice of Intended Action

Proposed rule making related to organized delivery systems

and providing an opportunity for public comment

INSURANCE DIVISION[191](cont'd)

The Insurance Division hereby proposes to amend Chapter 4, "Agency Procedure for Rule Making and Waiver of Rules," Chapter 35, "Accident and Health Insurance," Chapter 37, "Medicare Supplement Insurance," Chapter 41, "Limited Service Organizations," Chapter 71, "Small Group Health Benefit Plans," Chapter 73, "Health Insurance Purchasing Cooperatives," Chapter 74, "Health Care Access," Chapter 75, "Iowa Individual Health Benefit Plans," and Chapter 78, "Uniform Prescription Drug Information Card," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 505.8.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 505, 507B, 509, 509A, 513B, 513C, 514A, 514B, 514C, 514E, 514F, 514I, 514J, 514K, 514L, and 521F as amended by 2017 Iowa Acts, House File 393, sections 29 to 103.

Purpose and Summary

The purpose of these amendments is to implement 2017 Iowa Acts, House File 393, sections 29 to 103, by removing references to "organized delivery systems" from the Insurance Division's rules.

The Division intends that these amendments will become effective April 18, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

The Insurance Division's general waiver provisions of 191—Chapter 4 apply to these rules.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

Ann Outka
Insurance Division
Two Ruan Center
601 Locust, 4th Floor
Des Moines, Iowa 50309
Fax: 515.281.3059
Email: ann.outka@iid.iowa.gov

Public Hearing

There will not be a public hearing regarding these amendments, as they are merely editorial. A person may request an oral proceeding on a proposed rule within 20 days after publication of the Notice of Intended Action, pursuant to 191—subrule 4.5(2).

INSURANCE DIVISION[191](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **4.24(2)"a"** as follows:

a. For purposes of Iowa Code chapter 505B and this subrule, the following definitions shall apply:

"Commissioner" means the Iowa insurance commissioner or insurance division.

"Intended recipient" means the person to whom notice is required to be delivered, including but not limited to notices listed in the definition of "notice of cancellation, nonrenewal or termination" in this paragraph and in 191—paragraphs 20.80(1)*"b,"* 30.9(1)*"b,"* 35.9(1)*"b,"* 39.33(1)*"b,"* and 40.26(1)*"b."*

"Notice of cancellation, nonrenewal or termination" means:

1. Notice of an insurance company's termination of an insurance policy at the end of a term or before the termination date;

2. Notice of an insurance company's decision or intention not to renew a policy; and

3. For purposes of notices required by Iowa Code chapters 505B, 508, 509B, 513B, 514, 514B, 514D, 514G, 515, 515D, 518, 518A and 519, "notice of cancellation, nonrenewal or termination" includes but is not limited to the following:

- An insurance company's notice of cancellation, nonrenewal, suspension, exclusion, intention not to renew, failure to renew, termination, replacement, rescission, forfeiture or lapse in an annuity policy, a life insurance policy, a long-term care insurance policy, or an insurance policy other than life;
- An insurance company's rescission or discontinuance of an accident and health insurance policy;
- An insurance company's notice of cancellation of personal lines policies or contracts;
- A health maintenance organization's notice to an enrollee of cancellation or rescission of membership;
- An employer's or group policyholder's notice to an employee or member of the termination or substantial modification of the continuation of an employer group accident or health policy; or
- A carrier's ~~or organized delivery system's~~ advance notice to affected small employers, participants, and beneficiaries of its decision to discontinue offering a particular type of health insurance coverage.

ITEM 2. Amend paragraph **4.24(2)"b"** as follows:

b. This subrule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance in Iowa, health maintenance organizations, employers, group policyholders, or carriers ~~and organized delivery systems~~ and to all requirements by statute or rule related to notices of cancellation, nonrenewal or termination. This subrule shall apply when an insurance company, health maintenance organization, employer, group policyholder, or carrier ~~or organized delivery system~~ seeks the commissioner's approval of a manner for delivering by electronic means required notices of cancellation, nonrenewal or termination, as described in Iowa Code section 505B.1.

ITEM 3. Amend subrule 35.3(3), introductory paragraph, as follows:

35.3(3) For purposes of ~~2005 Iowa Acts, House File 420, section 1,~~ Iowa Code section 514C.22 relating to biologically based mental illness coverage in a group policy, contract or plan providing for third-party payment of health, medical, and surgical coverage benefits issued by a carrier ~~or by an organized delivery system~~, "biologically based mental illness" shall mean the following mental disorders as they are defined under the following diagnostic classes within the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, edition DSM-IV-TR:

INSURANCE DIVISION[191](cont'd)

ITEM 4. Amend rule 191—35.9(509B,513B,514D) as follows:

191—35.9(509B,513B,514D) Notice of cancellation, nonrenewal or termination of accident and health insurance.

35.9(1) *Purpose and definitions.*

a. Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, nonrenewal or termination by an insurer, issuer, employer, group policyholder, or carrier ~~or organized delivery system~~, so as to implement the various policyholder protections intended by Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A and chapter 505B.

b. Definitions. As used in Iowa Code section 505B.1 and this rule:

"Commissioner" means the Iowa insurance commissioner or insurance division.

"Notice of cancellation, nonrenewal or termination" means:

1. and 2. No change.

3. For purposes of notices required by Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A and chapter 505B, "notice of cancellation, nonrenewal or termination" includes but is not limited to the following:

- An employer's or group policyholder's notification to employees or members of the termination or substantial modification of the continuation of an employer group accident or health policy pursuant to Iowa Code section 509B.5;
- A carrier's ~~or organized delivery system's~~ advance notice to all affected small employers, participants, and beneficiaries of its decision to discontinue offering a particular type of small group health insurance plan pursuant to Iowa Code section 513B.5(1)*"e"*(2);
- An insurance company's notice of termination of an individual accident and sickness policy, pursuant to rules promulgated pursuant to Iowa Code section 514D.3;
- An insurance company's notice of forfeiture, suspension, cancellation, or intention not to renew, pursuant to Iowa Code section 515.125; or
- An insurance company's notice of cancellation of personal lines policies or contracts pursuant to Iowa Code section 515.129A.

35.9(2) No change.

35.9(3) *Delivery.* For any notice of cancellation, nonrenewal or termination by an insurer, employer, group policyholder, or carrier ~~or organized delivery system~~ to be effective, an insurer, employer, group policyholder, or carrier ~~or organized delivery system~~ must, within the time frame established by law, deliver the notice to the person to whom notice is required to be provided either in person or by mail through the U.S. Postal Service to the last-known address of the person to whom notice is required to be provided. The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in the Iowa Code sections cited in this subrule for certified mail or certificate of mailing as proof of mailing.

35.9(4) *Electronic transmissions.* Notwithstanding the requirements of subrule 35.9(3), if an insurer, issuer, employer, group policyholder, or carrier ~~or organized delivery system~~ receives, pursuant to 191—subrule 4.24(2), approval from the commissioner of a manner of electronic delivery of a notice of cancellation, nonrenewal or termination of a policy, the approved manner shall satisfy the notice requirements of Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A and chapter 505B.

This rule is intended to implement Iowa Code chapters 505B, 509B, 513B, 514D, and 515.

ITEM 5. Amend rule **191—35.23(509)**, definition of "Creditable coverage," as follows:

"Creditable coverage" means health benefits or coverage provided to an individual under any of the following:

1. A group health plan.
2. Health insurance coverage.
3. Part A or Part B Medicare pursuant to Title XVIII of the federal Social Security Act.
4. Medicaid pursuant to Title XIX of the federal Social Security Act, other than coverage consisting solely of benefits under Section 1928 of that Act.
5. 10 U.S.C. ch. 55.

6. A health or medical care program provided through the Indian Health Service or a tribal organization.

7. A state health benefits risk pool.

8. A health plan offered under 5 U.S.C. ch. 89.

9. A public health plan as defined under federal regulations.

10. A health benefit plan under Section 5(e) of the Peace Corps Act, 22 U.S.C. 2504(e).

~~11. An organized delivery system licensed by the director of public health.~~

~~12.~~ 11. A short-term limited durational policy.

ITEM 6. Rescind the definition of "Organized delivery system" in rule **191—35.23(509)**.

ITEM 7. Amend rule 191—35.24(509) as follows:

191—35.24(509) Eligibility to enroll.

35.24(1) A carrier ~~or an organized delivery system~~ offering group health insurance coverage shall not establish rules for eligibility, including continued eligibility, of an individual to enroll under the terms of the coverage based on any of the following health status-related factors in relation to the individual or a dependent of the individual:

a. to *h.* No change.

35.24(2) and **35.24(3)** No change.

35.24(4) A carrier ~~or organized delivery system~~ offering health insurance coverage shall not require an individual, as a condition of enrollment or continued enrollment under the coverage, to pay a premium or contribution which is greater than a premium or contribution for a similarly situated individual enrolled in the coverage on the basis of a health status-related factor in relation to the individual or to a dependent of an individual enrolled under the coverage. This subrule shall not be construed to do either of the following:

a. No change.

b. Prevent a carrier ~~or organized delivery system~~ offering group health insurance coverage from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

35.24(5) A carrier ~~or organized delivery system~~ shall not modify a health insurance coverage with respect to an employer or any eligible employee or dependent through riders, endorsements or other means, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the health insurance coverage.

ITEM 8. Amend subrule 35.25(1) as follows:

35.25(1) A carrier ~~or organized delivery system~~ shall permit individuals to enroll for coverage under terms of a health benefit plan, without regard to other enrollment dates permitted under the group health insurance coverage, if an eligible employee requests enrollment or, if the group health insurance coverage makes coverage available to dependents, on behalf of a dependent who is eligible but not enrolled under the group health insurance coverage, during the special enrollment period, which shall be 30 days following an event described in ~~subrules~~ subrule 35.25(2) or 35.25(3) with respect to the individual for whom enrollment is requested. A carrier ~~or organized delivery system~~ may impose enrollment requirements that are otherwise applicable under terms of the group health insurance coverage to individuals requesting immediate enrollment.

ITEM 9. Amend rule 191—35.26(509) as follows:

191—35.26(509) Group health insurance coverage policy requirements.

35.26(1) Group health insurance coverage subject to the rules in this division is renewable with respect to all eligible employees or their dependents at the option of the employer, except for one or more of the following reasons:

a. and *b.* No change.

c. Noncompliance with the carrier's ~~or organized delivery system's~~ minimum participation requirements or employer contribution requirements.

d. No change.

e. A carrier ~~or ODS~~ may choose to discontinue offering and cease to renew a particular type of health insurance coverage in the large group market if the carrier does all of the following:

(1) and (2) No change.

(3) Offers to each plan sponsor of the discontinued coverage the option to purchase any other coverage currently offered by the carrier ~~or ODS~~ to other employers in this state.

(4) No change.

f. A decision by the carrier ~~or ODS~~ to discontinue offering and cease to renew all of its health insurance delivered or issued for delivery to employers in this state shall do all of the following:

(1) to (3) No change.

g. No change.

h. The commissioner or director finds that the continuation of the coverage is not in the best interests of the policyholders or certificate holders, or would impair the carrier's ~~or ODS's~~ ability to meet its contractual obligations.

i. At the time of coverage renewal, a carrier ~~or ODS~~ may modify the health insurance coverage for a product offered under group health insurance coverage in the group market, if such modification is consistent with the laws of this state and is effective on a uniform basis among group health insurance coverage with that product.

35.26(2) A carrier ~~or ODS~~ that elects not to renew health insurance coverage under 35.26(1) *"f"* shall not write any new business in the group market in this state for a period of five years after the date of notice to the commissioner or director.

35.26(3) This rule applies only to a carrier ~~or ODS~~ doing business in one established geographic service area of the state and the carrier's ~~or ODS's~~ operations in that service area.

35.26(4) Preexisting condition exclusions.

a. A carrier ~~or ODS~~, with respect to a participant or beneficiary, may impose a preexisting condition exclusion only as follows:

(1) to (3) No change.

b. A carrier ~~or ODS~~ offering group health insurance coverage shall not impose any preexisting condition as follows:

(1) to (3) No change.

c. A carrier ~~or ODS~~ shall waive any waiting period applicable to a preexisting condition exclusion or limitation period with respect to particular services under health insurance coverage for the period of time an individual was covered by creditable coverage, provided that the creditable coverage was continuous to a date not more than 63 days prior to the effective date of the new coverage. Any period that an individual is in a waiting period for any coverage under group health insurance coverage, or is in an affiliation period, shall not be taken into account in determining the period of continuous coverage. A health maintenance organization that does not use preexisting condition limitations in any of its health insurance coverage may impose an affiliation period. For purposes of this paragraph, "affiliation period" means a period of time not to exceed 60 days for new entrants and not to exceed 90 days for late enrollees during which no premium shall be collected and coverage issued is not effective, so long as the affiliation period is applied uniformly, without regard to any health status-related factors.

d. A group health ~~plan, carrier, or ODS~~ plan or carrier offering group health insurance under the plan may not impose a preexisting condition exclusion with respect to a participant or dependent of the participant before notifying the participant under rule 191—35.29(509).

ITEM 10. Amend rule 191—35.27(509) as follows:

191—35.27(509) Methods of counting creditable coverage.

~~**35.27(1)**~~ For purposes of reducing any preexisting condition exclusion period, a group health ~~plan, carrier, or ODS~~ plan or carrier offering group health insurance coverage shall determine the amount of an individual's creditable coverage by using the standard method described in ~~paragraph 35.27(1)~~ ~~*"a,"*~~ subrule 35.27(1) except that the ~~plan, carrier or ODS~~ plan or carrier may use the alternative method under

~~paragraph 35.27(1)*"b"*~~ subrule 35.27(2) with respect to any or all of the categories of benefits described under ~~paragraph 35.27(1)*"d."*~~ subrule 35.27(4).

~~*a.*~~ **35.27(1)** Under the standard method, a group health ~~plan,~~ plan or health insurance ~~carrier, or an ODS~~ carrier offering group health insurance coverage shall determine the amount of creditable coverage without regard to the specific benefits included in the coverage.

~~(1)~~ *a.* For purposes of reducing the preexisting condition exclusion period, a group health ~~plan,~~ plan or health insurance ~~carrier, or an ODS~~ carrier offering group health insurance coverage shall determine the amount of creditable coverage by counting all the days that the individual has under one or more types of creditable coverage. If on a particular day, an individual has creditable coverage from more than one source, all the creditable coverage on that day is counted as one day. Further, any days in a waiting period for a plan or policy are not creditable coverage under the plan or policy.

~~(2)~~ *b.* Days of creditable coverage that occur before a significant break in coverage are not required to be counted.

~~(3)~~ *c.* Notwithstanding any other provisions of ~~paragraph 35.27(1)*"b,"*~~ subrule 35.27(2) for purposes of reducing a preexisting condition exclusion period, a group health ~~plan,~~ plan or a health insurance ~~carrier, or an ODS~~ carrier offering group health insurance coverage may determine the amount of creditable coverage in any other manner that is at least as favorable to the individual as the method set forth in ~~paragraph 35.27(1)*"b."*~~ subrule 35.27(2).

~~*b.*~~ **35.27(2)** Under the alternative method, a group health ~~plan,~~ plan or a health insurance ~~carrier, or an ODS~~ carrier offering group health insurance coverage shall determine the amount of creditable coverage based on coverage within any category of benefits described in ~~paragraph 35.27(1)*"d"*~~ subrule 35.27(4) and not based on coverage. The plan may apply a different preexisting condition exclusion period with respect to each category and may apply a different preexisting condition exclusion period for benefits that are not within any category. The creditable coverage determined for a category of benefits applies only for purposes of reducing the preexisting condition exclusion period with respect to that category. An individual's creditable coverage for benefits that are not within any category for which the alternative method is being used is determined under the standard method of ~~paragraph 35.27(1)*"a."*~~ subrule 35.27(1).

~~*c.*~~ **35.27(3)** A ~~plan, carrier, or ODS~~ plan or carrier using the alternative method is required to apply it uniformly to all participants and beneficiaries in the plan or policy. The use of the alternative method must be set forth in the plan.

~~*d.*~~ **35.27(4)** The alternative method for counting creditable coverage may be used for coverage for any of the following categories of benefits:

~~(1)~~ *a.* Mental health.

~~(2)~~ *b.* Substance abuse treatment.

~~(3)~~ *c.* Prescription drugs.

~~(4)~~ *d.* Dental care.

~~(5)~~ *e.* Vision care.

~~*e.*~~ **35.27(5)** If the alternative method is used, the plan is required to:

~~(1)~~ *a.* State prominently that the plan is using the alternative method of counting creditable coverage in disclosure statements concerning the plan, and state this to each enrollee at the time of enrollment under the plan;

~~(2)~~ *b.* Include in these statements a description of the effect of using the alternative method, including an identification of the category's uses; and

~~(3)~~ *c.* Count creditable coverage within a category if any level of benefits is provided within the category.

ITEM 11. Amend rule 191—35.28(509) as follows:

191—35.28(509) Certificates of creditable coverage.

35.28(1) Group health ~~plans, carriers, or ODSs~~ plans or carriers shall issue certificates of creditable coverage to persons losing coverage. A group health ~~plan, carrier, or ODS~~ plan or carrier required to provide a certificate under this rule for an individual is deemed to have satisfied the certification

requirements for that individual if another party provides the certificate, but only to the extent that information relating to the individual's creditable coverage and waiting or affiliation period is provided by the other party. Certificates shall be issued within a reasonable amount of time following termination to employees and dependents:

a. to *c.* No change.

35.28(2) Certificates in writing. Certificates of coverage must be in writing unless all of the following conditions are met:

a. No change.

b. The individual requests that the certificate be sent to another ~~plan, carrier, or ODS~~ plan or carrier;

c. The ~~plan, carrier, or ODS~~ plan or carrier receiving the certificate agrees to accept the information through means other than a written certificate;

d. No change.

35.28(3) and **35.28(4)** No change.

35.28(5) Dependent coverage transition rule. A group health ~~plan, carrier, or ODS~~ plan or carrier that does not maintain dependent data is deemed to have satisfied the requirement to issue dependent certificates by naming the employee and specifying that the coverage on the certificate is for dependent coverage.

35.28(6) Delivering certificates. The certificate shall be given to the individual, ~~plan, carrier, or ODS~~ plan or carrier requesting the certificate. The certificates may be sent by first-class mail. When a dependent's last-known address differs from the employee's last-known address, a separate certificate shall be provided to the dependent at the dependent's last-known address. Separate certificates may be mailed together to the same location.

35.28(7) A group health ~~plan, carrier, or ODS~~ plan or carrier shall establish a procedure for individuals to request and receive certificates.

35.28(8) A certificate is not required to be furnished until the group health ~~plan, carrier, or ODS~~ plan or carrier knows or should have known that the dependent's coverage terminated.

35.28(9) Demonstrating creditable coverage. An individual has the right to demonstrate creditable coverage, waiting periods, and affiliation periods when the accuracy of the certificate is contested or a certificate is unavailable. A group health ~~plan, carrier, or ODS~~ plan or carrier shall consider information obtained by it or presented on behalf of an individual to determine whether the individual has creditable coverage.

ITEM 12. Amend rule 191—35.29(509) as follows:

191—35.29(509) Notification requirements.

35.29(1) A group health ~~plan, carrier, or ODS~~ plan or carrier shall provide written notice to the employee and dependents that includes the following:

a. No change.

b. A determination that the group health ~~plan, carrier, or ODS~~ plan or carrier intends to impose a preexisting condition exclusion and:

(1) to (3) No change.

(4) The right of the person to demonstrate creditable coverage including the right of the person to request a certificate from a prior group health ~~plan, carrier, or ODS~~ plan or carrier and a statement that the current group health ~~plan, carrier, or ODS~~ plan or carrier will assist in obtaining the certificate.

c. and *d.* No change.

35.29(2) A group health ~~plan, carrier, or ODS~~ plan or carrier shall provide written notice to the employee and dependents of a modification of a prior creditable coverage decision when the group health ~~plan, carrier, or ODS~~ plan or carrier subsequently determines either no or less creditable coverage existed provided that the group health ~~plan, carrier, or ODS~~ plan or carrier acts according to its initial determination until the final determination is made.

ITEM 13. Amend rule 191—35.31(509) as follows:

191—35.31(509) Disclosure requirements. All carriers ~~and ODSs~~ shall include in contracts and evidence of coverage forms a statement disclosing the existence of any prescription drug formularies. Upon request, all carriers ~~and ODSs~~ offering health insurance coverage that includes a prescription drug formulary shall inform enrollees of the coverage, and prospective enrollees of the coverage during any open enrollment period, whether a prescription drug specified in the request is included in such formulary.

All carriers ~~and ODSs~~ shall also disclose the existence of any contractual arrangements providing rebates received by them for prescription drugs or durable medical equipment. Durable medical equipment means equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose and is generally not useful to a person who is not sick or injured or used by other family members and is appropriate for home use for the purpose of improving bodily functions or preventing further deterioration of the medical condition caused by sickness or injury.

ITEM 14. Amend rule 191—35.35(509) as follows:

191—35.35(509) Reconstructive surgery.

35.35(1) A carrier ~~or organized delivery system~~ that provides medical and surgical benefits with respect to a mastectomy shall provide the following coverage in the event an enrollee receives benefits in connection with a mastectomy and elects breast reconstruction:

a. to *c.* No change.

35.35(2) and **35.35(3)** No change.

35.35(4) A carrier ~~or organized delivery system~~ shall not deny an enrollee eligibility or continued eligibility to enroll or renew coverage under the terms of the health insurance solely for the purpose of avoiding the requirements of this rule. A carrier ~~or organized delivery system~~ shall not penalize, reduce or limit the reimbursement of an attending provider or induce the provider to provide care in a manner inconsistent with this rule.

This rule is intended to implement Public Law 105-277.

ITEM 15. Amend rule 191—35.39(514C) as follows:

191—35.39(514C) Contraceptive coverage.

35.39(1) A carrier ~~or organized delivery system~~ that provides benefits for outpatient prescription drugs or devices shall provide benefits for prescription contraceptive drugs or prescription contraceptive devices which prevent conception and are approved by the United States Food and Drug Administration or generic equivalents approved as substitutable by the United States Food and Drug Administration.

35.39(2) A carrier ~~or organized delivery system~~ is not required to provide benefits for over-the-counter contraceptive drugs or contraceptive devices that do not require a prescription for purchase.

35.39(3) No change.

35.39(4) A carrier ~~or organized delivery system~~ shall be required to provide benefits for services related to outpatient contraceptive services for the purpose of preventing conception if the policy or contract provides benefits for other outpatient services provided by a health care professional.

35.39(5) If a carrier ~~or organized delivery system~~ does not provide benefits for a routine physical examination, the carrier ~~or organized delivery system~~ is not required to provide benefits for a routine physical examination provided in the course of prescribing a contraceptive drug or contraceptive device.

This rule is intended to implement ~~2000 Iowa Acts, Senate File 2126~~ Iowa Code chapter 514C.

ITEM 16. Amend rule **191—37.3(514D)**, definition of "Creditable coverage," as follows:

"Creditable coverage" means, with respect to an individual, coverage of the individual provided under any of the following:

1. A group health plan;
2. Health insurance coverage;

INSURANCE DIVISION[191](cont'd)

3. Part A or Part B of Title XVIII of the Social Security Act (Medicare);

4. Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under Section 1928;

5. Chapter 55 of Title 10, United States Code (CHAMPUS);

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A state health benefits risk pool;

8. A health plan offered under Chapter 89 of Title 5 United States Code (Federal Employees Health Benefits Program);

9. A public health plan as defined in federal regulation; ~~and~~

10. A health benefit plan under Section 5(e) of the Peace Corps Act (22 United States Code 2504(e)) ~~.~~; and

~~11. A organized delivery system.~~

~~12.~~ 11. Short-term limited durational policy.

"Creditable coverage" shall not include one or more, or any combination of, the following:

1. Coverage only for accident or disability income insurance, or any combination thereof;

2. Coverage issued as a supplement to liability insurance;

3. Liability insurance, including general liability insurance and automobile liability insurance;

4. Workers' compensation or similar insurance;

5. Automobile medical payment insurance;

6. Credit-only insurance;

7. Coverage for on-site medical clinics; and

8. Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

"Creditable coverage" shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan:

1. Limited scope dental or vision benefits;

2. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and

3. Such other similar, limited benefits as are specified in federal regulations.

"Creditable coverage" shall not include the following benefits if offered as independent, noncoordinated benefits:

1. Coverage only for a specified disease or illness; and

2. Hospital indemnity or other fixed indemnity insurance.

"Creditable coverage" shall not include the following if it is offered as a separate policy, certificate or contract of insurance:

1. Medicare supplemental health insurance as defined under Section 1882(g)(1) of the Social Security Act;

2. Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

3. Similar supplemental coverage provided to coverage under a group health plan.

ITEM 17. Amend rule **191—41.1(514B)**, definition of "Limited service organization (LSO)," as follows:

~~*"Limited service organization (LSO)"*~~ *"Limited service organization"* or *"LSO"* means any corporation or limited liability company or other entity which, in return for prepayment, undertakes to provide or arrange for the provision of one or more limited health services to enrollees. Entities authorized to do business pursuant to Iowa Code chapters 508, 512B, 514, 514B (health maintenance organizations), 515, and 520 ~~and organized delivery systems~~ shall not be required to obtain separate licensure as an LSO.

ITEM 18. Amend rule 191—71.1(513B) as follows:

191—71.1(513B) Purpose. This chapter is intended to implement the provisions of Iowa Code chapter 513B to provide for the guaranteed issue of all health insurance products in the small group market, regardless of their health status or claims experience; to regulate insurer rating practices and establish limits on differences in rates between health insurance coverages; to ensure renewability of coverage; to establish limitations on underwriting practices, eligibility requirements and the use of preexisting condition exclusions; to provide for development of "basic" and "standard" health insurance plans to be offered to all small employers; to provide for establishment of a reinsurance program; to direct the basis of market competition away from risk selection and toward the efficient management of health care; to improve the overall fairness and efficiency of the small group health insurance market and to promote broader spreading of risk in the small employer marketplace. Carriers ~~and ODSs~~ that provide basic and standard health benefit plans, as herein set forth, to small employers are intended to be subject to all provisions of Iowa Code chapter 513B and this chapter ~~of rules~~.

71.1(1) No change.

71.1(2) A carrier ~~or organized delivery system~~ subject to this chapter is required to guarantee issue small employer plans except for reasons set forth in Iowa Code chapter 513B.

ITEM 19. Amend rule **191—71.2(513B)**, definition of "Short-term limited duration insurance," as follows:

"Short-term limited duration insurance" means health insurance coverage provided under a contract with a carrier ~~or ODS~~ that has an expiration date specified in the contract, taking into account any extensions that may be elected by the policyholder without the carrier's ~~or ODS's~~ consent, that is, within 12 months of the date the contract becomes effective.

ITEM 20. Rescind the definition of "Organized delivery system" in rule **191—71.2(513B)**.

ITEM 21. Amend rule 191—71.3(513B) as follows:

191—71.3(513B) Applicability and scope.

71.3(1) *a.* and *b.* No change.

71.3(2) *a.* A carrier ~~or ODS~~ that provides individual health insurance policies to one or more of the employees of a small employer shall be considered a small employer carrier ~~or ODS~~ and subject to the provisions of Iowa Code chapter 513B and this chapter with respect to such policies if the small employer contributes, directly or indirectly, to the premiums for the policies and the carrier ~~or ODS~~ is aware, or should have been aware, of such contribution.

b. In the case of a carrier ~~or ODS~~ that provides individual health insurance policies to one or more employees of a small employer, the small employer shall be considered an eligible small employer as defined in Iowa Code section 513B.10 and the small employer carrier subject to Iowa Code section 513B.10(1)*"b"*(2) if:

(1) and (2) No change.

(3) The carrier ~~or ODS~~ is aware, or should have been aware, of the contribution by the employer.

71.3(3) No change.

71.3(4) An individual health insurance policy shall not be subject to Iowa Code chapter 513B and this chapter solely because the policyholder elects a business expense deduction under Section 162(1) of the Internal Revenue Code, the health insurance coverage is treated as part of a plan or program for purposes of Section 125 of the Internal Revenue Code for which the employee makes all the contributions, or the employer provides payroll deduction of health insurance premiums on behalf of an employee if the health insurance coverage covers employees where the employer has applied for group health benefits and has received written notification that the group did not meet the small group carrier's ~~or ODS's~~ minimum participation or contribution standards. The individual health insurance carrier ~~or ODS~~ shall maintain a copy of the employer's notification from the small group carrier for insurance division audit purposes.

71.3(5) *a.* If a small employer is issued health insurance coverage under the terms of Iowa Code chapter 513B, the provisions of Iowa Code chapter 513B and this chapter shall continue to apply to the

health insurance coverage in the case that the small employer subsequently employs more than 50 eligible employees. A carrier ~~or ODS~~ providing coverage to such an employer shall, within 60 days of becoming aware that the employer has more than 50 eligible employees but no later than the anniversary date of the employer's health insurance coverage, notify the employer that the protections provided under Iowa Code chapter 513B and this chapter shall cease to apply to the employer if such employer fails to renew its current health insurance coverage or elects to enroll in different health insurance coverage. It is the responsibility of the employer to notify the carrier ~~or ODS~~ of changes in employment levels which could change the employer's status as a small employer for the purposes of this chapter.

b. (1) If health insurance coverage is issued to an employer that is not a small employer as defined, but subsequently the employer becomes a small employer (due to the loss or change of work status of one or more employees), the terms of Iowa Code chapter 513B shall not apply to the health insurance coverage. The carrier ~~or ODS~~ providing health insurance coverage to such an employer shall not become a small employer carrier ~~or ODS~~ under the terms of Iowa Code chapter 513B solely because the carrier ~~or ODS~~ continues to provide coverage under the health insurance coverage to the employer.

(2) A carrier ~~or ODS~~ providing coverage to an employer described in subparagraph 71.3(5)*"b"*(1) shall, within 60 days of becoming aware that the employer has 50 or fewer eligible employees, notify the employer of the options and protections available to the employer under Iowa Code chapter 513B, including the employer's option to purchase a small employer health insurance coverage from any small employer carrier ~~or ODS~~. It is the responsibility of the employer to notify the carrier of changes in employment levels which could change the employer's status as a small employer for the purposes of this chapter.

71.3(6) *a.* (1) and (2) No change.

71.3(7) A carrier ~~or ODS~~ that is not operating as a small employer carrier ~~or ODS~~ in this state shall not become subject to the provisions of the Act and this regulation solely because a small employer that was issued health insurance coverage in another state by that carrier ~~or ODS~~ moves to this state.

ITEM 22. Amend rule 191—71.4(513B) as follows:

191—71.4(513B) Establishment of classes of business.

71.4(1) A small employer carrier ~~or ODS~~ that establishes more than one class of business as defined in Iowa Code section 513B.2 shall maintain on file for inspection by the commissioner the following information with respect to each class of business so established:

a. to *c.* No change.

71.4(2) A carrier ~~or ODS~~ may not directly or indirectly use group size as a criterion for establishing eligibility for health insurance coverage or for a class of business.

ITEM 23. Amend rule 191—71.5(513B) as follows:

191—71.5(513B) Transition for assumptions of business from another carrier.

71.5(1) *a.* A small employer carrier ~~or ODS~~ shall not transfer or assume the entire insurance obligation or risk of health insurance coverage covering a small employer in this state unless:

(1) The transaction has been approved by the commissioner of the state of domicile of the assuming carrier ~~or ODS~~;

(2) The transaction has been approved by the commissioner of the state of domicile of the ceding carrier ~~or ODS~~; and

(3) No change.

b. A carrier ~~or ODS~~ domiciled in this state that proposes to assume or cede the entire insurance obligation or risk of one or more small employer health benefit plans from another carrier ~~or ODS~~ shall make a filing for approval with the commissioner at least 60 days prior to the date of the proposed assumption. The commissioner may approve the transaction upon a finding that the transaction is in the best interests of the individuals insured under the health insurance coverages to be transferred and is consistent with the purposes of Iowa Code chapter 513B and this chapter. The commissioner shall not approve the transaction until at least 30 days after the date of the filing except that, if the ceding carrier

~~or ODS~~ is in hazardous financial condition, the commissioner may approve the transaction as soon as the commissioner deems reasonable after the filing.

c. (1) The filing required under paragraph 71.5(1)*"b"* shall:

1. Describe the class of business (including any eligibility requirements) of the ceding carrier ~~or ODS~~ from which the health insurance coverage will be ceded;

2. Describe whether the assuming carrier ~~or ODS~~ will maintain the assumed health insurance coverage as a separate class of business (pursuant to 71.5(3)) or will incorporate them into an existing class of business (pursuant to 71.5(4)). If the assumed health insurance coverage will be incorporated into an existing class of business, the filing shall describe the class of business of the assuming carrier ~~or ODS~~ into which the health insurance coverages will be incorporated;

3. to 7. No change.

(2) A small employer carrier ~~or ODS~~ required to make a filing under 71.5(1)*"b"* shall also make an informational filing with the commissioner of each state in which there are small employer health insurance coverages that would be included in the transaction. The informational filing to each state shall be made concurrently with the filing made under 71.5(1)*"b"* and shall include at least the information specified in 71.5(1)*"c"*(1) for the small employer health insurance coverages in that state.

d. A small employer carrier ~~or ODS~~ shall not transfer or assume the entire insurance obligation or risk of health insurance coverage covering a small employer in this state unless it complies with the following provisions:

(1) The carrier ~~or ODS~~ has provided notice to the commissioner at least 60 days prior to the date of the proposed assumption. The notice shall contain the information specified in 71.5(1)*"c"* for the health insurance coverages covering small employers in this state.

(2) If the assumption of a class of business would result in the assuming small employer ~~carrier or ODS~~ carrier's being out of compliance with the limitations related to premium rates contained in Iowa Code section 513B.4(1)*"a,"* the assuming carrier ~~or ODS~~ shall make a filing with the commissioner pursuant to Iowa Code section 513B.17 seeking suspension of the application of Iowa Code section 513B.4(1)*"a."*

(3) An assuming carrier ~~or ODS~~ seeking suspension of the application of Iowa Code ~~paragraph~~ section 513B.4(1)*"a"* shall not complete the assumption of health insurance coverages covering small employers in this state unless the commissioner grants the suspension requested pursuant to 71.5(1)*"d"*(2).

(4) No change.

71.5(2) *a.* Except as provided in paragraph 71.5(1)*"b,"* a small employer carrier ~~or ODS~~ shall not cede or assume the entire insurance obligation or risk for small employer health insurance coverage unless the transaction includes ceding to the assuming carrier ~~or ODS~~ the entire class of business that includes such health insurance coverage.

b. A small employer carrier ~~or ODS~~ may cede less than an entire class of business to an assuming carrier if:

(1) One or more small employers in the class have exercised their right under contract or state law to reject (either directly or by implication) the ceding of their health insurance coverage to another carrier ~~or ODS~~. In that instance, the transaction shall include each health insurance coverage in the class of business except those health insurance coverages for which a small employer has rejected the proposed cession; or

(2) No change.

71.5(3) Except as provided in 71.5(4), a small employer carrier ~~or ODS~~ that assumes one or more health insurance coverages from another carrier ~~or ODS~~ shall maintain such health insurance coverages as a separate class of business.

71.5(4) A small employer carrier ~~or ODS~~ that assumes one or more health insurance coverages from another carrier ~~or ODS~~ may exceed the limitation contained in Iowa Code section 513B.2 (relating to the maximum number of classes of business a carrier ~~or ODS~~ may establish) due solely to such assumption for a period of up to 15 months after the date of the assumption, provided that the carrier ~~or ODS~~ complies with the following provisions:

a. Upon assumption of the health insurance coverages, such health insurance coverages shall be maintained as a separate class of business. During the 15-month period following the assumption, each of the assumed small employer health insurance coverages shall be transferred by the assuming small employer carrier ~~or ODS~~ into a single class of business operated by the assuming small employer carrier ~~or ODS~~. The assuming small employer carrier ~~or ODS~~ shall select the class of business into which the assumed health insurance coverages will be transferred in a manner that results in the least possible change to the coverages and rating method of the assumed health insurance coverages.

b. No change.

c. A small employer carrier ~~or ODS~~ making a transfer pursuant to paragraph *"a"* may alter the benefits of the assumed health insurance coverages to conform to the benefits currently offered by the carrier in the class of business into which the health insurance coverages have been transferred.

d. The premium rate for an assumed small employer health insurance coverage shall not be modified by the assuming small employer carrier ~~or ODS~~ until the health insurance coverage is transferred pursuant to paragraph *"a."* Upon transfer, the assuming small employer carrier ~~or ODS~~ shall calculate a new premium rate for the health insurance coverage from the rate manual established for the class of business into which the health insurance coverage is transferred. In making such calculation, the risk load applied to the health insurance coverage shall be no higher than the risk load applicable to such health insurance coverage prior to the assumption.

e. No change.

71.5(5) An assuming carrier ~~or ODS~~ may not apply eligibility requirements (including minimum participation and contribution requirements) with respect to an assumed health insurance coverage (or with respect to any health insurance coverage subsequently offered to a small employer covered by such an assumed health insurance coverage) that are more stringent than the requirements applicable to such health insurance coverage prior to the assumption.

71.5(6) The commissioner may approve a longer period of transition upon application of a small employer carrier ~~or ODS~~. The application shall be made within 60 days after the date of assumption of the class of business and shall clearly state the justification for a longer transition period.

71.5(7) Nothing in this rule or in Iowa Code chapter 513B is intended to:

a. Reduce or diminish any legal or contractual obligation or requirement, including any obligation provided in Iowa Code chapters 521 and 521B, of the ceding or assuming carrier ~~or ODS~~ related to the transaction;

b. Authorize a carrier ~~or ODS~~ that is not admitted to transact the business of insurance in this state to offer health insurance coverages in this state; or

c. No change.

ITEM 24. Amend rule 191—71.6(513B) as follows:

191—71.6(513B) Restrictions relating to premium rates.

71.6(1) *a.* A small employer carrier shall develop a separate rate manual for each class of business. Base premium rates and new business premium rates charged to small employers by the small employer carrier shall be computed solely from the applicable rate manual developed pursuant to this rule. To the extent that a portion of the premium rates charged by a small employer carrier is based on the carrier's discretion, the manual shall specify the criteria and factors considered by the carrier in exercising such discretion.

b. (1) and (2) No change.

(3) For the purpose of this rule a change in rating method shall mean:

1. A change in the number of case characteristics used by a small employer carrier ~~or ODS~~ to determine premium rates for health insurance coverages in a class of business;

2. to 4. No change.

For the purpose of ~~subparagraph (3), paragraph "1" above,~~ 71.6(1)*"b"*(3)"1," a change in a rating factor shall mean the cumulative change, with respect to such factor, considered over a 12-month period. If a small employer carrier changes rating factors with respect to more than one case characteristic in a 12-month period, the carrier shall consider the cumulative effect of all such changes in applying the 10

percent test under paragraph ~~"1."~~ 71.6(1)*"b"*(3)"1." A filing which has not previously been approved, denied, or questioned is deemed approved on or after 30 days from receipt by the division.

71.6(2) *a.* The rate manual developed pursuant to 71.6(1) shall specify the case characteristics and rate factors to be applied by the small employer carrier in establishing premium rates for the class of business.

b. No change.

c. A small employer carrier ~~or ODS~~ shall use the same case characteristics in establishing premium rates for each health insurance coverage in a class of business and shall apply them in the same manner in establishing premium rates for each health insurance coverage. Case characteristics shall be applied without regard to the risk characteristics of a small employer.

d. No change.

e. Differences among base premium rates for health insurance coverages shall be based solely on the reasonable and objective differences in the design and benefits of the health insurance coverages and shall not be based in any way on the actual or expected health status or claims experience of the small employer groups that choose, or are expected to choose, a particular health insurance coverage. A small employer carrier ~~or ODS~~ shall apply case characteristics and rate factors within a class of business in a manner that ensures that premium differences among health insurance coverages for identical small employer groups vary only due to reasonable and objective differences in the design and benefits of the health insurance coverages and are not due to the actual or expected health status or claims experience of the small employer groups that choose, or are expected to choose, a particular health insurance coverage.

f. No change.

g. (1) No change.

(2) A carrier ~~or ODS~~ may charge a separate fee with respect to a health insurance coverage (but only one fee with respect to such plan) provided the fee is no more than $5 per month per employee and is applied in a uniform manner to each health insurance coverage in a class of business.

h. A small employer carrier ~~or ODS~~ shall allocate administrative expenses to the basic and standard health benefit plans on no less favorable a basis than expenses are allocated to other health insurance coverages in the class of business. The rate manual developed pursuant to 71.6(1) shall describe the method of allocating administrative expenses to the health insurance coverages in the class of business for which the manual was developed.

i. and *j.* No change.

71.6(3) No change.

71.6(4) The restrictions related to changes in premium rates in Iowa Code section 513B.4(1)*"c"* and 513B.4(1)*"d"* shall be applied as follows:

a. No change.

b. (1) No change.

(2) If, for any health insurance coverages with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health insurance coverage shall be considered health insurance coverage into which the small employer carrier ~~or ODS~~ is no longer enrolling new small employers for the purposes of Iowa Code sections 513B.4(1)*"c"* and 513B.4(1)*"d."*

c. If, for any rating period, the change in the new business premium rate for health insurance coverage differs from the change in the new business premium rate for any other health insurance coverage in the same class of business by more than 20 percent, the carrier ~~or ODS~~ shall make a filing with the commissioner containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing shall be made within 30 days of the beginning of the rating period.

d. A small employer carrier ~~or ODS~~ shall keep on file, for a period of at least six years, the calculations used to determine the change in base premium rates and new business premium rates for each health insurance coverage for each rating period.

71.6(5) *a.* Except as provided in paragraphs *"b"* through *"d,"* a change in premium rate for a small employer shall produce a revised premium rate that is no more than the following:

(1) and (2) No change.

b. In the case of health insurance coverage into which a small employer carrier ~~or ODS~~ is no longer enrolling new small employers, a change in a premium rate for a small employer shall produce a revised premium rate that is no more than the following:

(1) No change.

(2) One plus the lesser of:

1. No change.

2. The percentage change in the new business premium for the most similar health insurance coverage into which the small employer carrier ~~or ODS~~ is enrolling new small employers, multiplied by

(3) No change.

c. and *d.* No change.

71.6(6) *a.* A representative of a Taft Hartley trust (including a carrier upon the written request of such a trust) may file in writing with the commissioner a request for the waiver of application of the provisions of 513B.4 with respect to such trust.

b. A request made under paragraph *"a"* shall identify the provisions for which the trust is seeking the waiver and shall describe, with respect to each provision, the extent to which application of such provisions would:

(1) Adversely affect the participants and beneficiaries of the trust; and

(2) Require modifications to one or more of the collective bargaining agreements under or pursuant to which the trust was or is established or maintained.

c. A waiver granted under 513B.4A shall not apply to an individual who participates in the trust because the individual is an associate member of an employee organization or the beneficiary of such an individual.

ITEM 25. Amend rule 191—71.7(513B) as follows:

191—71.7(513B) Requirement to insure entire groups.

71.7(1) *a.* A small employer carrier ~~or ODS~~ that offers coverage to a small employer shall offer to provide coverage to each eligible employee and to each dependent of an eligible employee. The small employer carrier ~~or ODS~~ shall provide the same health insurance coverage to each employee and dependent.

b. No change.

71.7(2) *a.* Except as provided in this subrule, a small employer carrier ~~or ODS~~ may not issue health insurance coverage to a small employer unless the health insurance coverage covers all eligible employees and all dependents of eligible employees.

b. A small employer carrier ~~or ODS~~ may issue health insurance coverage to a small employer that excludes an eligible employee or the dependent of an eligible employee only if:

(1) to (3) No change.

c. A small employer carrier ~~or ODS~~ shall require each small employer that applies for coverage, as part of the application process, to provide a complete list of eligible employees and dependents of eligible employees. The small employer carrier ~~or ODS~~ shall require the small employer to provide appropriate supporting documentation in the form of a W-2 Summary Wage and Tax Form and federal or state quarterly withholding statements for the current year and the year immediately preceding the year of application for coverage.

(1) A small employer carrier ~~or ODS~~ shall secure a waiver, with respect to each eligible employee and each dependent of an eligible employee, declining an offer of coverage under health insurance coverage provided to a small employer. The waiver shall be signed by the eligible employee (on behalf of such employee or the dependent of such employee) and shall certify that the individual who declined coverage was informed of the availability of coverage under the health insurance coverage. The waiver form shall require that the reason for declining coverage ~~is~~ be stated on the form and shall include a written warning of the penalties imposed on late enrollees. Waivers shall be maintained by the small employer carrier ~~or ODS~~ for a period of six years.

(2) A small employer carrier ~~or ODS~~ shall obtain, with respect to each individual who submits a waiver under 71.7(2)*"c"*(1), information sufficient to establish that the waiver is permitted under 71.7(2)*"b."*

d. (1) A small employer carrier ~~or ODS~~ shall not issue coverage to a small employer if the carrier is unable to obtain the list required under 71.7(2)*"c,"* a waiver required under 71.7(2*)"c"*(1) or the information required under 71.7(2)*"c"*(2) in circumstances set forth in this subrule.

(2) 1. A small employer carrier ~~or ODS~~ shall not offer coverage to a small employer if the carrier ~~or ODS~~, or a producer for such carrier ~~or ODS~~, has reason to believe that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to the individual's risk characteristics.

2. A producer shall notify a small employer carrier ~~or ODS~~, prior to submitting an application for coverage with the carrier ~~or ODS~~ on behalf of a small employer, of any circumstances that would indicate that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to the individual's risk characteristics.

71.7(3) *a.* New entrants to a small employer group shall be offered an opportunity to enroll in the health insurance coverage currently held by such group. A new entrant that does not exercise the opportunity to enroll in the health insurance coverage within the period provided by the small employer carrier ~~or ODS~~ may be treated as a late enrollee by the carrier ~~or ODS~~, provided that the period provided to enroll in the health insurance coverage extends at least 30 days after the date the new entrant is notified of the opportunity to enroll. If a small employer carrier ~~or ODS~~ has offered more than one health insurance coverage to a small employer group pursuant to 71.7(1)*"b,"* the new entrant shall be offered the same choice of health insurance coverages as the other members of the group.

b. A small employer carrier ~~or ODS~~ shall not apply a waiting period, elimination period or other similar limitation of coverage (other than an exclusion for preexisting medical conditions consistent with Iowa Code section 513B.10(4)), with respect to a new entrant that is longer than 60 days. This subrule does not affect an employer's ability to determine an employee's probationary period of work prior to the commencement of benefits.

c. New entrants to a group shall be accepted for coverage by the small employer carrier ~~or ODS~~ without any restrictions or limitations on coverage related to the risk characteristics of the employees or their dependents except that a carrier may exclude coverage for preexisting medical conditions consistent with the provisions provided in Iowa Code section 513B.10.

d. A small employer carrier ~~or ODS~~ may assess a risk load to the premium rate associated with a new entrant consistent with the requirements of Iowa Code section 513B.4. The risk load shall be the same risk load charged to the small employer group immediately prior to acceptance of the new entrant into the group.

71.7(4) *a.* Opportunity to enroll.

(1) In the case of an eligible employee (or dependent of an eligible employee) who, prior to July 1, 1993, was excluded from coverage or denied coverage by a small employer carrier ~~or ODS~~ in the process of providing health insurance coverage to an eligible small employer (as defined in Iowa Code section 513B.2(16)), the small employer carrier ~~or ODS~~ shall provide an opportunity for the eligible employee (or dependent of such eligible employee) to enroll in health insurance coverage currently held by the small employer.

(2) A small employer carrier ~~or ODS~~ may require an individual who requests enrollment under this subrule to sign a statement indicating that such individual sought coverage under the group contract (other than as a late enrollee) and that the coverage was not offered to the individual.

b. The opportunity to enroll shall meet the following requirements:

~~*b.*~~ (1) The opportunity to enroll shall begin October 1, 1993, and extend for a period of at least three months.

(2) and (3) No change.

(4) A small employer carrier ~~or ODS~~ shall provide written notice at least 45 days prior to the opportunity to enroll provided in 71.7(4)*"a"*(1) to each small employer insured under health insurance coverage offered by such carrier ~~or ODS~~. The notice shall clearly describe the rights granted under

this subrule to employees and dependents previously excluded or denied coverage and the process for enrollment of such individuals in the employer's health insurance coverage.

ITEM 26. Amend rule 191—71.9(513B) as follows:

191—71.9(513B) Application to reenter state.

71.9(1) A carrier ~~or ODS~~ prohibited from writing coverage for small employers in this state pursuant to Iowa Code section 513B.5(2) may not resume offering health insurance coverage to small employers in this state until the carrier ~~or ODS~~ has made a petition to the commissioner or director to be reinstated as a small employer carrier ~~or ODS~~ and the petition has been approved by the commissioner or director. In reviewing a petition, the commissioner or director may ask for such information and assurances as the commissioner or director finds reasonable and appropriate.

71.9(2) In the case of a small employer carrier ~~or ODS~~ doing business in only one established geographic service area of the state, if the small employer carrier ~~or ODS~~ elects to nonrenew health insurance coverage under Iowa Code section 513B.5, the small employer carrier ~~or ODS~~ shall be prohibited from offering health insurance coverages to small employers in any other geographic area of the state without the prior approval of the commissioner or director. In considering whether to grant approval, the commissioner or director may ask for such information and assurances as the commissioner or director finds reasonable and appropriate.

ITEM 27. Amend rule 191—71.11(513B) as follows:

191—71.11(513B) Rules related to fair marketing.

71.11(1) *a.* A small employer carrier ~~or ODS~~ shall actively market health insurance coverages including one basic and one standard health benefit plan to small employers in this state. A small employer carrier ~~or ODS~~ may not suspend the marketing or issuance of the basic and standard health benefit plans unless the carrier ~~or ODS~~ has good cause and has received the prior approval of the commissioner or director.

b. In marketing the basic and standard health benefit plans to small employers, a small employer carrier ~~or ODS~~ shall use at least the same sources and methods of distribution that it uses to market other health insurance coverages to small employers.

71.11(2) *a.* A small employer carrier ~~or ODS~~, in accordance with the provisions of Iowa Code section 513B.10, shall accept every small employer that applies for health insurance coverage from the small employer carrier ~~or ODS~~ and shall accept every eligible individual who applies for enrollment. The offer shall be in writing and shall include at least the following information:

(1) and (2) No change.

b. (1) A small employer carrier ~~or ODS~~ shall provide a price quote to a small employer (directly or through an authorized producer) within ten working days of receiving a request for a quote and other information as necessary to provide the quote. A small employer carrier ~~or ODS~~ shall notify a small employer (directly or through an authorized producer) of any additional information needed by the small employer carrier ~~or ODS~~ to provide the quote within five working days of receiving a request for a price quote.

(2) A small employer carrier ~~or ODS~~ shall not apply more stringent or detailed requirements related to the application process for the basic and standard health benefit plans than applied for other health insurance coverage offered by the carrier ~~or ODS~~.

~~*c.* Rescinded IAB 7/16/97, effective 7/1/97.~~

71.11(3) A small employer carrier ~~or ODS~~ shall establish and maintain a toll-free telephone service to provide information to small employers regarding the availability of health insurance coverages in this state. The service shall provide information to callers regarding application for coverage from the carrier ~~or ODS~~. The information may include the names and telephone numbers of producers located in geographic proximity to the caller or such other information reasonably designed to assist the caller to locate an authorized producer or to otherwise apply for coverage.

71.11(4) The small group carrier ~~or ODS~~ shall not require a small employer to join or contribute to any association or group as a condition of being accepted for coverage by the small employer carrier ~~or ODS~~ except, if membership in an association or other group is a requirement for accepting a small employer into health insurance coverage, a small employer carrier ~~or ODS~~ may apply such requirement.

71.11(5) A small employer carrier ~~or ODS~~ may not require, as a condition to the offer or sale of health insurance coverage to a small employer, that the small employer purchase or qualify for any other insurance product or service.

71.11(6) *a.* Carriers offering individual and group health insurance coverages in this state shall be responsible for determining whether the plans are subject to the requirements of Iowa Code chapter 513B and this chapter. Carriers ~~or ODSs~~ shall elicit the following information from applicants for such plans at the time of application:

(1) and (2) No change.

b. If a small employer carrier ~~or ODS~~ fails to comply with paragraph *"a,"* the small employer carrier ~~or ODS~~ shall be deemed on notice regarding any information that could reasonably have been attained if the small employer carrier had complied with paragraph *"a."*

71.11(7) *a.* A small employer carrier ~~or ODS~~ shall annually file the following information with the commissioner related to health insurance coverages issued by the small employer carrier ~~or ODS~~ to small employers in this state:

(1) to (6) No change.

b. No change.

71.11(8) and **71.11(9)** No change.

ITEM 28. Amend rule 191—71.12(513B) as follows:

191—71.12(513B) Status of carriers as small employer carriers.

71.12(1) Subject to 71.12(2), a carrier ~~or ODS~~ shall not offer health insurance coverages to small employers or continue to provide coverage under health insurance coverages previously issued to small employers in this state unless the carrier ~~or ODS~~ has made a filing with the commissioner or director that the carrier ~~or ODS~~ intends to operate as a small employer carrier ~~or ODS~~ in this state under the terms of this chapter.

71.12(2) *a.* If a carrier ~~or ODS~~ does not intend to operate as a small employer carrier ~~or ODS~~ in this state, the carrier ~~or ODS~~ may continue to provide coverage under health insurance coverages previously issued to small employers in this state only if the carrier ~~or ODS~~ complies with the following provisions:

(1) The carrier ~~or ODS~~ complies with the requirements of Iowa Code chapter 513B (other than Iowa Code sections 513B.11 to 513B.13) with respect to each of the health insurance coverages previously issued to small employers by the carrier ~~or ODS~~.

(2) The carrier ~~or ODS~~ provides coverage to each new entrant to health insurance coverage previously issued to a small employer by the carrier ~~or ODS~~. The provisions of Iowa Code chapter 513B (other than Iowa Code sections 513B.11 to 513B.13) and this chapter shall apply to the coverage issued new entrants.

(3) The carrier ~~or ODS~~ complies with the requirements of Iowa Code section 513B.17A, and rule 191—71.13(513B), as they apply to small employers whose coverage has been terminated by the carrier ~~or ODS~~, and to individuals and small employers whose coverage has been limited or restricted by the carrier ~~or ODS~~.

b. A carrier ~~or ODS~~ that continues to provide coverage pursuant to this subrule shall not be eligible to participate in the reinsurance program established under Iowa Code section 513B.11.

71.12(3) No change.

ITEM 29. Amend rule 191—71.13(513B) as follows:

191—71.13(513B) Restoration of coverage.

71.13(1) *a.* Except as provided in 71.13(1)*"b,"* a small employer carrier ~~or ODS~~ shall, as a condition of continuing to transact business in this state with small employers, offer to provide health insurance

coverage as described in 71.13(3) to any small employer carrier ~~or ODS~~ after January 1, 1993, unless the carrier's ~~or ODS's~~ termination is pursuant to Iowa Code section 513B.5.

b. No change.

71.13(2) No change.

71.13(3) A health insurance coverage provided to a terminated small employer pursuant to 71.13(1) shall meet the following conditions:

a. to *c.* No change.

d. The health insurance coverage shall provide coverage to all employees who are eligible employees as of the date the plan is restored. The carrier ~~or ODS~~ shall offer coverage to each dependent of such eligible employees.

e. The premium rate for the health insurance coverage shall be no more than the premium rate charged to the small employer on the date the health insurance coverage was terminated or nonrenewed provided that, if the number or case characteristics of the eligible employees (or their dependents) of the small employer has changed between the date the health insurance coverage was terminated or nonrenewed and the date that it is restored, the carrier ~~or ODS~~ may adjust the premium rates to reflect any changes in case characteristics of the small employer. If the carrier ~~or ODS~~ has increased premium rates for other similar groups with similar coverage to reflect general increases in health care costs and utilization, the premium rate may be further adjusted to reflect the lowest such increase given to a similar group. The premium rate for the health insurance coverage may not be increased to reflect any changes in risk characteristics of the small employer group until one year after the date the health insurance coverage is restored. Any such increase shall be subject to the provisions of Iowa Code section 513B.4.

f. The health insurance coverage shall not be eligible to be reinsured under the provisions of Iowa Code section 513B.12, except that the carrier ~~or ODS~~ may reinsure new entrants to the health insurance coverage who enroll after the restoration of coverage.

ITEM 30. Amend rule 191—71.15(513B) as follows:

191—71.15(513B) Methods of counting creditable coverage.

71.15(1) For purposes of reducing any preexisting condition exclusion period, a group health ~~plan, a carrier, or ODS~~ plan or a carrier offering group health insurance coverage shall determine the amount of an individual's creditable coverage by using the standard method described in subrule 71.15(2), except that the ~~plan, carrier, or ODS~~ plan or carrier may use the alternative method under subrule 71.15(3) with respect to any or all of the categories of benefits described under paragraph 71.15(3)*"b."*

71.15(2) Under the standard method, a group health ~~plan,~~ plan and a health insurance ~~carrier, and an ODS~~ carrier offering group health insurance coverage shall determine the amount of creditable coverage without regard to the specific benefits included in the coverage.

a. For purposes of reducing the preexisting condition exclusion period, a group health ~~plan,~~ plan or a health insurance ~~carrier, or ODS~~ carrier offering group health insurance coverage shall determine the amount of creditable coverage by counting all the days that the individual has under one or more types of creditable coverage. If on a particular day, an individual has creditable coverage from more than one source, all the creditable coverage on that day is counted as one day. Further, any days in a waiting period for a plan or policy are not creditable coverage under the plan or policy.

b. No change.

c. Notwithstanding any other provision of paragraph 71.15(2)*"b,"* for purposes of reducing a preexisting condition exclusion period, a group health ~~plan,~~ plan and a health insurance ~~carrier, and an ODS~~ carrier offering group health insurance coverage may determine the amount of creditable coverage in any other manner that is at least as favorable to the individual as the method set forth in paragraph 71.15(2)*"b."*

71.15(3) Under the alternative method, a group health ~~plan,~~ plan or a health insurance ~~carrier, or an ODS~~ carrier offering group health insurance coverage shall determine the amount of creditable coverage based on coverage within any category of benefits described in subparagraph 71.15(3)*"b"*(2) and not based on coverage. The plan may apply a different preexisting condition exclusion period with respect to each category and may apply a different preexisting condition exclusion period for benefits that are

not within any category. The creditable coverage determined for a category of benefits applies only for purposes of reducing the preexisting condition exclusion period with respect to that category. An individual's creditable coverage for benefits that are not within any category for which the alternative method is being used is determined under the standard method of paragraph 71.15(3)*"a."*

a. A ~~plan, carrier, or ODS~~ plan or carrier using the alternative method is required to apply it uniformly to all participants and beneficiaries in the plan or policy. The use of the alternative method must be set forth in the plan.

b. No change.

c. If the alternative method is used, the plan is required to:

(1) and (2) No change.

(3) Under the alternative method, the group health ~~plan, carrier, or ODS~~ plan or carrier counts creditable coverage within a category if any level of benefits is provided within the category.

ITEM 31. Amend rule 191—71.16(513B) as follows:

191—71.16(513B) Certificates of creditable coverage.

71.16(1) Group health ~~plans, carriers, and ODSs~~ plans or carriers shall issue certificates of creditable coverage to persons losing coverage. A group health ~~plan, carrier, or ODS~~ plan or carrier required to provide a certificate under this rule for an individual is deemed to have satisfied the certification requirements for that individual if another party provides the certificate, but only to the extent that information relating to the individual's creditable coverage and waiting or affiliation period is provided by the other party. Certificates shall be issued within a reasonable amount of time following termination to employees and dependents:

a. to *c.* No change.

71.16(2) Certificates in writing. Certificates of coverage must be in writing unless all of the following conditions are met:

a. No change.

b. The individual requests that the certificate be sent to another plan or carrier ~~or ODS~~;

c. The ~~plan, carrier, or ODS~~ plan or carrier receiving the certificate agrees to accept the information through means other than a written certificate;

d. The ~~plan, carrier, or ODS~~ plan or carrier receiving the certificate receives the certificate within a reasonable amount of time.

71.16(3) and **71.16(4)** No change.

71.16(5) Dependent coverage transition rule. A group health plan or carrier ~~or ODS~~ that does not maintain dependent data is deemed to have satisfied the requirement to issue dependent certificates by naming the employee and specifying that the coverage on the certificate is for dependent coverage.

71.16(6) Delivering certificates. The certificate shall be given to the individual, plan or carrier ~~or ODS~~ requesting the certificate. The certificates may be sent by first-class mail. When a dependent's last-known address differs from the employee's last-known address, a separate certificate shall be provided to the dependent at the dependent's last-known address. Separate certificates may be mailed together to the same location.

71.16(7) A group health ~~plan, carrier, or ODS~~ plan or carrier shall establish a procedure for individuals to request and receive certificates.

71.16(8) A certificate is not required to be furnished until the group health ~~plan, carrier, or ODS~~ plan or carrier knows or should have known that dependent's coverage terminated.

71.16(9) Demonstrating creditable coverage. An individual has the right to demonstrate creditable coverage, waiting periods, and affiliation periods when the accuracy of the certificate is contested or a certificate is unavailable. A group health ~~plan, carrier, or ODS~~ plan or carrier shall consider information obtained by it or presented on behalf of an individual to determine whether the individual has creditable coverage.

INSURANCE DIVISION[191](cont'd)

ITEM 32. Amend rule 191—71.17(513B) as follows:

191—71.17(513B) Notification requirements.

71.17(1) A group health ~~plan, carrier, or ODS~~ plan or carrier shall provide written notice to the employee and dependents of:

a. The existence of any preexisting condition exclusions.

b. The length of time to which the exclusions will apply.

c. The right of the employee or dependent to appeal a decision to impose a preexisting condition exclusion.

d. The right of the person to demonstrate creditable coverage including:

(1) The right of the person to request a certificate from a prior group health ~~plan, carrier, or ODS~~ plan or carrier;

(2) A statement that the current group health ~~plan, carrier, or ODS~~ plan or carrier will assist in obtaining the certificate;

(3) That the group health ~~plan, carrier, or ODS~~ plan or carrier will use the alternative method of counting creditable coverage; and

(4) No change.

71.17(2) A group health ~~plan, carrier, or ODS~~ plan or carrier shall provide written notice to the employee and dependents of the modification of a prior creditable coverage decision when the group health ~~plan, carrier, or ODS~~ plan or carrier subsequently determines either no or less creditable coverage existed provided that the group health ~~plan, carrier, or ODS~~ plan or carrier acts according to its initial determination until the final determination is made.

ITEM 33. Amend rule 191—71.18(513B) as follows:

191—71.18(513B) Special enrollments.

71.18(1) A carrier ~~or organized delivery system~~ shall permit individuals to enroll for coverage under terms of a health benefit plan, without regard to other enrollment dates permitted under the group health plan, if an eligible employee requests enrollment or, if the group health plan makes coverage available to dependents, on behalf of dependent who is eligible but not enrolled under the group health plan, during the special enrollment period, which shall be 30 days following an event described in subrules 71.18(2) and 71.18(3) with respect to the individual for whom enrollment is requested. A carrier ~~or organized delivery system~~ may impose enrollment requirements that are otherwise applicable under terms of the group health plan to individuals requesting immediate enrollment.

71.18(2) to **71.18(4)** No change.

ITEM 34. Amend rule 191—71.19(513B) as follows:

191—71.19(513B) Disclosure requirements. All carriers ~~and ODSs~~ shall include in contracts and evidence of coverage forms a statement disclosing the existence of any drug formularies. Upon request, a carrier ~~or ODS~~ offering health insurance coverage that includes a prescription drug formulary shall inform enrollees of the coverage, and prospective enrollees of the coverage during any open enrollment period, whether a prescription drug specified in the request is included in such formulary.

All carriers ~~and ODSs~~ shall also disclose the existence of any contractual arrangements providing rebates received by them for prescription drugs or durable medical equipment. Durable medical equipment means equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose and is generally not useful to a person who is not sick or injured or used by other family members and is appropriate for home use for the purpose of improving bodily functions or preventing further deterioration of the medical condition caused by sickness or injury.

ITEM 35. Amend rule 191—71.21(514C) as follows:

191—71.21(514C) Emergency services. Benefits shall be available by the carrier for inpatient and outpatient emergency services. A physician and sufficient other licensed and ancillary personnel shall

be readily available at all times to render such services. Since carriers may not contract with every emergency care provider in an area, carriers shall make every effort to inform members of participating providers.

71.21(1) and **71.21(2)** No change.

71.21(3) Reimbursement to a provider of "emergency services" shall not be denied by any carrier ~~or ODS~~ without that organization's review of the patient's medical history, presenting symptoms, and admitting or initial as well as final diagnosis, submitted by the provider, in determining whether, by definition, emergency services could reasonably have been expected to be provided. Reimbursement for emergency services shall not be denied solely on the grounds that services were performed by a noncontracted provider. If reimbursement for emergency services is denied, the enrollee may file a complaint. Upon denial of reimbursement for emergency services, the carrier shall notify the enrollee and the provider that they may register a complaint with the commissioner of insurance.

ITEM 36. Amend rule 191—71.23(513B) as follows:

191—71.23(513B) Reconstructive surgery.

71.23(1) A carrier ~~or organized delivery system~~ that provides medical and surgical benefits with respect to a mastectomy shall provide the following coverage in the event an enrollee receives benefits in connection with a mastectomy and elects breast reconstruction:

a. to *c.* No change.

71.23(2) and **71.23(3)** No change.

71.23(4) A carrier ~~or organized delivery system~~ shall not deny an enrollee eligibility or continued eligibility to enroll or renew coverage under the terms of the health insurance solely for the purpose of avoiding the requirements of this rule. A carrier ~~or organized delivery system~~ shall not penalize, reduce or limit the reimbursement of an attending provider or induce the provider to provide care in a manner inconsistent with this rule.

This rule is intended to implement Public Law 105-277.

ITEM 37. Amend rule 191—71.24(514C) as follows:

191—71.24(514C) Contraceptive coverage.

71.24(1) A carrier ~~or organized delivery system~~ that provides benefits for outpatient prescription drugs or devices shall provide benefits for prescription contraceptive drugs or prescription contraceptive devices which prevent conception and are approved by the United States Food and Drug Administration or generic equivalents approved as substitutable by the United States Food and Drug Administration.

71.24(2) A carrier ~~or organized delivery system~~ is not required to provide benefits for over-the-counter contraceptive drugs or contraceptive devices that do not require a prescription for purchase.

71.24(3) No change.

71.24(4) A carrier ~~or organized delivery system~~ shall be required to provide benefits for services related to outpatient contraceptive services for the purpose of preventing conception if the policy or contract provides benefits for other outpatient services provided by a health care professional.

71.24(5) If a carrier ~~or organized delivery system~~ does not provide benefits for a routine physical examination, the carrier ~~or organized delivery system~~ is not required to provide benefits for a routine physical examination provided in the course of prescribing a contraceptive drug or contraceptive device.

This rule is intended to implement ~~2000 Iowa Acts, Senate File 2126~~ Iowa Code chapter 514C.19.

ITEM 38. Amend rule **191—73.3(75GA,ch158)**, definition of "Carrier," as follows:

"Carrier" means any entity that provides health benefit plans in this state. For purposes of this chapter, carrier includes an insurance company, a hospital or medical service corporation, a fraternal benefit society, a health maintenance organization, ~~an organized delivery system,~~ and any other entity providing a plan of health insurance or health benefits subject to state regulation.

ITEM 39. Rescind the definition of "Organized delivery system" in rule **191—73.3(75GA,ch158)**.

ITEM 40. Amend rule 191—73.22(75GA,ch158) as follows:

191—73.22(75GA,ch158) Grounds for denial, nonrenewal, suspension or revocation of certificate. The following constitute grounds for denial, nonrenewal, suspension or revocation of the HIPC's certificate following notice and an opportunity for hearing:

1. to 4. No change.

5. Misappropriation, conversion, illegal withholding, or refusal to pay over upon proper demand any moneys that belong to a person or health care carrier ~~or any organized delivery system~~ otherwise not entitled to the HIPC and that have been entrusted to the HIPC in its fiduciary capacity;

6. and 7. No change.

In addition, the application for certification to be a HIPC may be denied upon a finding by the commissioner that a sufficient number of HIPCs are licensed within a geographic service area and an additional HIPC would adversely affect existing HIPCs.

ITEM 41. Rescind paragraph **74.4(2)"d."**

ITEM 42. Amend rule **191—75.2(513C)**, definition of "Risk load," as follows:

"Risk load" means the percentage above the applicable base premium rate that is charged by a carrier ~~or ODS~~ to an individual to reflect the risk characteristics of such individual.

ITEM 43. Rescind the definition of "Organized delivery system" in rule **191—75.2(513C)**.

ITEM 44. Amend rule 191—75.3(513C) as follows:

191—75.3(513C) Applicability and scope.

75.3(1) and **75.3(2)** No change.

75.3(3) An entity that is not operating as an individual health benefit plan carrier ~~or ODS~~ in this state shall not become subject to the provisions of the Act and this rule solely because an individual that was issued a health benefit plan in another state by that entity becomes a resident of this state.

75.3(4) and **75.3(5)** No change.

ITEM 45. Amend rule 191—75.4(513C) as follows:

191—75.4(513C) Establishment of blocks of business. A carrier ~~or ODS~~ shall file with the commissioner the following information with respect to each established block of business, as defined in Iowa Code section 513C.3.

1. A description of each criterion employed by the carrier ~~or ODS~~ for determining membership in the block of business;

2. and 3. No change.

ITEM 46. Amend rule 191—75.5(513C) as follows:

191—75.5(513C) Transition for assumptions of business from another carrier ~~or ODS~~.

75.5(1) Transfer or assumption of insurance obligation.

a. A carrier ~~or ODS~~ shall not transfer or assume the entire insurance obligation or risk of a health benefit plan covering a block of business in this state unless the transaction has been approved by the commissioner of the state of domicile of the ceding carrier ~~or ODS~~.

b. A carrier domiciled in this state that proposes to assume or cede the entire insurance obligation or risk or one or more blocks of business from another carrier ~~or ODS~~ shall make a filing for approval with the commissioner at least 60 days prior to the date of the proposed assumption. The commissioner may approve the transaction upon a finding that the transaction is in the best interests of the individuals insured under the health benefit plans to be transferred and is consistent with the purposes of Iowa Code chapter 513C and this chapter.

c. The filing required under paragraph 75.5(1)*"b"* shall:

(1) Describe the block of business, including any eligibility requirements, of the ceding carrier ~~or ODS~~ from which the health benefit plans will be ceded;

(2) Describe whether the assuming carrier ~~or ODS~~ will maintain the assumed health benefit plans as a separate block of business, pursuant to 75.5(3), or will incorporate them into an existing block of business, pursuant to 75.5(4). If the assumed health benefit plans will be incorporated into an existing block of business, the filing shall describe the block of business of the assuming carrier into which the health benefit plans will be incorporated;

(3) to (7) No change.

d. A carrier ~~or ODS~~ required to make a filing under 75.5(1)*"b"* shall also make an informational filing with the commissioner of each state in which there are individual health benefit plans that would be included in the transaction. The informational filing to each state shall be made concurrently with the filing made under 75.5(1)*"b"* and shall include at least the information specified in 75.5(1)*"c"*(1) for the individual health benefit plans in that state.

e. A carrier ~~or ODS~~ shall not transfer or assume the entire insurance obligation or risk of a health benefit plan covering an individual in this state unless it complies with the following provisions:

(1) The carrier ~~or ODS~~ has provided notice to the commissioner at least 60 days prior to the date of the proposed assumption. The notice shall contain the information specified in 75.5(1)*"c"* for the health benefit plans covering individuals in this state.

(2) If the assumption of a block of business would result in the assuming carrier ~~or ODS~~ being out of compliance with the limitations related to premium rates contained in Iowa Code section 513C.5, the assuming carrier shall make a filing with the commissioner pursuant to Iowa Code section 513C.5 seeking suspension of the application of Iowa Code section 513C.5.

(3) An assuming carrier ~~or ODS~~ seeking suspension of the application of Iowa Code section 513C.5 shall not complete the assumption of health benefit plans covering individuals unless the commissioner grants the suspension requested pursuant to 75.5(1)*"e"*(2).

(4) No change.

75.5(2) Except as provided in subrule 75.5(1), a carrier ~~or ODS~~ shall not cede or assume the entire insurance obligation or risk for a health benefit plan, other than reinsurance, unless the carrier cedes to the assuming carrier the entire block of business that includes such health benefit plan, unless otherwise approved by the commissioner.

75.5(3) The commissioner may approve a longer period of transition upon application of a carrier ~~or ODS~~. The application shall be made within 60 days after the date of assumption of the block of business and shall clearly state the justification for a longer transition period.

75.5(4) Nothing in this rule or in Iowa Code chapter 513C is intended to:

a. Reduce or diminish any legal or contractual obligation or requirements, including any obligation provided in Iowa Code chapters 521 and 521B, of the ceding or assuming carrier ~~or ODS~~ related to the transaction;

b. Authorize a carrier ~~or ODS~~ that is not admitted to transact the business of insurance in this state to offer health benefit plans in this state; or

c. No change.

ITEM 47. Amend rule 191—75.8(513C) as follows:

191—75.8(513C) Disclosure of information.

75.8(1) General rules. In connection with the offering for sale of a health benefit plan to individuals, each carrier ~~and ODS~~ shall make a reasonable disclosure, as part of its solicitation and sales materials, of the following:

a. No change.

b. The provisions of such plan concerning the carrier's ~~and ODS's~~ ability to change premium rates and the factors, other than claim experience, which affect changes in premium rates.

c. and *d.* No change.

e. The availability, upon request, of descriptive information about the benefits and premiums available under individual health benefit plans offered by the carrier ~~and ODS~~ for which the individual

is qualified. For purposes of Iowa Code section 513C.7, carriers ~~and ODSs~~ will be permitted to exclude from disclosure of plans those plans within the following categories:

(1) to (4) No change.

75.8(2) Information shall be provided under this rule in a manner determined to be understandable by the average individual and shall be accurate and sufficiently comprehensive to reasonably inform individuals of their rights and obligations under the plan.

Nothing in this rule supersedes the requirements for outlines of coverage for individual health insurance policies under ~~IAC~~ rule 191—36.7(514D).

ITEM 48. Amend rule 191—75.9(513C) as follows:

191—75.9(513C) Standards to ensure fair marketing.

75.9(1) A carrier ~~or ODS~~ shall make available at least one basic and one standard health benefit plan to eligible individuals in this state.

75.9(2) The written information described in this subrule may be provided directly to the individual or delivered through an authorized producer:

a. A carrier ~~or ODS~~ shall not apply more stringent requirements related to the application process for the basic and standard health benefit plans than applied for other health benefit plans offered by the carrier ~~or ODS~~.

b. A carrier ~~or ODS~~ shall supply a price quote for basic or standard plans to an eligible individual upon request.

c. If a carrier ~~or ODS~~ denies coverage under a health benefit plan to an individual on the basis of a risk characteristic, the denial shall be in writing and state with specificity the reasons for the denial subject to any restrictions related to confidentiality of medical information. The denial shall be accompanied by a written explanation of the availability of the basic and standard health benefit plans from the carrier ~~or ODS~~ and may be combined with the notification requirements of Iowa Code chapter 514E. The explanation shall include the following information about the basic and standard benefit plans:

(1) to (3) No change.

75.9(3) The carrier ~~or ODS~~ shall not require an individual to join or contribute to any association or group as a condition of being accepted for coverage except, if membership in an association or other group is a requirement for accepting an individual into a particular health benefit plan, a carrier ~~or ODS~~ may apply such requirement.

75.9(4) A carrier ~~or ODS~~ may not require as a condition to the offer or sale of a health benefit plan to an individual that the individual purchase or qualify for any other insurance product or service.

75.9(5) Carriers ~~and ODSs~~ offering individual or group health benefit plans in this state shall be responsible for determining whether the plans are subject to the requirements of Iowa Code chapter 513C.

INSURANCE DIVISION[191](cont'd)

ITEM 49. Amend subrule **75.10(5)**, Iowa Individual Products tables, as follows:

Iowa Individual Products

Hospital Services	MANDATED INDEMNITY/~~ODS~~				MANDATED HMO	
			PPO			
	BASIC	STANDARD	In	Out	BASIC	STANDARD
Inpatient Outpatient	60%	80%	80%	60%	60% $400/admit	80% $200/admit
Prostheses	60%	80%	80%	60%	60%	80%
DME—including medical supplies	60%	80%	80%	60%	60%	80%
Ambulance—Emergency	60%	80%	80%	60%	60%	80%
Hospice	60%	80%	80%	60%	60%	80%
Home Health and Physician House Calls	60%	80%	80%	60%	60%	80%

Alcoholism Substance Abuse	MANDATED INDEMNITY/~~ODS~~				MANDATED HMO	
			PPO			
	BASIC	STANDARD	In	Out	BASIC	STANDARD
Inpatient	—	80%(1)	80%(1)	60%(1)	—	80%
Outpatient	—	80%(1) ($50 max. eligible fee)	80%(1)	60%(1)	—	80% ($50 max. eligible fee)

Mental Health	MANDATED INDEMNITY/~~ODS~~				MANDATED HMO	
			PPO			
	BASIC	STANDARD	In	Out	BASIC	STANDARD
Inpatient	—	80%(1)	80%(1)	60%(1)	—	80%
Outpatient	—	80%(1) ($50 max. eligible fee)	80%(1) ($50 max. eligible fee)	60%(1) ($50 max. eligible fee)	—	80% ($50 max. eligible fee)

(1)$50,000 Lifetime Max.

INSURANCE DIVISION[191](cont'd)

Iowa Individual Products

General	MANDATED INDEMNITY/~~ODS~~				MANDATED HMO	
			PPO			
	BASIC	STANDARD	In	Out	BASIC	STANDARD
Calendar year deductibles (S/F)	$1,500 x 3	$1,000 x 3	$1,000 x 3	$1,000 x 3	—	—
E.R. Copayment	—	—	—	—	$50 (waived if admitted)	$50 (waived if admitted)
Coinsurance	60%	80%	80%	60%	60%	80%
Annual out-of-pocket max. (1)	$4,800/ $14,400	$2,000/ $4,000	$2,000/ $4,000	$3,000/ $6,000	$4,000/ $8,000	$2,000/ $4,000
Lifetime Maximum	$250,000	$1,000,000	$1,000,000	$1,000,000	$250,000	$1,000,000
Pre-existing	513C.7(4) (a)&(b)	513C.7(4) (a)&(b)	513C.7(4) (a)&(b)	513C.7(4) (a)&(b)	513C.7(4) (a)&(b)	513C.7(4) (a)&(b)
Rx	60%	80%	80%	60%	Copayment of > $30 or 25%	Copayment of > $20 or 25%
Transplants	None	80%	80%	80%	None	80%

(1)Excludes deductibles and copays

Physician Services	MANDATED INDEMNITY/~~ODS~~				MANDATED HMO	
			PPO			
	BASIC	STANDARD	In	Out	BASIC	STANDARD
Office visits including wellness	60%	80%	$20 copay 100%	$40 copay 60%	$20 copay per office visit	$15 copay per office visit
Urgent Care	60%	80%	80%	60%	60%	80%
Inpatient	60%	80%	80%	60%	60%	80%
Outpatient	60%	80%	80%	60%	60%	80%

ITEM 50. Amend rule 191—75.11(513C) as follows:

191—75.11(513C) Maternity benefit rider. Every individual insurance carrier ~~and ODS~~ shall offer an optional maternity benefit rider for the basic and standard health benefit plans providing benefits, as any other illness, for a pregnancy and delivery without complications with a 12-month waiting period. Credit toward meeting the waiting period shall be given for prior coverage of a pregnancy without complications provided there was no more than a 63-day break in coverage. A maternity rider offered under this rule shall only be offered when the basic or standard plan is initially purchased. Premiums for the rider shall be calculated based upon generally accepted actuarial principles and shall not be subject to the premium restrictions in Iowa Code subsection 513C.10(6). The earned premiums and paid losses associated with the rider shall not be considered by the Iowa Individual Health Benefit Reinsurance Association for purposes of Iowa Code section 513C.10.

ITEM 51. Amend rule 191—75.12(513C) as follows:

191—75.12(513C) Disclosure requirements. All carriers ~~and ODSs~~ shall include in contracts and evidence of coverage forms a statement disclosing the existence of any drug formularies. Upon request, a carrier ~~or ODS~~ offering health insurance coverage that includes a prescription drug formulary shall inform enrollees of the coverage, and prospective enrollees of the coverage during any open enrollment period, whether a prescription drug specified in the request is included in such formulary.

All carriers ~~and ODSs~~ shall also disclose the existence of any contractual arrangements providing rebates received by them for prescription drugs or durable medical equipment. Durable medical equipment means equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose and is generally not useful to a person who is not sick or injured or used by other family members and is appropriate for home use for the purpose of improving bodily functions or preventing further deterioration of the medical condition caused by sickness or injury.

ITEM 52. Amend rule 191—75.17(513C) as follows:

191—75.17(513C) Reconstructive surgery.

75.17(1) A carrier ~~or organized delivery system~~ that provides medical and surgical benefits with respect to a mastectomy shall provide the following coverage in the event an enrollee receives benefits in connection with a mastectomy and elects breast reconstruction:

a. to *c.* No change.

75.17(2) and **75.17(3)** No change.

75.17(4) A carrier ~~or organized delivery system~~ shall not deny an enrollee eligibility or continued eligibility to enroll or renew coverage under the terms of the health insurance solely for the purpose of avoiding the requirements of this rule. A carrier ~~or organized delivery system~~ shall not penalize, reduce or limit the reimbursement of an attending provider or induce the provider to provide care in a manner inconsistent with this rule.

This rule is intended to implement Public Law 105-277.

ITEM 53. Amend rule 191—75.18(514C) as follows:

191—75.18(514C) Contraceptive coverage.

75.18(1) A carrier ~~or organized delivery system~~ that provides benefits for outpatient prescription drugs or devices shall provide benefits for prescription contraceptive drugs or prescription contraceptive devices which prevent conception and are approved by the United States Food and Drug Administration or generic equivalents approved as substitutable by the United States Food and Drug Administration.

75.18(2) A carrier ~~or organized delivery system~~ is not required to offer benefits for over-the-counter contraceptive drugs or contraceptive devices that do not require a prescription for purchase.

75.18(3) No change.

75.18(4) A carrier ~~or organized delivery system~~ shall make available benefits for services related to outpatient contraceptive services for the purpose of preventing conception if the policy or contract provides benefits for other outpatient services provided by a health care professional.

75.18(5) If a carrier ~~or organized delivery system~~ does not provide benefits for a routine physical examination, the carrier ~~or organized delivery system~~ is not required to provide benefits for a routine physical examination provided in the course of prescribing a contraceptive drug or contraceptive device.

This rule is intended to implement ~~2000 Iowa Acts, Senate File 2126~~ Iowa Code chapter 514C.

ITEM 54. Amend rule **191—78.2(514L)**, definition of "Provider of third-party payment or prepayment of prescription drug expenses," as follows:

"Provider of third-party payment or prepayment of prescription drug expenses" or *"provider"* means a provider of an individual or group policy of accident or health insurance or an individual or group hospital or health care service contract issued pursuant to Iowa Code chapter 509, 514 or 514A, a provider of a plan established pursuant to Iowa Code chapter 509A for public employees, a provider of an individual or group health maintenance organization contract issued and regulated under Iowa Code chapter 514B, ~~a provider of an organized delivery system contract regulated under rules adopted by the director of public health,~~ a provider of a preferred provider contract issued pursuant to Iowa Code chapter 514F, a provider of a self-insured multiple employer welfare arrangement, and any other entity providing health insurance or health benefits which provide for payment or prepayment of prescription drug expenses coverage subject to state insurance regulation.

ARC 3570C

INSURANCE DIVISION[191]

Notice of Intended Action

Proposing rule making related to long-term care insurance and providing an opportunity for public comment

The Insurance Division hereby proposes to amend Chapter 39, "Long-Term Care Insurance," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 514G.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 514G as amended by 2017 Iowa Acts, House File 626.

Purpose and Summary

Chapter 39 establishes standards for creating, promoting, educating, and selling long-term care insurance in a way that promotes innovation while identifying ways to protect the public from unfair and deceptive trade practices. The amendments are proposed to implement 2017 Iowa Acts, House File 626, which rescinded the consumer filing fee for an insured's request for an independent review of a benefit trigger determination related to long-term care insurance. This Notice was submitted within 180 days of the effective date of the bill to comply with Iowa Code section 17A.4(10).

The Division intends that the amendments shall become effective April 18, 2018.

Fiscal Impact

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

Jobs Impact

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

Waivers

The proposed amendments are subject to the Division's general waiver provisions of rules 191—4.21(17A) to 191—4.36(17A).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

Ann Outka
Insurance Division
Two Ruan Center
601 Locust, 4th Floor
Des Moines, Iowa 50309
Fax: 515.281.3059
Email: ann.outka@iid.iowa.gov

INSURANCE DIVISION[191](cont'd)

Public Hearing

No public hearing is scheduled at this time. An oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, an agency, or an association of 25 or more persons as provided in Iowa Code section 17A.4(1)"b."

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 191—39.45(514G) as follows:

191—39.45(514G) Notice of internal appeal decision and right to independent review. Upon the conclusion of the internal appeal mechanism specified in ~~2008 Iowa Acts, House File 2694, section 10~~ Iowa Code section 514G.109(2), the notice required in ~~2008 Iowa Acts, House File 2694, section 10,~~ Iowa Code section 514G.110(2)*"b"* and *"c"* shall contain the following information:

39.45(1) No change.

39.45(2) A description of how the insured can request independent review of the benefit trigger determination. Such description must specify the following:

a. No change.

b. The request must be made to the Iowa Insurance Division, ~~330 Maple Street~~ Two Ruan Center, Fourth Floor, 601 Locust Street, Des Moines, Iowa ~~50319~~ 50309-3738;

c. A copy of the insurer's benefit trigger determination letter must accompany the written request for an independent review~~;~~.

~~*d.* A $25 filing fee is required unless the insured is requesting that the fee be waived. The check should be made payable to the Iowa Insurance Division. If a waiver is requested, the request shall include an explanation for the insured's request that the fee be waived.~~

ITEM 2. Amend rule 191—39.46(514G) as follows:

191—39.46(514G) Independent review request.

~~**39.46(1)**~~ The insured shall send a copy of the insurer's notice explaining why the benefit trigger has not been met, with the insured's request for an independent review, to the insurance commissioner within 60 days of receipt of the benefit trigger determination. The notice shall be sent to the commissioner at the Iowa Insurance Division, ~~330 Maple Street~~ Two Ruan Center, Fourth Floor, 601 Locust Street, Des Moines, Iowa ~~50319~~ 50309-3738.

~~**39.46(2)** A $25 filing fee shall be enclosed with the independent review request. The commissioner may waive the fee for good cause.~~

ARC 3565C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

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

The Labor Services Division hereby proposes to amend Chapter 150, "Construction Contractor Registration," Iowa Administrative Code.

LABOR SERVICES DIVISION[875](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 91C.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 91C.

Purpose and Summary

The first item would amend the definition of "contractor" to reduce confusion over the scope of coverage. The second item would cause the rules to conform to Iowa Code chapter 91C as amended by 2017 Iowa Acts, Senate File 411.

Fiscal Impact

This rule making will reduce the funds received by the contractor registration fund by a small amount.

Jobs Impact

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

Waivers

Applicable waiver procedures are set forth in 875—Chapter 1.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commissioner no later than 4:30 p.m. on February 7, 2018. Comments should be directed to:

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

Public Hearing

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

February 7, 2018, at 9 a.m.
150 Des Moines St.
Des Moines, Iowa
(If requested)

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should telephone 515.725.5615 and advise of specific needs.

LABOR SERVICES DIVISION[875](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **875—150.2(91C)**, definition of "Contractor," as follows:

"Contractor" means a person who engages in the business of construction as the term is defined in 871—23.82(96), for purposes of the Iowa employment security law, including subcontractors and special trade contractors. ~~Also included are persons who conduct or perform construction on an incidental or occasional basis, regardless of whether the person is classified as being engaged in construction by the unemployment insurance services division of the workforce development department.~~

ITEM 2. Amend paragraph **150.4(11)"a"** as follows:

a. File a $25,000 surety bond ~~in the amount of $25,000 for a one-year period~~ that is prepared using the bond form provided by the division, or

ARC 3578C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to radiation machines radioactive materials and providing an opportunity for public comment

The Department of Public Health hereby proposes to amend Chapter 37, "Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material," Chapter 38, "General Provisions for Radiation Machines and Radioactive Materials," Chapter 39, "Registration of Radiation Machine Facilities, Licensure of Radioactive Materials and Transportation of Radioactive Materials," Chapter 40, "Standards for Protection Against Radiation," Chapter 41, "Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials," and Chapter 45, "Radiation Safety Requirements for Industrial Radiographic Operations," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 136C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 136C.

Purpose and Summary

Items 1, 7, 10, 12, 14, 15 and 16 amend rules to reflect current federal regulations. Items 4 and 9 amend rules to update citations and remove language regarding a fee that the Department has not charged and does not intend to charge. The remaining items amend rules to meet United States Nuclear Regulatory Commission (USNRC) compatibility requirements pursuant to the stipulations of the state of Iowa status as a USNRC agreement state.

Fiscal Impact

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

Angela Leek
Bureau of Radiological Health
Department of Public Health
321 East 12th Street
Des Moines, Iowa 50319
Email: angela.leek@idph.iowa.gov

Public Hearing

No public hearing is scheduled at this time. An oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, an agency, or an association of 25 or more persons as provided in Iowa Code section 17A.4(1)"b."

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 37.1(4) as follows:

37.1(4) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~July 16, 2014~~ [effective date of these amendments].

ITEM 2. Amend paragraph **37.27(3)"a"** as follows:

a. For the purpose of complying with these rules, licensees shall use an appropriate method listed in 10 CFR 37.7 to submit to the U.S. Nuclear Regulatory Commission, Director, Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop TWB-05 B32M, Rockville, Maryland 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by writing the Office of the Chief Information ~~Services~~ Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling 1-630-829-9565, or by e-mail to FORMS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at http://www.nrc.gov/site-help/e-submittals.html.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 3. Amend paragraph **37.29(1)"j"** as follows:

j. Commercial vehicle drivers for road shipments of category 1 and category 2 quantities of radioactive material;

ITEM 4. Amend paragraph **37.41(1)"c"** as follows:

c. Any licensee that has not previously implemented the security orders or been subject to the provisions of these rules shall provide written notification to the agency as specified in rule ~~641—37.3(136C)~~ 641—37.7(136C) at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

ITEM 5. Amend subparagraph **37.77(1)"a"(1)** as follows:

(1) The notification must be made to the NRC and to the office of each appropriate governor or governor's designee. The contact information, including telephone and mailing addresses, of governors and governors' designees, is available on the NRC's ~~Web site~~ website at ~~http://nrc-stp.ornl.gov/special/designee.pdf~~ scp.nrc.gov/special/designee.pdf. A list of the contact information is also available upon request from the Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Notifications to the NRC must be to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the NRC may be made by e-mail to RAMQC_SHIPMENTS@nrc.gov or by fax to 1-301-816-5151.

ITEM 6. Adopt the following **new** paragraph **37.77(1)"f"**:

f. Protection of information. State officials, state employees, and other individuals, whether or not licensees of the commission or an agreement state, who receive schedule information of the kind specified in 37.77(1)*"b"* shall protect that information against unauthorized disclosure as specified in 37.43(4).

ITEM 7. Amend subrule 38.1(2) as follows:

38.1(2) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~November 5, 2014~~ [effective date of these amendments].

ITEM 8. Amend rule **641—38.2(136C)**, definition of "Decay-in-storage," as follows:

"Decay-in-storage" means the holding of radioactive material having half-lives of less than ~~65~~ 120 days, except Cobalt-57, until it decays to background levels. Before disposal in ordinary trash, the material must have been held for a minimum of ten half-lives and its radioactivity is indistinguishable from background as indicated by a survey meter set on its most sensitive scale with no interposing shielding.

ITEM 9. Amend paragraph **38.8(8)"b"** as follows:

b. Radioactive materials. Out-of-state persons wishing to bring sources of radioactive material into Iowa for business purposes may be subject to a reciprocity fee depending on the type of activity to be performed and the type of radioactive materials license possessed (refer to 641—subrule 39.4(90)). If a reciprocity fee is applicable, it shall be assessed at the rate for reciprocity specified in the radioactive materials fee schedule available through the agency for each 365-day reciprocity period. ~~In addition, if the agency performs an inspection of the out-of-state person's activities while in Iowa, the appropriate inspection fee as specified in the radioactive materials fee schedule will be assessed.~~

ITEM 10. Amend subrule 39.1(3) as follows:

39.1(3) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~July 16, 2014~~ [effective date of these amendments].

ITEM 11. Amend paragraph **39.4(52)"a"** as follows:

a. Each person who receives source or by-product material pursuant to a license issued pursuant to these rules shall keep records showing the receipt, transfer, and disposal of the source or by-product material as follows:

(1) The licensee shall retain each record of receipt of the source or by-product material as long as the material is possessed and for three years following transfer or ~~disposal~~ disposition of the source or by-product material.

(2) The licensee who transferred the material shall retain each record of transfer ~~for three years after each transfer unless a specific requirement in another part of these rules dictates otherwise~~ of the source or by-product material until the agency terminates each license that authorizes the activity that is subject to the record-keeping requirement.

(3) The licensee who disposed of the material shall retain each record of disposal of the source or by-product material until the agency terminates each license that authorizes disposal of the material.

ITEM 12. Amend subrule 40.1(5) as follows:

40.1(5) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~November 5, 2014~~ [effective date of these amendments].

ITEM 13. Amend **641—Chapter 40**, Appendix D, Section I, "Manifest," third paragraph, as follows:

NRC Forms 540, 540A, 541, 541A, 542, and 542A, and the accompanying instructions, in hard copy, may be obtained by writing or calling the Office of the Chief Information ~~Services~~ Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0111, telephone (301) 415-5877 or by visiting the NRC's ~~Web site~~ website at http://www.nrc.gov and selecting forms from the index found on the home page.

ITEM 14. Amend paragraph **41.1(1)"b"** as follows:

b. All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~November 5, 2014~~ [effective date of these amendments].

ITEM 15. Amend paragraph **41.2(1)"b"** as follows:

b. All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~November 5, 2014~~ [effective date of these amendments].

ITEM 16. Amend paragraph **45.1(1)"b"** as follows:

b. All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~November 5, 2014~~ [effective date of these amendments].

ITEM 17. Amend subrule **45.1(2)**, definitions of "Radiographic exposure device" and "Storage container," as follows:

"Radiographic exposure device" (also called a camera or a projector) means any instrument containing a sealed source fastened or contained therein, in which the sealed source or shielding thereof may be moved or otherwise changed from a shielded to unshielded position for purposes of making a radiographic exposure ~~(e.g., camera)~~, or any other X-ray industrial system whereby a permanent or semipermanent image is recorded on an image receptor by action of ionizing radiation.

"Storage container" means a ~~shielded device~~ container in which sealed sources are secured~~, transported,~~ and stored.

ITEM 18. Amend subrule 45.1(4) as follows:

45.1(4) *Receipt, transfer, and disposal of sources of radiation.* Each licensee and registrant shall maintain records showing the receipt, transfer, and disposal of sealed sources and devices using DU for shielding and machine-produced sources of radiation. These records shall include the date, the name of the individual making the record, the radionuclide, number of curies or mass (for DU), and the make, model, and serial number of each source of radiation and device, as appropriate. Records shall be maintained for three years after they are made.

ITEM 19. Amend subparagraph **45.1(10)"a"(1)** as follows:

(1) It has been documented on the appropriate agency form or equivalent that such individual has received copies of and has demonstrated an understanding of:

1. The subjects outlined in Appendix A, presented in a 40-hour course approved by the agency, another agreement state, or the U.S. Nuclear Regulatory Commission;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

2. The rules contained in this chapter and the applicable sections of 641—~~Chapters~~ Chapter 38, the applicable U.S. Department of Transportation and NRC transportation regulations in 641—Chapter 39, and 641—Chapter 40;

3. The appropriate conditions of license(s) or certificate(s) of registration;

4. The licensee's or registrant's operating and emergency procedures;

5. And developed competence to use, under the personal supervision of the radiographer, the licensee's or registrant's radiographic exposure devices, sealed sources, associated equipment, and radiation survey instruments that the assistant will use;

6. And has demonstrated competence in the use of radiographic exposure devices, sources, survey instruments and associated equipment described in 45.1(10)*"a"*(1) by successful completion of a practical examination covering this material.

ITEM 20. Amend subparagraph **45.1(10)"d"(3)** as follows:

(3) The specific duties of the RSO include, but are not limited to, the following:

1. to 12. No change.

13. To ensure that annual refresher safety training has been provided for each radiographer and radiographer's assistant at intervals not to exceed 12 months.

ITEM 21. Amend paragraph **45.1(10)"e"** as follows:

e. Training and testing records. Each licensee and registrant shall maintain, for agency inspection, training and testing records which demonstrate that the applicable requirements of 45.1(10)*"a"* and *"b"* are met. Records of training for all industrial radiographic personnel must include personnel certification documents and verification of certification status, copies of written tests, dates of oral and practical examinations, and names of individuals conducting and receiving the oral and practical examinations. Records of annual refresher training and semiannual inspection of job performance for all industrial radiographic personnel must list the topics discussed during the refresher safety training, the dates the annual refresher safety training was conducted, and names of the instructors and attendees. For inspections of job performance, the records must also include a list showing the items checked and any noncompliances observed by the RSO. Records shall be maintained until disposal is authorized by the agency. The agency shall not release records for disposal unless the records have been maintained at least three years.

ITEM 22. Amend subparagraph **45.3(3)"a"(1)** as follows:

(1) The licensee may not use a source changer or a container to store licensed material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label bearing the standard trefoil radiation caution symbol in conventional colors, i.e., magenta, purple or ~~block~~ black on a yellow background, having a minimum diameter of 25 mm, and the wording: "CAUTION RADIOACTIVE MATERIAL, NOTIFY CIVIL AUTHORITIES (or name of company)~~,~~" or "DANGER RADIOACTIVE MATERIAL, NOTIFY CIVIL AUTHORITIES (or name of company)."

ITEM 23. Amend subparagraph **45.3(6)"a"(10)** as follows:

(10) The inspection, ~~and~~ maintenance, and operability checks of radiographic exposure devices, survey instruments, source changers, storage containers, and radiation machines;

ITEM 24. Rescind subparagraph **45.3(7)"c"(3)**.

ARC 3577C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to local public health service and providing an opportunity for public comment

The Department of Public Health hereby proposes to amend Chapter 80, "Local Public Health Services," Iowa Administrative Code.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 135.11 and 2017 Iowa Acts, House File 653, division III, section 3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.11 and 2017 Iowa Acts, House File 653, division III, section 3.

Purpose and Summary

The purposes of the local public health services (LPHS) contract are to implement the core public health functions, deliver essential public health services, and increase the capacity of local boards of health (LBOH) to promote healthy people and healthy communities. Currently, funding for the LPHS contract is from two funding streams. 2017 Iowa Acts, House File 653, division III, section 3(5), Essential Public Health Services, lists the total funding for the two funding streams to be merged into one funding stream. Instead of two formulas for distribution of funds, there will be one formula to accommodate the one funding stream. The proposed amendments update several definitions to align with current standard definitions, add "evidence of staff supervision" to the contractor assurance, update educational requirements, and align the rules with the singular funding stream and formula.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

Berdette Ogden
Department of Public Health
321 East 12th Street
Des Moines, Iowa 50319
Email: berdette.ogden@idph.iowa.gov

Public Hearing

No public hearing is scheduled at this time. An oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, an agency, or an association of 25 or more persons as provided in Iowa Code section 17A.4(1)"b."

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **641—80.2(135)**, definitions of "Core public health functions" and "Essential public health services," as follows:

"Core public health functions" means the ~~scope of activities which serve as a broad framework for public health agencies. Core public health functions are~~ functions of assessment, policy development, and assurance:

1. Assessment~~, which~~ means ~~to regularly and systematically collect, assemble, analyze, and make available information on the health of the community, including statistics on health status, community health needs and personal health services and epidemiologic and other studies of health problems~~ regular collection, analysis, interpretation, and communication of information about health conditions, risks, and assets in a community.

2. Policy development~~, which~~ means ~~efforts to serve the public interest in the development of comprehensive public health policies by promoting the use of a scientific knowledge base in decision making about public health and by taking the lead in comprehensive public health policy~~ development, implementation, and evaluation of plans and policies, for public health in general and priority health needs in particular, in a manner that incorporates scientific information and community values in accordance with state public health policy.

3. Assurance~~, which~~ means ~~public health efforts to assure constituents that services necessary to achieve agreed-upon goals are provided either by encouraging actions by other entities (private or public sector), by requiring such action through regulation, or by providing services directly~~ ensuring, by encouragement, regulation, or direct action, that programs and interventions which maintain and improve health are carried out.

"Essential public health services" means activities carried out by the authorized agency fulfilling core public health functions. Essential public health services include:

1. Monitoring health status ~~and understanding health issues facing the community~~ to identify and solve community health problems.

2. ~~Protecting people from health problems and health hazards~~ Diagnosing and investigating health problems and health hazards in the community.

3. ~~Giving people information they need to make healthy choices~~ Informing, educating and empowering people about health issues.

4. ~~Engaging the community to identify and solve health problems~~ Mobilizing community partnerships and action to identify and solve health problems.

5. ~~Developing public health policies and plans~~ Developing policies and plans that support individual and community health efforts.

6. ~~Enforcing public health laws and regulations~~ Enforcing laws and regulations that protect health and ensure safety.

7. ~~Helping people receive health services~~ Linking people to needed health services and assuring the provision of health care when otherwise unavailable.

8. ~~Maintaining a competent public health workforce~~ Assuring a competent public health and personal health care workforce.

9. ~~Evaluating and improving programs and interventions~~ Evaluating effectiveness, accessibility, and quality of personal and population-based health services.

10. ~~Contributing to and applying the evidence base of public health~~ Researching for new insights and innovative solutions to health problems.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 2. Rescind the definitions of "Personal health services" and "Protective services" in rule **641—80.2(135)**.

ITEM 3. Amend rule 641—80.3(135) as follows:

641—80.3(135) Local public health services (LPHS). Local public health services improve the health of the entire community; prevent illness; enhance the quality of life; provide services to safeguard the health and wellness of the community; reduce, prevent, and delay institutionalization of consumers; and preserve and protect families.

80.3(1) *Priority population.* The LPHS contract serves individuals throughout the lifespan and prioritizes service to vulnerable populations in Iowa.

80.3(2) *Appropriations.* The fiscal appropriations which assist in supporting LPHS are determined annually by the general assembly.

80.3(3) *Contractor assurance.* In order to receive funding, the contractor shall provide to the department assurance that authorized agencies meet all applicable federal, state, and local requirements. The contractor may directly provide or subcontract all or part of the delivery of services. The contractor shall ensure that each authorized agency complies with Title IV of the Civil Rights Act, the Americans with Disabilities Act of 1990 (ADA), and Section 504 of the Rehabilitation Act of 1973 and with affirmative action requirements. In addition, the contractor shall ensure that each authorized agency has, at a minimum, the following:

a. A governing board;

b. Program policies and procedures;

c. A consumer appeals process;

d. Records appropriate to the level of consumer care;

e. Evidence of staff supervision;

~~*e.*~~ *f.* Personnel policies and procedures which, at a minimum, include:

(1) Delegation of authority and responsibility for agency administration;

~~(2) Staff supervision;~~

~~(3)~~ (2) A staff training program for the identification and reporting of child and dependent adult abuse to the department pursuant to Iowa Code sections 232.69 and 235B.3;

~~(4)~~ (3) An employee grievance procedure;

~~(5)~~ (4) Annual employee performance evaluations;

~~(6)~~ (5) A nondiscrimination policy;

~~(7)~~ (6) An employee orientation program; and

~~(8)~~ (7) Current job descriptions;

~~*f.*~~ *g.* Fiscal management, which shall, at a minimum, include:

(1) An annual budget;

(2) Fiscal policies and procedures which follow generally accepted accounting practices; and

(3) An annual audit performed according to usual and customary accounting principles and practices;

~~*g.*~~ *h.* Evaluation of agency and program activities which shall, at a minimum, include:

(1) Evidence of an annual evaluation; and

(2) Methods of reporting outcomes of evaluation to the LBOH.

80.3(4) *Coordination of public health services.*

a. The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals responsible for coordinating public health services shall meet one of the following criteria:

(1) Be a registered nurse (RN) who is licensed to practice nursing in the state of Iowa and who has a recommended minimum of two years of related public health experience; or

(2) Possess a bachelor's degree or higher in public health, health administration, nursing, health and human services, or other applicable field from an accredited college or university; or

(3) Be an individual with two years of related public health experience.

b. Individuals who are responsible for the coordination of public health services on or before June 30, 2015, are exempt from the criteria in paragraph 80.3(4)*"a."*

80.3(5) *Coordination of home care aide services.*

a. The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals performing coordination of home care aide services shall meet one of the following criteria:

(1) Be a registered nurse (RN) licensed to practice nursing in the state of Iowa; or

(2) Possess a bachelor's degree ~~in social work, sociology, family and consumer science, education, or other health or human services field;~~ or higher in public health, health administration, nursing, health and human services, or other applicable field from an accredited college or university; or

(3) Be a licensed practical nurse (LPN) licensed to practice nursing in the state of Iowa; or

(4) Be an individual with two years of related public health experience.

b. Individuals who are responsible for the coordination of home care aide services on or before June 30, 2015, are exempt from the criteria in paragraph 80.3(5)*"a."*

80.3(6) *Home care aide services.*

a. The authorized agency shall ensure that each individual assigned to perform home care aide services meets one of the following:

(1) Be an individual who has completed orientation to home care in accordance with agency policy. At a minimum, orientation shall include four hours on the role of the home care aide; two hours on communication; two hours on understanding basic human needs; two hours on maintaining a healthy environment; two hours on infection control in the home; and one hour on emergency procedures. The individual shall have successfully passed an agency written test and demonstrated the ability to perform skills for the assigned tasks; or

~~(2) Be an individual who is in the process of receiving education or has completed the educational requirements but is not licensed as an LPN or RN, has documentation of successful completion of coursework related to the tasks to be assigned, and has demonstrated the ability to perform the skills for the assigned tasks; or~~

~~(3)~~ (2) Be an individual who possesses a license to practice nursing as an LPN or RN in the state of Iowa~~; or~~.

~~(4) Be an individual who is in the process of receiving education or who possesses a degree in social work, sociology, family and consumer science, education, or other health and human services field; has documentation of successful completion of coursework related to the tasks to be assigned; and has demonstrated the ability to perform the skills for the assigned tasks.~~

b. Individuals who were hired under the requirements of 641—Chapter 80 on or before [effective date of these amendments] are exempt from the criteria in paragraph 80.3(6)*"a."*

~~*b.*~~ *c.* The authorized agency shall ensure that services or tasks assigned are appropriate to the individual's prior education and training.

~~*c.*~~ *d.* The authorized agency shall ensure documentation of each home care aide's completion of at least 12 hours of annual in-service (prorated to employment).

~~*d.*~~ *e.* The authorized agency shall establish policies for supervision of home care aides.

~~*e.*~~ *f.* The authorized agency shall maintain records for each consumer. The records shall include:

(1) An initial assessment;

(2) A plan of care;

(3) Assignment of home care aide;

(4) Assignment of tasks;

(5) Reassessment;

(6) An update of the plan of care;

(7) Home care aide documentation; and

(8) Documentation of supervision of home care aides.

~~**80.3(7)** *Coordination of case management services.*~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~*a.* The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals responsible for coordinating case management services shall meet one of the following criteria:~~

~~(1) Be a registered nurse (RN) licensed to practice nursing in the state of Iowa; or~~

~~(2) Possess a bachelor's degree with at least one year of experience in the delivery of services to vulnerable populations; or~~

~~(3) Be a licensed practical nurse (LPN) licensed to practice nursing in the state of Iowa.~~

~~*b.* A home care aide with an equivalent of two years' experience may be delegated coordination of case management services as long as a qualified individual who meets one of the criteria in paragraph 80.3(7)*"a"* retains responsibility and provides supervision.~~

~~*c.* Individuals who are responsible for the coordination of case management services on or before June 30, 2015, are exempt from the criteria in paragraph 80.3(7)*"a."*~~

~~*d.* Case management services shall be provided at the direction of the consumer. The documentation to support the case management services shall include at a minimum:~~

~~(1) An initial assessment of the consumer's needs;~~

~~(2) Development and implementation of a service plan to meet the identified needs;~~

~~(3) Linking of the consumer to appropriate resources and natural supports; and~~

~~(4) Reassessment and updating of the consumer's service plan at least annually.~~

ITEM 4. Amend subparagraph **80.4(4)"f"(6)** as follows:

(6) No fee shall be charged for ~~protective services or~~ communicable disease follow-up services.

ITEM 5. Amend subparagraph **80.5(2)"a"(4)** as follows:

(4) Notification of the consumer's right to appeal to the contractor ~~(that is, the local board of health (LBOH))~~; and

ITEM 6. Amend rule 641—80.6(135) as follows:

641—80.6(135) ~~Community capacity/local board of health and healthy aging funds.~~ Essential public health service funds.

80.6(1) *Purpose.* The ~~purpose~~ purposes of ~~community capacity/local board of health and healthy aging funds is~~ essential public health service funds are to ~~assist an LBOH in implementing core public health functions, providing essential public health services that promote healthy aging throughout the lifespan, and enhancing health promotion and disease prevention services~~ provide essential public health services that reduce risks and to invest in promoting and protecting good health over the course of a lifetime with a priority given to older Iowans and vulnerable populations.

~~**80.6(1)** *Allocation for community capacity/local board of health.* The appropriation to each county board of health is determined by the following formula: 40 percent of the total allocation shall be divided so that an equal amount is available for use in each county in the state. The remaining 60 percent shall be allocated to each county according to the county's population based upon the published data by the U.S. Census Bureau, which is the data available three months prior to the release of the LPHS application.~~

~~**80.6(2)** *Allocation for healthy aging.* The allocation for the healthy aging appropriation is determined by the following formula: 15 percent of the total appropriation shall be divided so that an equal amount is available for use in each county in the state. The remaining 85 percent shall be allocated to each county according to that county's proportion of state residents with the following demographic characteristics:~~

~~*a.* Sixty percent of the funds shall be allocated according to the number of elderly persons living in the county based upon the bridged-race population estimates produced by the U.S. Census Bureau in collaboration with the National Center for Health Statistics (NCHS).~~

~~*b.* Forty percent of the funds shall be allocated according to the number of low-income persons living in the county based upon the U.S. Census Bureau's Small Area Income and Poverty Estimates (SAIPE).~~

80.6(2) *Allocation for essential public health service funds.* The appropriation to each county board of health is determined by the following formula:

a. Eighteen percent of the total allocation shall be divided so that an equal amount is available for use in each county in the state.

b. Eight percent of the total allocation shall be allocated to each county according to the county's population based upon the published data by the U.S. Census Bureau, which is the data available three months prior to the release of the LPHS application.

c. The remaining 74 percent shall be allocated to each county according to that county's proportion of state residents with the following demographic characteristics:

(1) Forty-four percent of the funds shall be allocated according to the number of elderly persons living in the county based upon the bridged-race population estimates produced by the U.S. Census Bureau in collaboration with the National Center for Health Statistics (NCHS).

(2) Thirty percent of the funds shall be allocated according to the number of low-income persons living in the county based upon the U.S. Census Bureau's small area income and poverty estimates (SAIPE).

ARC 3575C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to stroke care reporting and providing opportunity for public comment

The Department of Public Health hereby proposes to adopt Chapter 146, "Stroke Care Reporting," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 135 and 2017 Iowa Acts, House File 548.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2017 Iowa Acts, House File 548.

Purpose and Summary

The proposed rules designate a statewide stroke database and provide clarity for comprehensive and primary stroke centers in Iowa on the reporting requirements for stroke care as implemented by 2017 Iowa Acts, House File 548. The rules were developed in partnership with the University of Iowa College of Public Health, Department of Epidemiology, and in consultation with Iowa hospitals and the informal Iowa stroke task force. The rules designate the American Heart Association's Get with the Guidelines (GWTG) data reporting site as the statewide stroke database. GWTG is a national database with current participation by all but three or four comprehensive and primary stroke centers in Iowa. Patient names and social security numbers are not required for GWTG data reporting.

Fiscal Impact

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

Jobs Impact

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

Ken Sharp
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: kenneth.sharp@idph.iowa.gov
Phone: 515.281.5099

Public Hearing

No public hearing is scheduled at this time. An oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, an agency, or an association of 25 or more persons as provided in Iowa Code section 17A.4(1)"b."

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following **new** 641—Chapter 146:

CHAPTER 146
STROKE CARE REPORTING

641—146.1(135) Purpose. The purpose of this chapter is to identify the statewide stroke database where nationally certified comprehensive stroke centers and nationally certified primary stroke centers in the state are required to report stroke care data in accordance with Iowa Code chapter 135.

641—146.2(135) Definitions.

"Comprehensive stroke center" means a hospital certified as a comprehensive stroke center by a nationally recognized certifying body with certification criteria consistent with the most current nationally recognized, evidence-based stroke guidelines related to reducing the occurrence of and disabilities and death associated with stroke.

"Department" means the Iowa department of public health.

"Primary stroke center" means a hospital certified as a primary stroke center by a nationally recognized certifying body with certification criteria consistent with the most current nationally

recognized, evidence-based stroke guidelines related to reducing the occurrence of and disabilities and death associated with stroke.

"Stroke" means a clinical diagnosis of acute stroke or principal International Classification of Disease, 10th Revision, Clinical Modification (ICD-10-CM) discharge code of "stroke," or "transient ischemic attack," or "cerebral infarction," or "cerebral hemorrhage."

"Stroke care" means care provided to individuals with confirmed cases of stroke.

641—146.3(135) Stroke care reporting.

146.3(1) *Iowa statewide stroke database.* The department designates the Get with the Guidelines stroke module of the American Heart Association/American Stroke Association as the Iowa stroke database established in Iowa Code section 135.191.

146.3(2) *Who is required to report.* All nationally certified comprehensive stroke centers and all nationally certified primary stroke centers operating in the state of Iowa are required to report stroke data. Nationally certified acute stroke-ready hospitals and emergency medical services operating in the state of Iowa are encouraged to report stroke care data.

146.3(3) *What is required to be reported.* Reportable data of stroke care are required to be reported. Reportable data are those data identified by a clinical diagnosis of acute stroke or by the following ICD-10 coding:

ICD-10-CM Code	Short Description
I60.00 - I60.9	Nontraumatic subarachnoid hemorrhage
I61.0 - I61.9	Nontraumatic intracerebral hemorrhage
I63.00 - I63.9	Cerebral infarction (occlusion and stenosis of cerebral and precerebral arteries, resulting in cerebral infarction)
G45.0 - G45.2	TIA and related syndromes
G45.8 - G45.9	TIA and related syndromes
O99.411 - O99.43	Diseases of the circulatory system complicating pregnancy, childbirth and puerperium
G97.31 - G97.32	Intraoperative hemorrhage and hematoma of a nervous system organ or structure complicating a procedure
G97.51 - G97.52	Postprocedural hemorrhage and hematoma of a nervous system organ or structure following a procedure
I97.810 - I97.821	Intraoperative and postoperative cerebrovascular infarction

641—146.4(135) Method and frequency of reporting.

146.4(1) Stroke centers shall report the required stroke care information for any reportable stroke case no later than 90 days after the patient was discharged, transferred to another hospital, or pronounced dead.

146.4(2) Reports shall meet the data quality, format, and timeliness standards prescribed by the Iowa statewide stroke database.

641—146.5(135) Confidentiality. The Iowa statewide stroke database shall comply with federal and state law and other health information and data collection, storage, and sharing requirements of the department.

641—146.6(135) Penalties and enforcement. If a stroke center required to report under this chapter does not comply with the reporting requirements, the department may request a review of the certification of the comprehensive stroke center or the primary stroke center by the certifying entity.

These rules are intended to implement Iowa Code section 135.191.

ARC 3580C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to electricians and electrical contractors and electrical inspections and providing an opportunity for public comment

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

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2017 Iowa Acts, Senate File 357 [Iowa Code sections 103.1A and 103.22(15)].

Purpose and Summary

2017 Iowa Acts, Senate File 357, which modified licensing provisions applicable to electricians and electrical contractors and which also amended certain definitions to exempt farms from electrical inspections except in certain limited circumstances, was enacted by the General Assembly during its regular session last year. Pursuant to Iowa Code section 103.6, the Electrical Examining Board has the authority to promulgate rules to implement the legislation. These amendments also address the objection to the rules filed by Governor Branstad on January 23, 2012.

Fiscal Impact

It is anticipated that there will be no fiscal impact as the result of the adoption of these rules.

Jobs Impact

It is expected that there will be no impact on jobs.

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Barb Edmondson
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Email: edmondso@dps.state.ia.us
Phone: 515.725.6188

Public Hearing

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

February 6, 2018, from 10 to 11 a.m.
First Floor Public Conference Room 125
Oran Pape State Office Bldg.
215 East 7th Street
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board at 515.725.6188 and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

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

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

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

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

EXCEPTION 3: Electrical installations in buildings, including residences or facilities which are being constructed as part of a course of instruction by an accredited educational institution, may be performed

by a person who is not licensed. Such installations are subject to the requirements for permits and inspections pursuant to 661—Chapter 552.

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

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

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

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

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

661—552.1(103) Required permits and inspections.

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

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

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

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

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

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

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

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

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

1. The installation is legally performed by a master electrician, journeyman electrician, or apprentice electrician working under the direct supervision of a master or journeyman electrician.

2. The installation to be performed does not in any way involve work within an existing or new switchboard or panel board.

3. The installation to be performed does not involve over-current protection of more than 30 amperes.

4. The installation to be performed does not involve any electrical line-to-ground circuit of more than 277 volts, single phase.

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

552.1(2) The owner of a property on which multiple electrical installations may be performed during a 12-month period may apply for an annual permit to cover all such installations. The holder of an annual permit shall maintain a log of all installations performed pursuant to the annual permit. The owner shall cause the electrical inspection program to be notified of any such installation requiring an inspection and shall be subject to fees for such inspections as though an individual permit had been issued for each installation requiring an inspection. The fee for an annual permit shall be $100. The log shall be available to an electrical inspector on the request of the inspector.

ARC 3564C

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Proposing rule making related to trust accounts and seller property condition disclosure

The Real Estate Commission hereby proposes to amend Chapter 13, "Trust Accounts and Closings," and Chapter 14, "Seller Property Condition Disclosure," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 543B.9 and 2017 Iowa Acts, House File 541.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 543B.9 and section 543B.31 as amended by 2017 Iowa Acts, House File 541.

Purpose and Summary

The proposed amendments implement 2017 Iowa Acts, House File 541, section 4, which amends Iowa Code section 543B.46 and provides clarification of when a licensed real estate broker will be required to maintain a trust account in a federally insured depository institution. The proposed amendments implement 2017 Iowa Acts, House File 541, sections 14 and 16, which require that the Commission adopt rules that define what acknowledgment of receipt is when a seller disclosure statement form is delivered electronically. The proposed amendments are also a result of the rolling five-year review of administrative rules outlined in Iowa Code section 17A.7(2).

Chapter 13 describes the general requirements for real estate trust accounts and closings. The proposed amendments to Chapter 13 will provide clarification of when a licensed real estate broker will be required to maintain a trust account in a federally insured depository institution and will provide for a general cleanup of the chapter. Chapter 14 describes the general requirements for the property condition disclosure form. The proposed amendments to Chapter 14 will define what acknowledgment of receipt is when a seller disclosure statement form is delivered electronically and provide for a general cleanup of the chapter.

These proposed amendments were approved by the Commission on June 30, 2017.

REAL ESTATE COMMISSION[193E](cont'd)

Fiscal Impact

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no fiscal impact to the state.

Jobs Impact

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs.

Waivers

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

Jeffrey Evans
Real Estate Commission
200 East Grand Avenue, Suite 350
Des Moines, Iowa 50309
Email: jeff.evans@iowa.gov

Public Hearing

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

February 6, 2018, at 12 noon
Commission Office, Suite 350
200 East Grand Avenue
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 193E—13.1(543B) as follows:

193E—13.1(543B) Trust account. All earnest payments, all rents collected, property management funds, and other trust funds received by the broker in such capacity or broker associate or salesperson

on behalf of the broker's client shall be deposited in a trust account maintained by the broker in an identified trust account, with the word "trust" in the name of the account, in a federally insured ~~bank, savings and loan association, savings bank, or credit union located in Iowa~~ depository institution and, for the purposes of this rule, may be referred to as the "depository."

13.1(1) All money belonging to others received by the broker, broker associate or salesperson on the sale, rental, purchase, or exchange of real property located in Iowa are trust funds and must be deposited in a trust account as directed by the principals to a transaction constituting dealing in real estate. This shall include, but not be limited to, receipts from property management contracts; rental or lease contracts; advance fee contracts; escrow contracts; collection contracts; earnest money contracts; or money received by a broker for future investment or other purpose, except a nonrefundable retainer need not be placed in an escrow account if specifically provided for in the written agreement between the broker and the broker's principal.

a. All trust funds must be deposited into the broker's trust account by no later than five banking days after the date indicated on the document that the last signature of acceptance of the offer to purchase, rent, lease, exchange, or option is obtained.

b. Money belonging to others shall not be invested in any type of fixed-term maturity account, security or certificate without the written consent of the party or parties to whom the money belongs.

c. A broker shall not commingle personal funds in a trust account; provided, however, that not more than ~~$500~~ $1,000 of the broker's personal funds may be maintained in each separate account if (1) such personal funds are separately accounted for and (2) such personal funds are intended to be used by the broker to pay for expenses directly related to maintaining the account.

The broker shall ensure that personal funds are deposited to cover bank service charges as specified in Iowa Code section 543B.46~~,~~ and that at no time are trust moneys used to cover any charges. Upon notification that the broker's personal funds are not sufficient to cover service charges initiated by the bank that are above the normal maintenance charges, the broker shall deposit personal funds to correct the deficiency within 15 calendar days of the closing date of that bank statement.

d. Money held in the trust account, which becomes due and payable to the broker, shall be promptly withdrawn by the broker.

e. The broker shall not use the trust account as a business operating account or for personal use. Commissions, salaries, related items and normal business expenses shall not be disbursed directly from the trust account.

13.1(2) to **13.1(4)** No change.

13.1(5) A broker shall be required to open and maintain one or more trust accounts if the broker ~~receives or expects to receive trust funds~~ is in the practice of depositing funds in a trust account. For each separate trust account opened, the broker shall file with the commission a written Consent to Examine and Audit Trust Account form, which irrevocably authorizes the commission to examine and audit the trust account. The form of consent shall be prescribed by and available from the commission~~,~~ and shall include the account names and number~~,~~ and the name and address of the depository.

a. If the broker ~~does~~ is not ~~expect to receive~~ in the practice of depositing trust funds in a trust account, the broker shall file an affidavit with the commission on a form prescribed by and available from the commission.

b. If trust funds are received by the broker after filing an affidavit, the broker must immediately open a trust account and file the appropriate Consent to Examine and Audit Trust Account form with the commission.

c. As provided by Iowa Code section 543B.46(3), a consent to examine is not required for a separate farm business operating account in the name of the owner or owners and used by either the farm owner or farm manager or agent to conduct business as a part of a written farm management agreement.

d. As provided by Iowa Code section 543B.46(3), a consent to examine is not required for a separate property management account in the name of the owner or owners and used by either the property owner or property manager or agent to conduct property management as a part of a written property management agreement.

13.1(6) to **13.1(14)** No change.

REAL ESTATE COMMISSION[193E](cont'd)

ITEM 2. Amend rule 193E—14.1(543B) as follows:

193E—14.1(543B) Property condition disclosure requirement. The requirements of this chapter shall apply to transfers of real estate subject to Iowa Code chapter 558A. For purposes of this chapter, "transfer" means the transfer or conveyance of real estate by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, including rental or lease agreements which contain any option to purchase, if the property includes at least one but no more than four dwelling units unless the transfer is exempted by Iowa Code section 558A.1(4), and "agent" means an individual designated by a transferee to accept delivery of a disclosure statement from a transferor.

14.1(1) No change.

14.1(2) *Licensee responsibilities to seller.* At the time a licensee obtains a listing, the listing licensee shall obtain a completed disclosure signed and dated by each seller represented by the licensee.

a. A licensee representing a seller shall deliver the executed statement to a potential buyer, a potential buyer's agent, or any other third party who may be representing a potential buyer, prior to the seller's making a written offer to sell or the seller's accepting a written offer to buy.

b. The licensee representing a seller shall attempt to obtain the buyer's signature and date of signature on the statement and shall provide the seller and the buyer with fully executed copies of the disclosure and maintain a copy of the written acknowledgment in the transaction file. If the licensee is unable to obtain the buyer's signature, the licensee shall obtain other documentation establishing delivery of the disclosure and maintain the written documentation in the transaction file.

c. If the transaction closes, the listing broker shall maintain the completed disclosure statement for a minimum of five years.

d. The executed disclosure statement shall be delivered to the buyer(s) or the buyer's agent by ~~either~~ personal delivery, ~~or by~~ certified or registered mail, or electronic delivery. If there is more than one buyer, any one buyer or buyer's agent may accept delivery of the executed statement.

14.1(3) *Licensee responsibilities to buyer.* A licensee representing a buyer in a transfer shall notify the buyer of the seller's obligation to deliver the property disclosure statement.

a. If the disclosure statement is not delivered when required, the licensee shall notify the buyer that the buyer may revoke or withdraw the offer.

b. If a buyer elects to revoke or withdraw the offer, the licensee shall obtain a written revocation or withdrawal from the buyer and shall deliver the revocation or withdrawal to the seller within three days following personal delivery or five days following delivery of the disclosure by electronic delivery or mail to the buyer or the buyer's agent.

c. Following revocation or withdrawal of the offer, any earnest money deposit shall be promptly returned without liability pursuant to Iowa Code chapter 558A and rule 193E—13.4(543B).

14.1(4) and **14.1(5)** No change.

14.1(6) *Acknowledgment of receipt of disclosure statement by electronic means.* Whether or not a licensee assists in a real estate transaction, electronic delivery of any property disclosure statement required by Iowa Code chapter 558A shall be not deemed completed until written acknowledgment of receipt is provided to the transferor by the transferee or the transferee's agent. Acceptable acknowledgment of receipt shall include return of a fully executed copy of the property disclosure statement to the transferor by the transferee or the transferee's agent; or a letter, electronic mail, text message, or other written correspondence to the transferor from the transferee or the transferee's agent acknowledging receipt. A computer-generated read receipt, facsimile delivery confirmation, or other automated return message shall not be deemed acknowledgment of receipt for purposes of this rule.

~~**14.1(6)**~~ **14.1(7)** *Minimum disclosure statement contents for all transfers.* All property disclosure statements, whether or not a licensee assists in the transaction, shall contain at a minimum the information required by the following sample statement. No particular language is required in the disclosure statement provided that the required disclosure items are included and the disclosure complies with Iowa Code chapter 558A. To assist real estate licensees and the public, the commission recommends use of the following sample language:

REAL ESTATE COMMISSION[193E](cont'd)

RESIDENTIAL PROPERTY SELLER DISCLOSURE STATEMENT

Property address: _____

PURPOSE:

Use this statement to disclose information as required by Iowa Code chapter 558A. This law requires certain sellers of residential property that includes at least one and no more than four dwelling units to disclose information about the property to be sold. The following disclosures are made by the seller(s) and not by any agent acting on behalf of the seller(s).

INSTRUCTIONS TO SELLER(S):

1. Seller(s) must complete this statement. Respond to all questions, or attach reports allowed by Iowa Code section 558A.4(2);
2. Disclose all known conditions materially affecting this property;
3. If an item does not apply to this property, indicate that it is not applicable **(N/A)**;
4. Please provide information in good faith and make a reasonable effort to ascertain the required information. If the required information is **unknown** or is **unavailable** following a reasonable effort, use an **approximation** of the information, or indicate that the information is **unknown (UNK)**. All **approximations** must be identified as **approximations (AP)**;
5. Additional pages may be attached as needed;
6. Keep a copy of this statement with your other important papers.

1. Basement/Foundation: Any known water or other problems? Yes [ ] No [ ]
2. Roof: Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____
3. Well and Pump: Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____
   Any known water tests? Yes [ ] No [ ]
   If yes, date of last report: ____/____/____
   and results: _____
4. Septic Tanks/Drain Fields: Any known problems? Yes [ ] No [ ]
   Location of tank: _____
   Date tank last cleaned: ____/____/____
5. Sewer System: Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____
6. Heating System(s): Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____
7. Central Cooling System(s): Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____
8. Plumbing System(s): Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____
9. Electrical System(s): Any known problems? Yes [ ] No [ ]
   Any known repairs? Yes [ ] No [ ]
   If yes, date of repairs/replacement: ____/____/____

REAL ESTATE COMMISSION[193E](cont'd)

10. Pest Infestation (e.g., termites, carpenter ants): Any known problems? Yes [ ] No [ ]
    If yes, date(s) of treatment: ____/____/____
    Any known structural damage? Yes [ ] No [ ]
    If yes, date(s) of repairs/replacement: ____/____/____
11. Asbestos: Any known to be present in the structure? Yes [ ] No [ ]
    If yes, explain: _____
12. Radon: Any known tests for the presence of radon gas? Yes [ ] No [ ]
    If yes, date of last report: ____/____/____
    and results: _____
13. Lead-Based Paint: Any known to be present in the structure? Yes [ ] No [ ]
14. Flood Plain: Do you know if the property is located in a flood plain? Yes [ ] No [ ]
    If yes, what is the flood plain designation? _____
15. Zoning: Do you know the zoning classification of the property? Yes [ ] No [ ]
    If yes, what is the zoning classification? _____
16. Covenants: Is the property subject to restrictive covenants? Yes [ ] No [ ]
    If yes, attach a copy or state where a true, current copy of the covenants can be obtained:
    _____
17. Shared or Co-Owned Features: Any features of the property known to be shared in common with adjoining landowners, such as walls, fences, roads, and driveways whose use or maintenance responsibility may have an effect on the property? Yes [ ] No [ ]
    Any known *"common areas"* such as pools, tennis courts, walkways, or other areas co-owned with others, or a Homeowner's Association which has any authority over the property? Yes [ ] No [ ]
18. Physical Problems: Any known settling, flooding, drainage or grading problems? Yes [ ] No [ ]
19. Structural Damage: Any known structural damage? Yes [ ] No [ ]

You **MUST** explain any *"YES"* response(s) above. Use the back of this statement or additional sheets as necessary: _____
_____
_____
_____

SELLER(S) DISCLOSURE:

Seller(s) discloses the information regarding this property based on information known or reasonably available to the Seller(s).
The Seller(s) has owned the property since ____/____/____. The Seller(s) certifies that as of the date signed this information is true and accurate to the best of my/our knowledge.
Seller(s) acknowledges requirement that Buyer(s) be provided with the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Public Health.

Seller_____ Seller_____
Date ____/____/____ Date ____/____/____

BUYER(S) ACKNOWLEDGMENT:

Buyer(s) acknowledges receipt of a copy of this Real Estate Disclosure Statement. This statement is not intended to be a warranty or to substitute for any inspection Buyer(s) may wish to obtain.
Buyer(s) acknowledges receipt of the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Public Health.

Buyer_____ Buyer_____
Date ____/____/____ Date ____/____/____

This rule is intended to implement Iowa Code chapters 17A, 272C, 543B, and 558A.

ARC 3579C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to adoption expense deduction and tax credit and providing an opportunity for public comment

The Department of Revenue hereby proposes to amend Chapter 41, "Determination of Taxable Income," and Chapter 42, "Adjustments to Computed Tax and Tax Credits," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2016 Iowa Acts, House File 2468, and 2017 Iowa Acts, Senate File 433.

Purpose and Summary

The proposed amendments are necessary to implement changes to the adoption expense deduction and the adoption tax credit contained in 2016 Iowa Acts, House File 2468, and 2017 Iowa Acts, Senate File 433. As required by 2016 Iowa Acts, House File 2468, the proposed amendments provide for an increase in the adoption tax credit for tax years beginning on or after January 1, 2017. As required by 2017 Iowa Acts, Senate File 433, the proposed amendments change the entities that can permanently place an adopted child for purposes of the deduction and the credit.

Fiscal Impact

For tax year 2017, the adoption tax credit changes in 2016 Iowa Acts, House File 2468, will decrease state income tax revenues by an estimated $342,000.

Jobs Impact

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

Waivers

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

REVENUE DEPARTMENT[701](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50306
Email: tim.reilly@iowa.gov
Phone: 515.725.2294

Public Hearing

No public hearing is scheduled at this time. An oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, an agency, or an association of 25 or more persons as provided in Iowa Code section 17A.4(1)"b."

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 41.5(3), introductory paragraph, as follows:

41.5(3) Adoption expense deduction. Unreimbursed amounts paid by the taxpayer in the adoption of a child if placed by ~~a licensed agency under Iowa Code chapter 238, by an agency that meets the provisions of the interstate compact in Iowa Code section 232.158 or by a person making an independent placement~~ an adoption service provider under Iowa Code chapter 600, which exceed 3 percent of the taxpayer's net income, or the combined net income of a husband and wife in the case of married taxpayers filing a joint return, will be allowed as a deduction in the year paid. Qualifying expenses include all medical, hospital, legal fees, welfare agency fees, and all other costs relating to the adoption of a child. Those expenses claimed for adoption purposes may not be claimed elsewhere on the individual income tax return for tax years beginning before January 1, 2014. For tax years beginning on or after January 1, 2014, an adoption tax credit equal to ~~the first $2,500 of~~ certain qualified adoption expenses can be claimed in accordance with rule 701—42.52(422), but the expenses claimed for the credit cannot be allowed as a deduction under this subrule.

ITEM 2. Amend rule 701—42.52(422) as follows:

701—42.52(422) Adoption tax credit. Effective for tax years beginning on or after January 1, 2014, an adoption tax credit is available for individual income tax equal to the amount of qualified adoption expenses paid or incurred by a taxpayer during the tax year related to the adoption of a child ~~during the tax year, not to exceed $2,500 per adoption~~. For an adoption finalized on or after January 1, 2014, but before January 1, 2017, the total adoption tax credit claimed for the adoption may not exceed $2,500. For an adoption finalized on or after January 1, 2017, the total adoption tax credit claimed for the adoption may not exceed $5,000.

~~**42.52(1)** *Definitions*. The following definitions are applicable to this rule:~~

~~*"Adoption"* means the permanent placement in Iowa of a child by the department of human services, by a licensed agency under Iowa Code chapter 238, by an agency that meets the provision of the interstate compact in Iowa Code section 232.158, or by a person making an independent placement according to the provisions of Iowa Code chapter 600.~~

~~*"Child"* means an individual who is under the age of 18 years.~~

~~*"Qualified adoption expenses"* means unreimbursed expenses paid or incurred in connection with the adoption of a child, including medical and hospital expenses of the biological mother which are incident to the child's birth, welfare agency fees, legal fees, and all other fees and costs related to the adoption of a child. Expenses which are eligible for the federal adoption credit as provided in Section 23(d)(1) of the Internal Revenue Code will be considered qualified adoption expenses. Expenses paid or incurred in violation of state or federal law are not qualified adoption expenses.~~

42.52(1) *Adoption.* For purposes of the credit, an adoption occurs when a child is permanently placed in Iowa by any of the following:

a. The department of human services;

b. An adoption service provider as defined in Iowa Code section 600A.2; or

c. An agency that meets the provisions of the interstate compact in Iowa Code section 232.158.

42.52(2) *Child.* A "child" is an individual who is under the age of 18 years. "Child" does not include any individual who is 18 years of age or older.

42.52(3) *Qualified adoption expenses.*

a. *Generally.* "Qualified adoption expenses" means unreimbursed expenses paid or incurred in connection with the adoption of a child. Qualified adoption expenses include all fees and costs related to the adoption of a child, such as:

(1) Medical and hospital expenses of the biological mother that are incident to the child's birth;

(2) Welfare agency fees and other reasonable and necessary adoption fees;

(3) Court costs, attorney fees, and other legal fees;

(4) Travel expenses, including amounts spent for meals and lodging while away from home; and

(5) All other fees and costs related to the adoption of a child.

b. *Limitations.* Expenses that are eligible for the federal adoption credit as provided in Section 23(d)(1) of the Internal Revenue Code will be considered qualified adoption expenses. Expenses paid or incurred in violation of state or federal law are not qualified adoption expenses. Expenses that have been reimbursed are not qualified adoption expenses.

~~**42.52(2)**~~ **42.52(4)** *Claiming the credit.* ~~The~~

a. *Amount eligible for credit.* For tax years beginning on or after January 1, 2014, but beginning before January 1, 2017, the first $2,500 of qualified adoption expenses is eligible for the credit. For tax years beginning on or after January 1, 2017, the first $5,000 of qualified adoption expenses is eligible for the credit. The maximum credit amount is determined at the time the adoption becomes final. If the qualified adoption expenses are less than ~~$2,500~~ the maximum credit amount, then the total amount of qualified expenses can be claimed as a credit. The amount of tax credit claimed cannot be used as an itemized deduction for adoption expenses provided in 701—subrule 41.5(3).

b. *Claiming the credit in the year the adoption becomes final.* To claim an adoption tax credit, a taxpayer must claim the credit for all qualified adoption expenses paid or incurred in the tax year the adoption becomes final, up to the maximum credit amount provided in paragraph 42.52(4)*"a."*

EXAMPLE: Michael and Lori are married. Michael and Lori adopt a child who is permanently placed in Iowa. The adoption process begins and becomes final in 2015. Because the adoption becomes final on or after January 1, 2014, but prior to January 1, 2017, Michael and Lori qualify for a maximum credit amount of $2,500. Michael and Lori incur and pay unreimbursed qualified adoption expenses of $20,000 in 2015. Michael and Lori jointly file their Iowa individual income tax return in 2015. Michael and Lori may claim an Iowa adoption tax credit of $2,500 in 2015.

c. *Claiming the credit in years other than the year the adoption becomes final.* If a taxpayer cannot claim the maximum credit amount provided in paragraph 42.52(4)*"a"* for the year the adoption becomes final, the taxpayer may amend a prior year return to claim any remaining credit for expenses paid in that prior year, or the taxpayer may claim any remaining credit on a subsequent year's return for expenses

paid in that subsequent year. If a qualified adoption expense was incurred in one tax year and paid in another tax year, the taxpayer may only claim a credit for that expense in one year. The total adoption tax credit claimed for all years combined may not exceed the maximum credit amount per adoption provided in paragraph 42.52(4)*"a."* An adjustment to a prior year return is subject to the limitations in rule 701—40.20(422).

EXAMPLE: Erin adopts a child as a single parent. The child is permanently placed in Iowa. The adoption process begins in 2016 and becomes final in 2017. Because the adoption becomes final on or after January 1, 2017, Erin qualifies for a maximum credit amount of $5,000. Erin pays and incurs unreimbursed qualified adoption expenses of $20,000 in 2016 and $1,000 in 2017. In tax year 2017, Erin may claim an Iowa adoption tax credit equal to the $1,000 in unreimbursed qualified adoption expenses paid and incurred in 2017. After claiming the credit for tax year 2017, Erin may amend the 2016 return to claim the remaining $4,000 credit for unreimbursed qualified adoption expenses paid and incurred in 2016.

d. Claiming the credit by two adoptive parents. The adoption tax credit may only be claimed by a person who adopted the child. When a married couple adopts a child together and the couple files jointly on the same return, the credit may only be claimed once between the couple. When any other two persons adopt a child together, including married persons filing separately on the same or different returns or any unmarried persons filing on separate returns, the credit must be divided between the adoptive parents. Two adoptive parents, other than persons who are married filing jointly, may agree to divide the credit in any way. The total adoption tax credit claimed for all years by both parents combined may not exceed the maximum credit amount per adoption provided in paragraph 42.52(4)*"a."*

EXAMPLE: Peyton and Kerry are unmarried individuals. Peyton and Kerry adopt a child together. The child is permanently placed in Iowa. The adoption process begins and ends in 2018. Because the adoption becomes final on or after January 1, 2017, Peyton and Kerry qualify for a maximum credit amount of $5,000. However, Peyton and Kerry pay and incur unreimbursed qualified adoption expenses of only $3,000 in 2018. Accordingly, Peyton and Kerry may claim an Iowa adoption tax credit of $3,000 in 2018, which must be divided between them. Peyton and Kerry agree that Peyton will claim $2,000 of the credit, and Kerry will claim $1,000 of the credit.

e. Adoption of a special needs child. If a taxpayer adopts a special needs child, the credit under this rule cannot exceed the amount of qualified adoption expenses paid or incurred by the taxpayer during the tax year. The amount of the federal adoption tax credit claimed for the adoption of a special needs child does not affect the amount of the credit under this rule.

EXAMPLE: Francis and Mandy are married. Francis and Mandy adopt a special needs child who is permanently placed in Iowa. The adoption process begins and ends in 2017. Francis and Mandy paid and incurred $2,000 in unreimbursed qualified adoption expenses related to the adoption during 2017. For federal purposes, Francis and Mandy qualify for a maximum adoption tax credit of $13,570 for the adoption of a special needs child. For Iowa purposes, Francis and Mandy qualify for a maximum adoption tax credit of $2,000, which is equal to the amount of unreimbursed qualified adoption expenses they paid or incurred related to the adoption during the tax year.

f. Adoption tax credit in excess of tax liability. Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year. ~~The amount of tax credit claimed cannot be used as an itemized deduction for adoption expenses provided in 701—subrule 41.5(3).~~

This rule is intended to implement ~~2014 Iowa Acts, House File 2468~~ Iowa Code section 422.12A as amended by 2016 Iowa Acts, House File 2468, and 2017 Iowa Acts, Senate File 433.

ARC 3566C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to hotel and motel tax

REVENUE DEPARTMENT[701](cont'd)

and providing an opportunity for public comment

The Department of Revenue hereby proposes to amend Chapter 103, "State-Imposed and Locally Imposed Hotel and Motel Taxes—Administration," Chapter 104, "Hotel and Motel—Filing Returns, Payment of Tax, Penalty, and Interest," and Chapter 105, "Locally Imposed Hotel and Motel Tax," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 423A and 2017 Iowa Acts, House File 609.

Purpose and Summary

The proposed amendments are necessary to implement the local hotel and motel tax imposed by a land use district, as authorized in 2017 Iowa Acts, House File 609. The proposed amendments define "land use district." The proposed amendments also update the rules and procedures to provide for the imposition of a local hotel and motel tax by a land use district.

Fiscal Impact

The proposed amendments will have no fiscal impact if no land use district implements a hotel and motel tax. Implementation of a hotel and motel tax by a land use district will reduce county revenue by whatever portion of the current county hotel and motel tax revenue is derived from lodging within the land use district.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50306
Email: tim.reilly@iowa.gov
Phone: 515.725.2294

REVENUE DEPARTMENT[701](cont'd)

Public Hearing

No public hearing is scheduled at this time. An oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, an agency, or an association of 25 or more persons as provided in Iowa Code section 17A.4(1)"b."

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definition of "Land use district" in subrule **103.1(1)**:
"Land use district" means a district created under Iowa Code chapter 303, subchapter IV.

ITEM 2. Amend subrule 103.1(4) as follows:
103.1(4) A city, ~~or~~ county, or land use district may impose ~~by ordinance of the city council or by resolution of the county board of supervisors~~ a tax on lodging, at a rate not to exceed 7 percent, which shall be imposed in increments of one or more full percentage points upon the sales price from the renting of lodging. ~~When imposed by a city, the tax shall apply only within the corporate boundaries of that city and when imposed by a county shall apply only outside incorporated areas within that county.~~ See 701—Chapter 105 for more information on locally imposed hotel and motel tax.

ITEM 3. Amend rule **701—103.1(423A)**, implementation sentence, as follows:
This rule is intended to implement ~~2005~~ Iowa Code ~~Supplement~~ sections 423A.3 and 423A.4.

ITEM 4. Amend rule 701—103.14(423A) as follows:

701—103.14(423A) Notification. Before ~~a city's or county's~~ the local option hotel and motel tax of a city, county, or land use district can become effective, be revised, or be repealed, 45 days' notice of such action must be given to the director in writing by mail.
This rule is intended to implement ~~2005~~ Iowa Code ~~Supplement~~ section 423A.4.

ITEM 5. Amend rule 701—103.15(423A) as follows:

701—103.15(423A) Certification of funds. Within 45 days after the date that the quarterly returns and payments are due, the director will certify to the treasurer of state the amount of locally imposed tax to be transferred from the general fund to the local transient guest tax fund, which is to be distributed to each city, ~~and~~ county ~~which~~, and land use district that has adopted the tax. Payments received after the date of certification will remain in the general fund until the next quarterly certification.
This rule is intended to implement ~~2005~~ Iowa Code ~~Supplement~~ section 423A.7.

ITEM 6. Amend rule 701—104.7(423A) as follows:

701—104.7(423A) Application of payments.
104.7(1) *Partial payments.* Since a combined hotel and motel tax and quarterly state sales tax return is utilized by the department, all payments received with the return will be applied to satisfy state sales tax and hotel and motel tax liabilities, which include penalty and interest. Application of partial payments received with the tax return and any subsequent partial payment received for that tax period will be applied based on a ratio formula, unless properly designated by the taxpayer as provided in Iowa Code section 421.60(2)*"d."* The denominator in the ratio shall be the total of the hotel and motel tax due and the state sales tax due less any monthly sales tax deposits. The numerators in the ratio formula shall be the amounts of hotel and motel tax due and the net state sales tax due.

EXAMPLE: XYZ hotel owes a total of $1,000 in net state sales tax and hotel and motel tax for the quarter. Of the $1,000 owed, $600 is for hotel and motel tax and $400 is for state sales tax. XYZ files its quarterly sales tax return accompanied by a $500 partial payment. The $500 partial payment would be applied based on the following computation:

$$\frac{600}{1000} \times 500 = \$300 \quad \text{Hotel and motel tax}$$

$$\frac{400}{1000} \times 500 = \$200 \quad \text{State sales tax}$$

104.7(2) *Locally imposed tax*

a. Generally All revenues received under Iowa Code chapter 423A are to be credited to the "local transient guest tax fund." Revenues include all interest and penalties applicable to any hotel and motel tax report or remittance, whether resulting from delinquencies or audits.

b. Termination by a city or county. All revenues received or moneys refunded 180 days after the date on which a city or county terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund. The 180-day limitation applies to actual receipts or disbursements and not to accrued but unpaid tax liabilities or potential refunds.

c. Termination by a land use district. If a land use district terminates its local hotel and motel tax, lodging within the district becomes subject to any local hotel and motel tax imposed by a city or county within the corporate boundaries of that district on the date of termination. If a city or county imposes a local hotel and motel tax within the district, all revenues received from or moneys refunded to lodging within the district after the date on which the land use district terminates its local hotel and motel tax shall be treated as collected from or refunded to lodging in such city or county. If no city or county imposes a local hotel and motel tax within the district, all revenues received from or moneys refunded to lodging within the district at least 180 days after the date on which the land use district terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund as described in paragraph 104.7(2)*"b."*

This rule is intended to implement ~~2005~~ Iowa Code ~~Supplement~~ section 423A.7.

ITEM 7. Amend rule 701—105.1(423A) as follows:

701—105.1(423A) Local option. A city ~~or county~~ may impose, by ordinance of the city council, ~~or by resolution of the board of supervisors~~ a hotel and motel tax ~~subject to the approval of its citizens. The tax when imposed by a city shall apply only~~ within the corporate boundaries of that city ~~and when imposed by a county shall apply only~~. A county may impose, by resolution of the board of supervisors, a hotel and motel tax outside incorporated areas within the county. A land use district may impose, by ordinance of the board of trustees, a hotel and motel tax within the corporate boundaries of that district. A city or county cannot impose its hotel and motel tax within the corporate boundaries of a land use district during any period when the land use district imposes a hotel and motel tax. A city, ~~or~~ county, or land use district can impose the tax only after an election at which a majority of those voting on the question favors imposition.

This rule is intended to implement ~~2005~~ Iowa Code ~~Supplement~~ section 423A.4 as amended by 2017 Iowa Acts, House File 609.

ARC 3572C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to approved insurers of transportation network companies and providing an opportunity for public comment

TRANSPORTATION DEPARTMENT[761](cont'd)

The Department of Transportation hereby proposes to amend Chapter 540, "Transportation Network Companies," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 307A.2 and 321N.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 321N as amended by 2017 Iowa Acts, Senate File 516, section 25.

Purpose and Summary

The Department is proposing to amend paragraph 540.4(3)"a" to strike the reference to Iowa Code chapter 518. An applicant for a permit to operate as a transportation network company, defined in Iowa Code chapter 321N, must submit several documents, including proof that the applicant has obtained the necessary insurance. Due to the recent change in Iowa Code section 321N.4(6), insurers that are governed by Iowa Code chapter 518 are no longer approved insurers for purposes of applying for a permit to operate a transportation network company. This proposed amendment conforms the rules with 2017 Iowa Acts, Senate File 516, section 25, which amended Iowa Code section 321N.4(6) and implemented a technical correction regarding insurance carriers governed by Iowa Code chapter 518 by removing them from the list of carriers authorized to provide insurance pursuant to Iowa Code chapter 321N.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 6, 2018. The hearing will be canceled without further notice if no one requests the public hearing. Comments should be directed to:

Tracy George
Department of Transportation
Strategic Communications and Policy
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a hearing to hear oral comments will be held as follows:

TRANSPORTATION DEPARTMENT[761](cont'd)

February 8, 2018, at 10 a.m.
Iowa DOT
Motor Vehicle Division
6310 SE Convenience Boulevard
Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

If the public hearing is requested, any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend paragraph **540.4(3)"a"** as follows:

a. Proof of compliance with the financial responsibility requirements of Iowa Code section 321N.4. Proof of compliance shall be submitted by providing a valid certificate of coverage from an insurer governed by Iowa Code chapter 515 ~~or 518~~, or by a surplus lines insurer governed by Iowa Code chapter 515I. The certificate of coverage shall demonstrate coverage in the amounts and circumstances required by Iowa Code section 321N.4, and shall certify that if insurance maintained by a transportation network company driver under Iowa Code chapter 321N lapses or does not provide coverage in the amounts or types required by Iowa Code section 321N.4, subsection 2 or 3, the insurance certified in the certificate of coverage shall provide coverage in the amounts and types required by Iowa Code section 321N.4, subsection 2 or 3, beginning with the first dollar of the claim, and the insurer providing such coverage shall defend the claim. The certificate of coverage shall also certify that the coverage therein is not dependent on the insurer of a transportation network company driver's personal vehicle first denying a claim, and does not require the insurer of a personal automobile insurance policy to first deny a claim to trigger coverage and defense under the coverage certified.

ARC 3563C

VETERINARY MEDICINE BOARD[811]

Notice of Intended Action

Proposing rule making related to veterinary technician examination and providing an opportunity for public comment

The Iowa Board of Veterinary Medicine hereby proposes to amend Chapter 8, "Auxiliary Personnel," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 169.5.

VETERINARY MEDICINE BOARD[811](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 169.9.

Purpose and Summary

The proposed amendments allow the examinations for veterinary technicians to be offered more frequently than annually. The fee for the examination would be changed from $25 plus a $10 administrative fee to a fee up to $50 as set by the Board plus an administrative charge set by the Board. Applicants would be limited to five attempts to obtain a passing score, unless the Board gives approval for an additional attempt.

Fiscal Impact

The average number of applicants testing is 70, and the Board does not have immediate plans to increase the fee for the examination, which is currently $25 plus a $10 administrative fee.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on February 6, 2018. Comments should be directed to:

Margaret Thomson
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Fax: 515.281.6236
Email: margaret.thomson@Iowaagriculture.gov

Public Hearing

No public hearing is scheduled at this time. An oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, an agency, or an association of 25 or more persons as provided in Iowa Code section 17A.4(1)"b."

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

VETERINARY MEDICINE BOARD[811](cont'd)

ITEM 1. Amend rules 811—8.2(169) and 811—8.3(169) as follows:

811—8.2(169) Registration of veterinary technicians. All veterinary technicians shall be under the direct control of the board and shall be registered with the state veterinarian, bureau of animal industry, Iowa department of agriculture and land stewardship. Each veterinary technician must pass both ~~a written and practical test~~ the veterinary technician national examination and a veterinary technician state examination as approved by the board. Applications for registration shall be obtained from and remitted to the board. ~~Successful candidates~~ Applicants who have passed both examinations shall be issued a certificate by the board stating that the named candidate is registered as a veterinary technician.

811—8.3(169) Examination. The veterinary technician state examination shall be given at least once annually at a site or sites to be designated by the board at least 60 days before the date of the examination. The board may provide for additional veterinary technician state examinations as deemed appropriate. In the event the board provides for additional examinations, the site or sites of the examination shall be designated by the board at least 60 days prior to the date of the examination.

8.3(1) An application fee ~~of $25~~ in an amount determined by the Board not to exceed $50 shall accompany the application to take the ~~examination~~ veterinary technician state examination; ~~and~~ both the fee and the application must be received by the board at least ~~60~~ 30 days before the examination. An additional fee shall be submitted for the veterinary technician national ~~board written~~ examination ~~as provided by the~~ when a professional examination service~~, when~~ is utilized by the board ~~as part of their examination process, which shall be the fees charged for the examination by the professional examination service plus $10 for the costs of administration~~. ~~Examinations shall be given annually in June at a site to be designated by the board at least 30 days before the date of the examination~~ The additional fee shall be the charges for the examination by the professional examination service plus administrative costs in an amount determined by the board. The fee for the veterinary technician state examination may be waived for qualifying military service personnel upon request.

8.3(2) An applicant who fails to earn a passing score on the veterinary technician state examination shall be entitled to retake the examination not earlier than 90 days since the applicant last took the examination. The applicant must submit a new application and the application fee in accordance with subrule 8.3(1) to retake the veterinary technician state examination. An applicant is limited to five total attempts at the veterinary technician state examination; any additional applications to retake the examination beyond the five allowable attempts may be considered by the board and may be granted at the board's discretion.

~~This rule is intended to implement Iowa Code sections 169.5(8), 169.9, 169.12 and 272C.4.~~

ITEM 2. Amend **811—Chapter 8**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 17A.3, 169.4, 169.5, 169.9, 169.12, 169.20 and 272C.4.

ARC 3581C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rule making related to Workforce Housing Tax Incentive Program

The Economic Development Authority hereby amends Chapter 48, "Workforce Housing Tax Incentives Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 15.106A and 15.356.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15.356.

Purpose and Summary

2017 Iowa Acts, Senate File 488, provides for a set-aside for small cities under the Workforce Housing Tax Incentives Program administered pursuant to Iowa Code sections 15.351 through 15.356. These amendments reflect the statutory changes to the program, including adding a definition, project requirements, and tax incentives. To prevent excessive buildup on the program's wait list, the amendments also permit the Authority to stop accepting applications if the total amount of registered projects exceeds the available fiscal year allocation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 11, 2017, as **ARC 3377C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Economic Development Authority Board on December 15, 2017.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 21, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 261—48.1(15) as follows:

261—48.1(15) Authority. The authority for adopting rules establishing a workforce housing tax incentives program is provided in Iowa Code ~~section~~ sections 15.106A ~~and in 2014 Iowa Acts, House File 2448, section 18~~ and 15.356.

ITEM 2. Adopt the following **new** definition of "Small city" in rule **261—48.3(15)**:

"Small city" means any city or township located in this state, except those located within the 11 most populous counties in the state, as determined by the most recent federal decennial census. For the purposes of this definition, a small city that is located in more than one county shall be considered to be located in the county having the greatest taxable base within the small city.

ITEM 3. Amend subparagraph **48.4(1)"a"(1)** as follows:

(1) Four or more single-family dwelling units, except for a project located in a small city, then two or more single-family dwelling units.

ITEM 4. Amend paragraph **48.4(1)"b"** as follows:

b. The project consists of any of the following:

(1) Rehabilitation, repair, or redevelopment at a brownfield site or grayfield site that results in new dwelling units.

(2) The rehabilitation, repair, or redevelopment of dilapidated dwelling units.

(3) The rehabilitation, repair, or redevelopment of dwelling units located in the upper story of an existing multi-use building.

(4) The new construction, rehabilitation, repair, or redevelopment of dwelling units in a distressed workforce housing community. The authority will determine whether a community is considered a distressed workforce housing community pursuant to subrule 48.4(2).

(5) For a project located in a small city that meets the minimum housing project requirements under this subrule, development at a greenfield site. A project located in a small city is not required to complete the distressed workforce housing community application pursuant to subrule 48.4(2).

ITEM 5. Amend paragraph **48.4(1)"c"** as follows:

c. (1) Except as provided in ~~subparagraph~~ subparagraphs (2) and (3) below, the average dwelling unit cost does not exceed $200,000 per dwelling unit. For purposes of this rule, the average dwelling unit cost equals the costs directly related to the housing project divided by the total number of dwelling units in the housing project.

(2) The average dwelling unit cost does not exceed $250,000 per dwelling unit if the project involves the rehabilitation, repair, redevelopment, or preservation of eligible property, as that term is defined in Iowa Code section ~~404A.1(2).~~ 404A.1(8)*"a."*

(3) The average dwelling unit cost does not exceed $215,000 per dwelling unit if the project is located in a small city.

ITEM 6. Amend paragraph **48.5(1)"a"** as follows:

a. A housing business seeking workforce housing tax incentives provided in rule 261—48.6(15) shall make application to the authority in the manner prescribed in this rule. The authority ~~will~~ may accept applications on a continuous basis and will review applications in the order received. If the total amount of registered projects exceeds the available fiscal year allocation, the authority may stop accepting applications until the registered projects on the wait list have been awarded tax incentives. The authority will acknowledge receipt of the application and notify the applicant within 30 days as to whether the project will be registered pursuant to this rule.

ITEM 7. Amend paragraph **48.6(3)"a"** as follows:

a. A housing business may claim a tax credit in an amount not to exceed the following:

(1) For a housing project not located in a small city, 10 percent of the qualifying new investment of a housing project.

(2) For a housing project located in a small city, 20 percent of the qualifying new investment of a housing project.

ITEM 8. Amend **261—Chapter 48**, implementation sentence, as follows:

These rules are intended to implement ~~2014 Iowa Acts, House File 2448~~ Iowa Code section 15.356.

[Filed 12/27/17, effective 2/21/18]
[Published 1/17/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/17/18.

ARC 3582C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rule making related to the Iowa targeted small business certification program

The Economic Development Authority hereby adopts new Chapter 52, "Iowa Targeted Small Business Certification Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 15.106A and 15.108.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15.108.

Purpose and Summary

This amendment creates a new chapter governing the administration of the Iowa Targeted Small Business Certification Program. The program was previously administered by the Department of Inspections and Appeals but was transferred to the Economic Development Authority by 2017 Iowa Acts, House File 621, division II. The new chapter provides for the administration of the program by the Authority and governs definitions, eligibility requirements, the application and certification processes, and other requirements for certification of targeted small businesses.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 11, 2017, as **ARC 3378C**. No public comments were received. A few minor technical corrections have been made for clarification.

Adoption of Rule Making

This rule making was adopted by the Economic Development Authority Board on December 15, 2017.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 21, 2018.

The following rule-making action is adopted:

Adopt the following **new** 261—Chapter 52:

CHAPTER 52
IOWA TARGETED SMALL BUSINESS CERTIFICATION PROGRAM

261—52.1(15) Definitions.

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

"Certification" means the process which identifies small businesses as targeted and eligible for technical assistance.

"Contractor" means the person who contracts to perform work for the state.

"Cottage industry" means a business where the principal place of business is the owner's residence.

"Disability" means as defined in Iowa Code section 15.102(10)*"b."*

"Family" means a group of related people as follows: father, mother, son, daughter, brother, sister, husband, wife, grandmother, grandfather, grandchild, stepfather, stepmother, stepdaughter, stepson, stepbrother, stepsister, half-sister, or half-brother.

"Family-owned business" means a business owned by more than one member of one family. Characteristics of a family-owned business include, but are not limited to:

1. Ownership is shared by family members;
2. Profits are disbursed among family members;
3. A business tax return is filed in the name of the company with the family members listed as officers.

"Gross income" means the total sales less the cost of goods sold plus any income from investments and from incidentals or outside operations or sources.

"Intention" means an attempt has been made to perform the work.

"Lending institution" means any bank, savings and loan, or credit union.

"Minority person" means an individual who is a Black, Latino, Asian, Pacific Islander, American Indian or Alaskan Native American.

"Owner's residence" means the owner's legal residence.

"Person" means individual, corporation, government or governmental subdivision or agency, estate, trust, partnership or association, or any other legal entity.

"Program" means the targeted small business certification program described in this chapter.

"Service-disabled veteran" means the same as defined in 15 U.S.C. Section 632.

"Single management" means a business which is not a subsidiary of any other business.

"Targeted group person (TGP)" means a person who is a minority, woman, person with a disability, or service-disabled veteran.

"Targeted small business (TSB)" means a small business which is 51 percent or more owned, operated, and actively managed by one or more targeted group persons provided the business meets all of the following requirements:

1. Is located in this state;
2. Is operated for profit;
3. Has an annual gross income of less than $4 million, computed as an average of the three preceding fiscal years.

"Targeted small business owner" means one or more women, minorities, persons with disabilities, service-disabled veterans, or a combination thereof, owning at least 51 percent of a business.

"Uniform small business vendor application" means the application developed by the Iowa economic development authority which can be adopted by all agencies and departments of state government to identify small businesses and targeted small businesses. The application contains information which can be used to determine certification as a targeted small business for participation in the Iowa targeted small business procurement program.

"Woman" means any female 18 years of age or older.

261—52.2(15) Certification. The authority is responsible for ascertaining that a small business is owned, operated, and actively managed by a targeted group person.

52.2(1) Regular certification. Before a small business can participate in the Iowa targeted small business program, it must be certified by the authority.

a. The authority shall review applications from small businesses to determine whether they are eligible to participate in the program.

b. Certification means the authority has determined that the business meets eligibility standards.

c. Applications for the targeted small business certification are available by contacting the authority or by visiting the authority's website:

Iowa Economic Development Authority
200 East Grand Avenue
Des Moines, Iowa 50309
(515)725-3000
www.iowaeconomicdevelopment.com

d. Applicants shall receive written notification of the authority's decision.

52.2(2) Recertification. Certified businesses shall submit verification of continued eligibility to the authority at least every two years.

a. The application for recertification will be provided by the authority.

b. Other documents will be requested to verify the continuing eligibility of the business.

52.2(3) Information required in application. Various and specific documentation may be required by the authority during the certification or recertification process. Each business shall provide relevant information upon the authority's request in order to be considered for certification or recertification. Applications shall be signed by an authorized representative of the business. An authorization to release information is part of each application and shall be signed by the applicant. This signature shall be notarized.

52.2(4) A business may reapply upon proof of compliance with TSB certification standards. Any company that is denied certification or decertified for any reason bears the burden of proving that all deficiencies previously cited have been corrected. Corrections shall be in accordance with requirements governing the targeted small business program. The burden of proof to recertify a business is the responsibility of the owner of that business.

52.2(5) The business shall notify the authority within 30 days following a change in ownership or control of a certified business. A new application shall be filed showing the change and must be

accompanied by sufficient documentation to determine whether the business continues to be eligible to participate in the TSB program.

52.2(6) An applicant for certification as an Iowa targeted small business may indicate in writing that a similar application is pending with an agency other than the authority. When the authority considers another certification process equal to or more stringent than the process described in these rules, an applicant may submit the information required for the other process. The authority may certify a business as a TSB based on copies of the information provided to another agency. The Iowa application for certification as a TSB may still be required. Certification as a targeted small business in Iowa is granted only by the authority. Certification by any other entity does not ensure certification as a targeted small business in Iowa.

52.2(7) Disability determinations.

a. *Person with a disability.* In order to be considered a person with a disability for the purpose of the TSB program, the person must qualify and receive certification as having a disability from a licensed medical physician or must have been found eligible for vocational rehabilitation services by the department of education, division of vocational rehabilitation services, or by the department for the blind.

b. *Service-disabled veteran.* In order to be considered a service-disabled veteran for the purpose of the TSB program, the person must provide written verification from the Veterans Administration or the U.S. Department of Defense of a service-connected disability, as defined in 38 U.S.C. Section 101(16).

261—52.3(15) Description of application. The TSB application requires information about the people who own, control, and manage the applicant business.

52.3(1) Names, current addresses, verification of targeted group status and the employer's federal identification number, if applicable, are required. The proportion of ownership of the business and the names of stockholders or owners must be included. Documents which establish financial responsibility may be required.

52.3(2) The authority may require the applicant to provide any information reasonably required to assess the applicant's eligibility for the program pursuant to this chapter, including but not limited to information regarding the applicant's contracts, income, inventory, loans, personnel, payroll, taxes, and volume of business.

52.3(3) The information contained in the application may be reviewed by the applicant upon request to the Iowa Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; (515)725-3000. Material to be added to a file may be sent to the authority.

261—52.4(15) Eligibility standards. Pursuant to the authority of Iowa Code section 15.108(7), the authority has established standards to certify targeted small businesses. These standards are intended to indicate whether a business is owned, operated and actively managed by targeted group persons.

52.4(1) The applicant shall be an independent business. The following list describes elements of a business which indicate independent status.

a. The targeted group person owner(s) shall enjoy the customary incidents and profits of ownership and shall share in the risks commensurate with the owner's ownership interest. Independence of ownership shall be demonstrated by the substance rather than the form of the arrangements. Title and authority shall be commensurate with ownership and control.

b. The business shall be owned and operated by the same targeted group persons, a single management.

c. A board of directors and stockholders shall each have a membership comprised of at least 51 percent targeted group persons.

d. The applicant business shall be compensated for facilities, inventory, equipment, labor, or other items which it owns and shares with any other business. Compensation shall not vary from common industry practice.

e. The targeted group person owner(s) shall have independent authority and ability to incur liability and to decide financial and policy questions. The business arrangements of owners, directors,

officers or key employees with businesses which are not minority-, woman-, person with disability-, or service-disabled veteran-owned shall not vary from common industry practice. Each industry has practices which differ from other industries.

f. Independent authority and ability to hire and to fire all personnel shall be vested in the targeted group person owner(s).

g. Recognition of the business as a separate entity for tax or corporate purposes is not solely sufficient for certification as a targeted small business.

52.4(2) The targeted group person owner(s) shall make the business decisions for the business without any restrictions, either formal or informal. This includes, but is not limited to, bylaw provisions, partnership agreements, charter requirements for cumulative voting rights, or employment agreements.

52.4(3) The targeted group person owner(s) shall direct or cause the direction of the business. The owner(s) shall make day-to-day decisions as well as major decisions on management policy and operation of the business. The authority will consider particular positions to determine who has major responsibility in a company. These people include, but are not limited to, those who:

a. Hold any applicable license;

b. Devote substantial time to the business;

c. Supervise or direct the supervision of management and field operations;

d. Manage financial affairs;

e. Prepare or approve bids or estimates;

f. Participate in price and bidding negotiations;

g. Make final decisions about staff and personnel;

h. Sign contracts and checks or authorize action on behalf of the business.

52.4(4) Any relationship between a TSB and a business which is not a TSB, but which has an interest in the TSB, shall be carefully reviewed to determine if the interest of the non-TSB conflicts with the ownership and control requirements of this rule.

52.4(5) The contributions of capital and expertise by the targeted group person owner(s) to acquire interest in the business shall be real and substantial.

a. The following list includes acceptable elements of ownership.

(1) Company documents, such as stock certificates, articles of incorporation, minutes of board meetings, partnership agreements, or income tax returns reflect targeted group person ownership;

(2) Independent contributions of capital are made by the targeted group person owner(s). Proof of this independent contribution of capital made by the targeted group person owner(s) to acquire interest in the business must accompany the certification application;

(3) Independent contributions of expertise are made by the targeted group person owner(s). The targeted group person owner(s) must have an overall understanding of, managerial and technical competence in, and expertise directly related to the type of business in which the firm is engaged and in the firm's operations. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the activities of the business is insufficient to demonstrate control of the business;

(4) Independent risk of loss and share of profit by the targeted group person owner(s) is commensurate with the owner's proportion of ownership.

b. Fifty-one percent or more of securities which constitute ownership or control of a corporation for purposes of establishing it as a TSB shall be held directly by targeted group persons.

c. An inherited business may be eligible for targeted small business status. Capital contribution, expertise and experience in the inherited business are not required. All other standards apply.

d. Documentation may be required to prove compliance with all standards.

261—52.5(15) Special consideration. In addition to the above standards, the authority may consider other circumstances to determine eligibility. Consideration of other circumstances is intended to ensure that only bona fide targeted group person-owned businesses are certified.

52.5(1) A previous or continuing employer-employee relationship between present owners will be carefully reviewed to ensure that the employee-owner has substantial management and decision-making responsibilities.

52.5(2) At the discretion of the authority, on-site audits may be conducted to determine eligibility.

261—52.6(15) Family-owned business. Businesses which are owned and operated by one or more members of the same family will be closely scrutinized to determine whether the targeted group person identified as the owner of 51 percent or more of the business does in fact set policy and make day-to-day and long-term decisions for the operation and management of the business.

52.6(1) If any of the circumstances below prevail, the business shall be considered a family-owned business. Nontargeted group person family-owned businesses are not eligible for certification as targeted small businesses in Iowa. Any characteristic listed below may be cause to deny targeted small business status. This list is not to be construed as complete.

a. If a nontargeted group person family member:

(1) Is chief executive officer or president;

(2) Provides the expertise to conduct the business;

(3) Transfers ownership to the targeted group person owner for less than fair market value;

(4) Receives compensation equal to or greater than the targeted group person owner, not commensurate with their ownership;

(5) Provides occupational services for the business for less than fair market value;

(6) Possesses powers equal to or greater than the targeted group person owner to direct management and operations.

b. If the targeted group person owner:

(1) Is represented to those outside the business as not possessing the final authority to direct the operations and management of the business;

(2) Cannot document the date upon which the nontargeted group person family member was hired.

c. A recent transfer of ownership by a nontargeted group person family member to a targeted group person will be reviewed to determine if the previous owner is still the principal decision maker on policy or actually manages the existing business. Transfers in the past two years are considered recent, and these businesses shall not be certified, unless evidence substantiating the transfer is received and approved.

52.6(2) If a lending institution requires a signature other than the TSB owner's, another person may sign. When this happens, the owner must have the experience and expertise to own and operate the business. If a nontargeted group person family member has the expertise and has cosigned for business loans, the business is not eligible.

261—52.7(15) Cottage industry. A cottage industry business may be eligible for certification as a TSB.

52.7(1) Characteristics of these businesses include, but are not limited to:

a. At least 51 percent of business equipment shall be owned by targeted group persons.

b. Business risks and profits shall be borne by the targeted group person owner(s) proportionate to the owner's ownership.

52.7(2) The intent of targeting some small businesses is to identify those businesses which have been traditionally excluded from economic growth. Therefore, for a cottage industry business, the residence and any adjacent outbuildings used by the cottage industry may be owned jointly with other family members.

52.7(3) All other TSB eligibility standards apply to the cottage industry.

261—52.8(15) Decertification. A business shall be decertified by the authority if it is determined the business no longer complies with the requirements of the TSB program or its owners cannot be located by the authority.

52.8(1) Written notice of the intent to revoke certification shall be provided when the authority determines there is reasonable cause to believe a business does not comply. Notice shall be sent by U.S. mail at least 20 days before decertification is effective.

52.8(2) If the authority sends a letter by first-class mail to the last-known address provided to the authority by the TSB and it is returned as undeliverable, this is considered to be grounds for decertification.

52.8(3) Decertification procedures may be initiated by the authority or after the investigation of a complaint filed by the general public. A request for an investigation from the public must be written and shall specify the reason(s) why the certified targeted small business no longer complies with these rules. Supporting documentation may be attached to the request.

52.8(4) Eligibility to participate in the TSB program continues until the final decision is issued by the authority.

261—52.9(15) Request for bond waiver. A targeted small business seeking a performance, surety, or bid bond waiver shall submit a sworn statement that it is unable to secure a performance, surety, or bid bond because of lack of experience, lack of net worth, or lack of capital. Documentation will be requested from surety companies that the TSB is unable to obtain performance, surety, or bid bonding because of the lack of experience, lack of net worth, or lack of capital.

52.9(1) A waiver shall be applied only to a prime contract where the project or individual transaction does not exceed $50,000, notwithstanding Iowa Code section 573.2.

52.9(2) Granting a waiver shall not relieve any business from its contractual obligations. The state agency or department may pursue any remedy under law upon default or breach of contract.

52.9(3) The authority reviews all bond waiver documents. Information to assist the review process may be requested from the state department or agency involved. An applicant for a performance, surety, or bid bond waiver and the department or agency involved will be notified of the decision by U.S. mail.

52.9(4) Bond waivers will be reviewed and renewed at the time of TSB recertification.

261—52.10(15) Fraudulent practices in connection with targeted small business programs. A violation under this rule is grounds for decertification of the TSB connected with the violation. Decertification shall be in addition to any penalty otherwise authorized by this chapter.

52.10(1) A person is considered to be guilty of a fraudulent practice if the person:

a. Knowingly transfers or assigns assets, ownership, or equitable interest in property of a business to a targeted group person primarily for the purpose of obtaining benefits under TSB programs if the transferor would otherwise not be qualified for such programs.

b. Solicits and is awarded a state contract on behalf of a TSB for the purpose of transferring the contract to another for a percentage if the person transferring or intending to transfer the work had no intention of performing the work.

c. Knowingly falsifies information on an application for the purpose of obtaining benefits under TSB programs.

52.10(2) The authority may investigate allegations or complaints of fraudulent practices and will take action to decertify a TSB upon concluding that a violation has occurred. A decertification by this action may be appealed.

These rules are intended to implement Iowa Code section 15.108(7).

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ARC 3583C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to water quality

The Environmental Protection Commission hereby amends Chapter 61, "Water Quality Standards," and Chapter 62, "Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455B.105(11)"a," 455B.173(2) and 455B.173(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.173(2), 455B.173(3) and 455B.105(11)"a."

Purpose and Summary

The purpose of the amendments is to update the name of the document referenced in the rules from "'Supporting Document for Iowa Water Quality Management Plans,' Chapter IV, July 1976, as revised on November 11, 2009" to "Iowa Wasteload Allocation (WLA) Procedure" to more clearly reflect the contents of the document. A wasteload allocation (WLA) is the portion of a water body's assimilative capacity that is allocated to an existing or future point source discharge. This document establishes the technical methodologies the Department of Natural Resources (Department) uses to develop WLAs and water quality-based effluent limits for point source dischargers. In addition to the update of its name, the document has been revised to make it more understandable and better describe the procedures used in WLA calculations. The revision will also provide greater flexibility to facilities seeking alternative permitting options.

The major elements of the Iowa WLA Procedure document revision are as follows:

a. Update the Stream Low-Flow Values for United States Geological Survey (USGS) gaged sites and ungaged sites based on the USGS low-flow study report "Methods for Estimating Selected Low-Flow Frequency Statistics and Harmonic Mean Flows for Streams in Iowa," by David A. Eash and Kimberlee K. Barnes, published in 2012 and revised in 2013. This change incorporates the most up-to-date stream critical low flows published by USGS to better reflect actual stream low flows;

b. Incorporate statewide default background chemical concentrations using the most up-to-date monitoring data available;

c. Incorporate statewide default effluent chemical concentrations for different types of wastewater treatment plants using the most up-to-date effluent monitoring data available;

d. Replace the total residual chlorine default decay value in the mixing zone with site-specific decay measurements;

e. Incorporate the current implementation procedures for the chloride and sulfate criteria that were adopted in 2009;

f. Revise the *E. coli* WLA procedures for both continuous and noncontinuous discharges in accordance with the limitation on end of pipe permit limits established at 62.8(2);

g. Revise the *E. coli* decay rate coefficient to be consistent with that of other Department programs;

h. Revise the temperature criteria implementation procedure to incorporate all elements of the temperature criteria in Chapter 61 for different designated uses. The revision to the temperature criteria implementation procedure provides flexibility for facilities seeking alternative permitting options;

i. Modify the WLA procedure for pH so that pH criteria must be met at the boundary of the mixing zone instead of the boundary of the zone of initial dilution. This modification will result in increased dilution for pH WLA calculations;

j. Clarify the current mixing zone procedures and the requirements for mixing zone and diffuser studies;

k. Incorporate a Site-Specific Data Collection procedure in order to standardize the site-specific data collection process. The revision will have fewer sampling requirements and will result in cost savings for point source discharge facilities seeking site-specific permit limits;

l. Revise the Water Quality Modeling section to replace previous models with commonly used and modernized QUALIIK and modified Streeter-Phelps models. The revisions also update decay rates and reaeration rates to reflect the latest scientific data;

m. Add a reference to the antidegradation implementation procedure document; and

n. Add a new section on Alternative Site-Specific Methodology for Water Quality Based Limits that provides point source discharge facilities with the flexibility to develop site-specific NPDES permit limits.

Other minor revisions to the document include improvements in the estimation of ammonia nitrogen decay calculations in discharge pipes and general use segments, clarification of the procedure for determining discharge flows used in WLAs, and clarification of various sections to make the document more understandable. The "Iowa Wasteload Allocation (WLA) Procedure" document is available at www.iowadnr.gov/Environmental-Protection/Water-Quality/Wasteload-Allocations.

The amendments also update references to the Department's website.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 19, 2017, as **ARC 3202C**. Three public hearings were held as follows:

- September 5, 2017 - Washington Public Library
- September 6, 2017 - Urbandale Public Library
- September 7, 2017 - Harlan Community Library

A responsiveness summary has been prepared and is available at: www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards. The most notable change made in response to public comments is retention of the single sample maximum criterion for *E. coli* in Chapter 61. The Notice of Intended Action proposed to remove this criterion. The Department will instead consider potential changes to the *E. coli* criteria during the Department's regular triennial review process and will solicit further public input at that time.

Adoption of Rule Making

This rule making was adopted by the Environmental Protection Commission on December 19, 2017.

Fiscal Impact

Overall, this rule making is anticipated to result in a cost savings ranging from $26 million to $58 million for point source discharge facilities across the state. This savings results primarily from the changes to the Iowa Wasteload Allocation (WLA) Procedure document described above. These changes

create increased flexibility for permittees and result in an overall reduction in regulatory burden. It is expected that the potential costs associated with this rule making are negligible. The Department prepared a detailed analysis of this rule making's fiscal impact. That analysis is available upon request.

Jobs Impact

The cost savings resulting from this rule making will have a positive impact on private sector jobs and employment opportunities in the state. Lower wastewater treatment costs at industrial facilities are expected to have a positive impact on jobs because industries can put the savings toward investment in their businesses, including job growth. Similarly, businesses and industries that discharge to municipal wastewater treatment plants will benefit from lower utility rates if the municipal wastewater treatment plant can lower its operating costs as a result of this rule making. That savings on utility rates for businesses and industries can be put toward investment in their companies to create jobs.

Waivers

This rule making is subject to the waiver provisions of 561—Chapter 10, as adopted by reference at 567—13.1(17A), to the extent such waiver is consistent with federal water quality standards requirements. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 21, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **61.2(4)"a"** as follows:

a. Due to extreme variations in wastewater and receiving water characteristics, spatial dimensions of mixing zones shall be defined on a site-specific basis. These rules are not intended to define each individual mixing zone, but will set maximum limits which will satisfy most biological, chemical, physical and radiological considerations in defining a particular mixing zone. Additional details are noted in the ~~"Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009~~ "Iowa Wasteload Allocation (WLA) Procedure," as revised on February 21, 2018, for considering unusual site-specific features such as side channels and sand bars which may influence a mixing zone. Applications for operation permits under 567—subrule 64.3(1) may be required to provide specific information related to the mixing zone characteristics below their outfall so that mixing zone boundaries can be determined.

ITEM 2. Amend paragraph **61.2(4)"b,"** introductory paragraph, as follows:

b. For parameters included in Table 1 only (which does not include ammonia nitrogen), the dimensions of the mixing zone and the zone of initial dilution will be calculated using a mathematical model presented in the ~~"Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009~~ "Iowa Wasteload Allocation (WLA) Procedure," as revised on February 21, 2018, or from instream studies of the mixing characteristics during low flow. In addition, the most restrictive of the following factors will be met:

ITEM 3. Amend subparagraph **61.2(4)"d"(4)** as follows:

(4) A discharger to interior streams and rivers, the Big Sioux and Des Moines Rivers, and the Mississippi or Missouri Rivers may provide to the department, for consideration, instream data which technically supports the allowance of an increased percentage of the stream flow contained in the mixing zone due to rapid and complete mixing. Any allowed increase in mixing zone flow would still be governed by the mixing zone length restrictions. The submission of data should follow the guidance provided in the ~~"Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009~~ "Iowa Wasteload Allocation (WLA) Procedure," as revised on February 21, 2018.

ITEM 4. Amend paragraph **61.2(4)"e,"** introductory paragraph, as follows:

e. For ammonia criteria noted in Table 3, the dimensions of the mixing zone and the zone of initial dilution will be calculated using a mathematical model presented in the ~~"Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009~~ "Iowa Wasteload Allocation (WLA) Procedure," as revised on February 21, 2018, or from instream studies of the mixing characteristics during low flow. In addition, the most restrictive of the following factors will be met:

ITEM 5. Amend paragraph **61.2(4)"f"** as follows:

f. For ammonia criteria noted in Table 3, the stream flow used in determining wasteload allocations to ensure compliance with the chronic criteria of Table 3 will be that value contained at the boundary of the allowed mixing zone. This stream flow may not exceed the percentages of the design low stream flow noted in 61.2(4)*"e"*(1) as measured at the point of discharge.

The pH and temperature values at the boundary of the mixing zone used to select the chronic ammonia criteria of Table 3 will be from one of the following sources. The source of the pH and temperature data will follow the sequence listed below, if applicable data exists from the source.

(1) Specific pH and temperature data provided by the applicant gathered at their mixing zone boundary. Procedures for obtaining this data are noted in the ~~"Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009~~ "Iowa Wasteload Allocation (WLA) Procedure," as revised on February 21, 2018.

(2) Regional background pH and temperature data provided by the applicant gathered along the receiving stream and representative of the background conditions at the outfall. Procedures for obtaining this data are noted in the ~~"Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009~~ "Iowa Wasteload Allocation (WLA) Procedure," as revised on February 21, 2018.

(3) The statewide ~~average~~ median background values ~~presented in Table IV-2 of the "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009~~ as determined by the department.

The stream flow in the zone of initial dilution used in determining effluent limits to ensure compliance with the acute criteria of Table 3 may not exceed 5 percent of the calculated flow associated with the mixing zone for facilities with a dilution ratio of less than or equal to 2:1, and not exceed 10 percent of the calculated flow associated with the mixing zone for facilities with a dilution ratio of greater than 2:1. The pH and temperature values at the boundary of the zone of initial dilution used to select the acute ammonia criteria of Table 3 will be from one of the following sources and follow the sequence listed below, if applicable data exists from the source.

1. Specific effluent pH and temperature data if the dilution ratio is less than or equal to 2:1.

2. If the dilution ratio is greater than 2:1, the logarithmic average pH of the effluent and the regional or statewide pH provided in 61.2(4)*"f"* will be used. In addition, the flow proportioned average temperature of the effluent and the regional or statewide temperature provided in 61.2(4)*"f"* will be used. The procedures for calculating these data are noted in the ~~"Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009~~ "Iowa Wasteload Allocation (WLA) Procedure," as revised on February 21, 2018.

ITEM 6. Amend subparagraph **61.2(4)"g"(4)** as follows:

(4) A discharger to interior streams and rivers, the Big Sioux and Des Moines Rivers, and the Mississippi and Missouri Rivers may provide to the department, for consideration, instream data which technically supports the allowance of an increased percentage of the stream flow contained in the mixing zone due to rapid and complete mixing. Any allowed increase in mixing zone flow would still be governed by the mixing zone length restrictions. The submission of data should follow the guidance provided in the ~~"Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009~~ "Iowa Wasteload Allocation (WLA) Procedure," as revised on February 21, 2018.

ITEM 7. Amend paragraph **61.3(2)"g"** as follows:

g. Cations and anions guideline values to protect livestock watering may be found in the ~~"Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009~~ "Iowa Wasteload Allocation (WLA) Procedure," as revised on February 21, 2018.

ITEM 8. Amend subrule 61.3(5) as follows:

61.3(5) *Surface water classification.* The department hereby incorporates by reference "Surface Water Classification," effective June 17, 2015. This document may be obtained on the department's ~~Web site~~ website at ~~http://www.iowadnr.gov/InsideDNR/RegulatoryWater/WaterQualityStandards/Rules.aspx~~ www.iowadnr.gov.

ITEM 9. Amend subrule 61.3(6) as follows:

61.3(6) *Cold water use designation assessment protocol.* The department hereby incorporates by reference "Cold Water Use Designation Assessment Protocol," effective December 15, 2004. This document may be obtained on the department's ~~Web site~~ website at ~~http://www.iowadnr.com/water/standards/index.html~~ www.iowadnr.gov.

ITEM 10. Amend subrule 61.3(7) as follows:

61.3(7) *Warm water stream use assessment and attainability analysis protocol.* The department hereby incorporates by reference "Warm Water Stream Use Assessment and Attainability Analysis Protocol," effective March 22, 2006. This document may be obtained on the ~~departments Web site~~ department's website at ~~http://www.iowadnr.com/water/standards/index.html~~ www.iowadnr.gov.

ITEM 11. Adopt the following **new** subrule 61.3(9):

61.3(9) *Iowa wasteload allocation (WLA) procedure.* The department hereby incorporates by reference "Iowa Wasteload Allocation (WLA) Procedure," as revised on February 21, 2018. This document may be obtained on the department's website at www.iowadnr.gov.

ITEM 12. Amend subrule 62.8(2) as follows:

62.8(2) *Effluent limitations necessary to meet water quality standards.* No effluent, alone or in combination with the effluent of other sources, shall cause a violation of any applicable water quality standard. When it is found that a discharge that would comply with applicable effluent standards in 567—62.3(455B), 567—62.4(455B) or 567—62.5(455B) or effluent limitations in 567—62.6(455B) would cause a violation of water quality standards, the discharge will be required to meet the water quality-based effluent limits (WQBELs) necessary to achieve the applicable water quality standards as established in 567—Chapter 61. Any such effluent limit shall be derived from the calculated waste load allocation, as described in ~~"Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009~~ "Iowa Wasteload Allocation (WLA) Procedure," as revised on February 21, 2018, or the waste load allocation as required by a total maximum daily load, whichever is more stringent. The translation of waste load allocations to WQBELs shall use Iowa permit derivation methods, as described in the ~~"Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on November 11, 2009~~ "Iowa Wasteload Allocation (WLA) Procedure," as revised on February 21, 2018, except that the daily sample maximum

criteria for *E. coli* set forth in ~~Part E of the "Supporting Document for Iowa Water Quality Management Plans"~~ 567—Chapter 61 shall not be used as an end-of-pipe permit limitation.

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ARC 3584C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to water quality

The Environmental Protection Commission hereby amends Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455B.103A, 455B.105(3) and 455B.173.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.103A, 455B.105(3), 455B.173 and 455B.186.

Purpose and Summary

The amendments to Chapter 64 reissue National Pollutant Discharge Elimination System (NPDES) General Permits Nos. 1, 2 and 3, which authorize the discharge of storm water. General Permits Nos. 1, 2 and 3 were last reissued in 2012 for a five-year duration and expired October 1, 2017. These amendments renew all three permits, extending their coverage for another five years, to expire February 28, 2023. General permits for storm water discharges are required to be adopted by reference and are effective for no more than five years as specified in the Iowa Administrative Code.

No changes other than changes in dates and updates to Iowa Code and Iowa Administrative Code references are adopted for General Permit No. 1.

Several changes have been made for General Permit No. 2 (GP2). These changes include updates to federal effluent requirements for construction and development point sources set out in 40 CFR 450.21. One of the federal requirements is that areas of sites where construction activity will not occur for 14 or more days must have stabilization measures initiated immediately. The current requirement in GP2 is that areas of sites where construction activity will not occur for 21 or more days must have stabilization measures initiated on those areas no later than 14 days after no construction activity has occurred on them. The changes to GP2 will adopt the federal requirement regarding soil stabilization. Other than this soil stabilization requirement, all federal effluent requirements being added to GP2 are already found in various sections of the general permit though described using different verbiage. Other changes for GP2 are clarifications of existing requirements and updates to Iowa Code and Iowa Administrative Code reference changes.

The changes adopted for General Permit No. 3 are a clarification added at the request of stakeholders that explains an existing prohibition on the discharge of vehicle washwaters, changes in effective dates and updates to Iowa Code and Iowa Administrative Code references.

It is not the intent of the Commission that the textual changes in general permits be adopted in the Iowa Administrative Code but that these changes be made in the general permits themselves, which are adopted by reference into the Iowa Administrative Code.

Copies of the revised general permits are available upon request from the Department of Natural Resources (Department) at the address or telephone number below.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 13, 2017, as **ARC 3309C**. A public hearing was held on October 10, 2017. Comments received during the public hearing related to the vagueness of the required federal language. The comments and responses may be obtained by contacting the Department's Storm Water Coordinator, Joe Griffin, at joe.griffin@dnr.iowa.gov and at (515)725-8417, or on the Department's website: www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Storm-Water. Changes from the Notice were made to move the effective dates of the general permits back one month.

Adoption of Rule Making

This rule making was adopted by the Environmental Protection Commission on December 19, 2017.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, these amendments are expected to have minimal or no effect on jobs and employment opportunities. The requirements of the amendments can be achieved with minimal disruption in the operations that occur during development and construction. Moreover, these amendments are already required under federal law, and the state is required to adopt these standards for purposes of implementing the federal NPDES permit program. A copy of the Jobs Impact Statement is available upon request.

Waivers

Iowa Code section 455B.103A(1)"e" prohibits the issuance of variances for conditions of general permits. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on March 1, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 64.15(1) as follows:

64.15(1) Storm Water Discharge Associated with Industrial Activity, NPDES General Permit No. 1, effective ~~October 1, 2012~~ March 1, 2018, to ~~October 1, 2017, as amended on March 26, 2014~~ February

28, 2023. Facilities assigned Standard Industrial Classification 1442, 2951, or 3273, and those facilities assigned Standard Industrial Classification 1422 or 1423 which are engaged primarily in rock crushing are not eligible for coverage under General Permit No. 1.

ITEM 2. Amend subrule 64.15(2) as follows:

64.15(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2, effective ~~October 1, 2012~~ March 1, 2018, to ~~October 1, 2017, as amended on August 12, 2015~~ February 28, 2023.

ITEM 3. Amend subrule 64.15(3) as follows:

64.15(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants, and Construction Sand and Gravel Facilities, NPDES General Permit No. 3, effective ~~October 1, 2012~~ March 1, 2018, to ~~October 1, 2017, as amended on March 26, 2014~~ February 28, 2023. General Permit No. 3 authorizes storm water discharges from facilities primarily engaged in manufacturing asphalt paving mixtures and which are classified under Standard Industrial Classification 2951, primarily engaged in manufacturing Portland cement concrete and which are classified under Standard Industrial Classification 3273, those facilities assigned Standard Industrial Classification 1422 or 1423 which are primarily engaged in the crushing, grinding or pulverizing of limestone or granite, and construction sand and gravel facilities which are classified under Standard Industrial Classification 1442. General Permit No. 3 does not authorize the discharge of water resulting from dewatering activities at rock quarries.

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ARC 3585C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to NPDES General Permit No. 4

The Environmental Protection Commission hereby amends Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.173(11).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.173(11) and 455B.183(1)"c."

Purpose and Summary

The purpose of this amendment is to reissue the existing National Pollutant Discharge Elimination System (NPDES) Private Sewage Disposal Systems General Permit known as General Permit No. 4 (GP4). This permit authorizes discharges from private sewage disposal systems such as sand filters, other media filters, and aerobic treatment units that will reach a designated water of the state or a subsurface drainage tile. These types of systems are used where soil absorption is not possible due to soil or geological conditions or the presence of a high groundwater table. The permit will be renewed for five years, and the only changes being made to the permit are updates to the effective dates. There are no fees associated with GP4. A copy of GP4 is available at the Department's website at www.iowadnr.gov/Environmental-Protection/Water-Quality/Private-Septic-Systems/General-Permit-4.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 13, 2017, as **ARC 3310C**. A public hearing was held on October 3, 2017. No comments were received at the public hearing or otherwise. Changes from the Notice were made to move the effective date of the general permit back one month.

Adoption of Rule Making

This rule making was adopted by the Environmental Protection Commission on December 19, 2017.

Fiscal Impact

GP4 has been in existence since 1998 (and in its current form since 2012). The Department is renewing GP4 with no changes from the current version except for updating dates. No additional staff or other resources will be required.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on March 1, 2018.

The following rule-making action is adopted:

Amend subrule 64.15(4) as follows:

64.15(4) "Discharge from Private Sewage Disposal Systems," NPDES General Permit No. 4, effective ~~March 18, 2009~~ March 1, 2018, to ~~March 17, 2011~~ February 28, 2023.

[Filed 12/20/17, effective 3/1/18]
[Published 1/17/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/17/18.

ARC 3586C

INSURANCE DIVISION[191]

Adopted and Filed

Rule making related to Iowa stopgap measure

The Insurance Division hereby rescinds Chapter 82, "Iowa Stopgap Measure," Iowa Administrative Code.

INSURANCE DIVISION[191](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 505, 513C and 514E.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 505, 513C and 514E.

Purpose and Summary

Chapter 82 primarily allows for implementation of the Iowa Stopgap Measure that was developed by the Division upon request by the Governor. The Iowa Stopgap Measure was intended to provide an innovative solution to temporarily stabilize Iowa's individual health insurance market. The Iowa Stopgap Measure was first submitted by the Division on June 7, 2017, to the Centers for Medicare and Medicaid Services (CMS) as a waiver application under Section 1332 of the Patient Protection and Affordable Care Act (ACA) (42 U.S.C. Section 18052). The Division worked with CMS to develop the waiver application and submitted the application on August 21, 2017. The Division withdrew its waiver application on October 23, 2017. Therefore, the need for Chapter 82 has been eliminated.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 22, 2017, as **ARC 3461C**. No public hearing was held. Written comments were accepted through December 12, 2017. No written comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Insurance Division on December 27, 2017.

Fiscal Impact

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

Jobs Impact

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

Waivers

The Insurance Division's general waiver provisions of 191—Chapter 4 apply to these rules.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 21, 2018.

The following rule-making action is adopted:

Rescind and reserve **191—Chapter 82**.

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[Published 1/17/18]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/17/18.

ARC 3587C

MEDICINE BOARD[653]

Adopted and Filed

Rule making related to physician licensure

The Board of Medicine hereby amends Chapter 9, "Permanent Physician Licensure," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 147B, 148 and 272C, and section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147B and 148.

Purpose and Summary

The purpose of Chapter 9 is to establish qualifications for licensure of physicians and surgeons and administrative medicine physicians. The amendments recognize the expedited licensure process through the new Interstate Medical Licensure Compact (IMLC), rescind the Board's obsolete licensure by expedited-endorsement process, require that licensure application affidavits are signed by the applicant in the physical presence of a notary public, and update language throughout Chapter 9.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 11, 2017, as **ARC 3368C**. A public hearing was held on October 31, 2017. The Board received comments from Leah McWilliams, Executive Director, Iowa Osteopathic Medical Association (IOMA), recommending that the definition of "observer" in Item 2 of the amendments be clarified. In addition, the Board received new information from the Interstate Medical Licensure Compact Commission concerning the expedited licensure process through the IMLC. The Board, on December 15, 2017, accepted the recommendation from IOMA and the new information about the IMLC and voted to incorporate these changes into the rule making and then voted to adopt and file this rule making.

The following changes from the Notice were made:

In Item 2, the definition of "observer" was amended to emphasize that a medical student observer is a person who is not enrolled in an LCME- or COCA-accredited medical school.

In Item 3, the definition of "terminated license" was added to describe a license that is terminated in a process in the IMLC.

In Item 19, the changes to subrules 9.17(2), 9.17(3) and 9.17(5) recognize that a physician licensed through the IMLC may be subsequently determined ineligible for licensure renewal through the IMLC and provide for an appeal process of a Board decision to deny renewal.

Adoption of Rule Making

This rule making was adopted by the Board of Medicine on December 15, 2017.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 653—Chapter 3.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 21, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend **653—Chapter 9**, title, as follows:

PERMANENT AND ADMINISTRATIVE MEDICINE PHYSICIAN LICENSURE

ITEM 2. Amend the following definitions in rule **653—9.1(147,148)**:

"Applicant" means a person who seeks authorization to practice medicine and surgery, ~~or~~ osteopathic medicine and surgery, or administrative medicine in this state by making application to the board, or a physician who seeks licensure through the IMLC.

"Core credentials" means those documents that demonstrate the applicant's identity, medical training and practice history. "Core credentials" includes but is not limited to: medical school verification, medical school diploma, ~~medical school transcript, dean's letter,~~ examination history, current ECFMG ~~certificate~~ status report, fifth pathway certificate, and postgraduate training verification.

"ECFMG" means the Educational Commission for Foreign Medical Graduates, an organization that assesses the readiness of foreign medical school graduates to enter ACGME-approved ~~residency~~ graduate medical education programs in the United States ~~of America~~.

~~*"Expedited endorsement"* means the process whereby the state issues an unrestricted license to practice medicine to an applicant who holds a valid unrestricted and unlimited license in another jurisdiction through the acceptance of the applicant's core credentials that have been subject to primary source verification by another jurisdiction's physician licensing board or other authority using a process substantially similar to Iowa's process for verifying the authenticity of the applicant's core credentials.~~

"Foreign medical school," also known as an "international medical school," means a medical school that is located outside of any United States jurisdiction or Canada.

"Initial license" means the first permanent or administrative medicine license granted to a qualified individual.

"International medical school," also known as a "foreign medical school," means a medical school that is located outside of any United States jurisdiction or Canada.

"LMCC" means enrollment in the Canadian Medical Register as Licentiate of Medical Council of Canada with a certificate of registration as proof. LMCC requires passing both parts of the Medical Council of Canada Qualifying Examination.

"Observer" means a person who is not enrolled in an ~~Iowa~~ LCME- or COCA-accredited medical school or osteopathic medical school, who observes care to patients in Iowa for a defined period of time and for a noncredit experience, and who is supervised and accompanied by an Iowa-licensed physician as defined in 9.2(3). An observer shall not provide or direct hands-on patient care, regardless of the observer's level of training or supervision. The supervising physician may authorize an observer to read a chart, observe a patient interview or examination, or witness procedures, including surgery. An observer shall not chart; touch a patient as part of an examination; conduct an interview; order, prescribe or administer medications; make decisions that affect patient care; direct others in providing patient care; or conduct procedures, including surgery. Any of these activities requires licensure to practice in Iowa. An unlicensed physician observer or a medical student observer who is not enrolled in an LCME- or COCA-accredited medical school may touch a patient to verify a physical finding in the immediate presence of a physician but shall not conduct a more inclusive physical examination.

An unlicensed physician observer may:

1. Participate in discussions regarding the care of individual patients, including offering suggestions about diagnosis or treatment, provided the unlicensed physician observer does not direct the care; and

2. Elicit information from a patient provided the unlicensed physician observer does not actually perform a physical examination or otherwise touch the patient.

"Permanent licensure" means licensure granted after review of the application and core credentials to determine that the individual is qualified to enter into clinical practice. The individual may only practice when the license is in current, active status.

ITEM 3. Adopt the following **new** definitions in rule **653—9.1(147,148)**:

"Administrative medicine" means administration or management utilizing the medical and clinical knowledge, skill, and judgment of a licensed physician and capable of affecting the health and safety of the public or any person. A physician with an administrative medicine license may advise organizations, both public and private, on health care matters; authorize and deny financial payments for care; organize and direct research programs; review care provided for quality; and perform other similar duties that do not require direct patient care. "Administrative medicine" does not include the authority to practice clinical medicine; examine, care for or treat patients; prescribe medications, including controlled substances; or delegate medical acts or prescriptive authority to others.

"Administrative medicine license" means a license issued by the board pursuant to 653—9.20(147,148).

"COCA" means the Commission on Osteopathic College Accreditation.

"Conviction" for the purposes of licensure through the IMLC means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of conviction of a criminal offense by the court shall be considered final for the purposes of disciplinary action by a member board of the IMLC.

"Criminal offense" for the purposes of licensure through the IMLC means a felony, gross misdemeanor, or crime of moral turpitude.

"Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the IMLC.

"IMLC" means the Interstate Medical Licensure Compact enacted in Iowa Code chapter 147B.

"Interstate commission" means the interstate commission created pursuant to Iowa Code chapter 147B.

"MCCEE" means the Medical Council of Canada Evaluating Examination, an examination administered in Canada to physicians who graduated from a medical school outside of the United States or Canada.

"Terminated license" means a nondisciplinary process by which an Iowa license issued through the Interstate Medical Licensure Compact is no longer eligible for renewal. A compact license is terminated when a licensee no longer meets the IMLC qualifications. A terminated IMLC license may not be reinstated.

ITEM 4. Amend subrule 9.2(1) as follows:

9.2(1) *Licensure required.* Licensure is required for practice in Iowa as identified in Iowa Code section 148.1; the exceptions are identified in subrule 9.2(2). Provisions for permanent physician licensure, licensure through the IMLC, and administrative medicine licensure are found in this chapter; provisions for resident, special and temporary physician licensure are found in 653—Chapter 10.

ITEM 5. Amend rule 653—9.3(147,148) as follows:

653—9.3(147,148) Eligibility for ~~permanent~~ licensure.

9.3(1) *Requirements.* ~~Requirements.~~ To be eligible for permanent or administrative medicine licensure, an applicant shall meet all of the following requirements:

a. Fulfill the application requirements specified in rule 653—9.4(147,148)~~, 653—9.5(147,148) or 653—9.6(147,148)~~.

b. Hold a medical degree from an educational institution approved by the board at the time the applicant graduated and was awarded the degree.

(1) and (2) No change.

(3) If the applicant holds a medical degree from an educational institution not approved by the board at the time the applicant graduated and was awarded the degree, the applicant shall meet one of the following requirements:

1. Hold a valid certificate issued by ECFMG;

2. Pass the MCCEE;

~~2.~~ 3. Have successfully completed a fifth pathway program established in accordance with AMA criteria;

~~3.~~ 4. Have successfully passed either a basic science examination administered by a United States or Canadian medical licensing authority or SPEX; and have successfully completed three years of resident training in a program approved by the board; and have submitted evidence of five years of active practice without restriction as a licensee of any United States or Canadian jurisdiction; or

~~4.~~ 5. Have successfully passed either a basic science examination administered by a United States or Canadian medical licensing authority or SPEX; and hold board certification by a specialty board approved by ABMS or AOA; and submit evidence of five years of active practice without restriction as a licensee of any United States or Canadian jurisdiction.

c. Have successfully completed one year of resident training in a hospital-affiliated program approved by the board at the time the applicant was enrolled in the program. An applicant who is a graduate of an international medical school shall have successfully completed 24 months of such training.

(1) to (4) No change.

(5) The board may accept a current, active ABMS or AOA board certification obtained through an alternate pathway as equivalent to resident training in a hospital-affiliated program approved by the board. The alternate pathway must be a minimum of 24 months completed at an institution with a program approved by the board as specified in subparagraph 9.3(1)*"c"*(3).

d. No change.

~~*e.* A military service applicant or a veteran may apply for credit for verified military education, training, or service toward any experience or educational requirement for permanent licensure under this subrule or may be eligible for permanent licensure through reciprocity as specified in 653—Chapter 18.~~

9.3(2) *Exceptions to the eligibility requirements.* ~~Reserved.~~

a. A military service applicant or a veteran may apply for credit for verified military education, training, or service toward any experience or educational requirement for permanent licensure under this subrule or may be eligible for permanent licensure through reciprocity as specified in 653—Chapter 18.

b. A physician who holds a valid Letter of Qualification asserting eligibility for licensure through the IMLC is eligible for a permanent Iowa medical license.

ITEM 6. Amend rule 653—9.4(147,148) as follows:

653—9.4(147,148) Licensure ~~by examination~~ application.

~~**9.4(1)** *Applicant eligibility.* An applicant who has never been licensed in any United States or Canadian jurisdiction shall meet the following requirements to be eligible for permanent licensure by examination.~~

~~**9.4(2)**~~ **9.4(1)** *Requirements.* To apply for ~~permanent~~ licensure, an applicant shall:

a. No change.

b. Complete and submit forms provided by the board, including required core credentials, documents, a completed fingerprint packet, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant, which has been signed by the applicant in the physical presence (in the same room) of a notary public.

c. Pass ~~the USMLE, COMLEX, or Medical Council of Canada Examination~~ one of the examinations as prescribed in rule 653—9.7(147,148) and authorize the testing authority to verify scores.

~~**9.4(3)**~~ **9.4(2)** *Application.* The application shall require the following information:

a. to *h.* No change.

i. If the educational institution awarding the applicant the degree has not been approved by the board, the applicant shall provide a ~~valid~~ current ECFMG ~~certificate~~ status report or evidence of successful completion of a fifth pathway program in accordance with criteria established by AMA. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative.

j. to *l.* No change.

m. A statement of the applicant's physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in practice and provide patients with safe and healthful care. Copies of evaluations, verification of medical condition from treating physicians, or other documentation may be requested if needed during the review process.

n. No change.

o. A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding to have the conviction or plea set aside is pending. Copies of the legal documents may be requested if needed during the review process.

p. No change.

ITEM 7. Rescind and reserve rule **653—9.5(147,148)**.

ITEM 8. Rescind and reserve rule **653—9.6(147,148)**.

ITEM 9. Amend rule 653—9.7(147,148) as follows:

653—9.7(147,148) Licensure examinations.

9.7(1) *USMLE.*

a. to *d.* No change.

e. The following conditions shall apply to applicants for licensure in Iowa who utilize USMLE as the licensure examination.

(1) Passing Steps 1, 2, and 3 is required within a ten-year period beginning with the date of passing either Step 1 or Step 2, whichever occurred first. ~~Board~~ If the applicant did not pass Steps 1, 2, and 3 within the required time frame, then the requirement will be satisfied by either proof of active board certification by the ABMS or AOA ~~is required if the applicant was not able to pass Steps 1, 2, and 3 within the required time as specified in this paragraph~~ or proof the delay was caused by participation in a joint M.D./Ph.D. or D.O./Ph.D. program.

(2) to (5) No change.

(6) Successful completion of a continuous, progressive three-year resident training program is required if the applicant passes the examination after more than six attempts on Step 1 or six attempts on Step 2 CK and Step 2 CS combined or three attempts on Step 3.

f. No change.

9.7(2) No change.

9.7(3) *FLEX.*

a. From 1968 to 1985, (Old) FLEX was a three-day examination. Day 1 covered basic science; Day 2 covered clinical science; and Day 3 covered clinical competency. Applicants who took Old FLEX shall provide evidence of successful achievement of at least two of the following:

(1) Certification under seal that the applicant passed FLEX with a FLEX-weighted average of 75 percent or better, as determined by the state medical licensing authority, in no more than two sittings.

(2) Verification under seal of medical licensure in the state that administered the examination.

(3) Evidence of current certification by an American specialty board approved or recognized by the Council of Medical Education of AMA, ABMS, or AOA.

b. From 1985 to 1994, (New) FLEX replaced the Old FLEX. New FLEX was a three-day nationally standardized examination consisting of two, one and one-half day components referred to as Component I (basic and clinical science principles and mechanisms underlying disease and modes of therapy) and Component II (knowledge and cognitive abilities required of a physician assuming independent responsibility for the general delivery of medical care to patients). The last regular administration of both components of New FLEX occurred in 1993. Two special administrations of New FLEX Component I were offered in 1994 to examinees who passed Component II but not Component I prior to 1994. To be eligible for ~~permanent~~ licensure, the candidate must have passed both components ~~in Iowa~~ with a FLEX score of 75 or better within a seven-year period beginning with the date of initial examination.

(1) and (2) No change.

9.7(4) No change.

9.7(5) ~~*Examinations for graduates of board-approved colleges of osteopathic medicine and surgery*~~ *COMLEX.*

~~*a. COMLEX.*~~

~~(1)~~ COMLEX is a three-level examination that replaced the three-part NBOME examination. COMLEX Level 3 was first administered in February 1995; Level 2 was first administered in March 1997; and Level 1 was first administered in June 1998. All three examinations must be successfully completed in sequential order within ten years of the successful completion of COMLEX Level 1. ~~Board~~ If the applicant did not pass Levels 1, 2, and 3 within the required time frame, then the requirement will be satisfied by either proof of active board certification by the ABMS or AOA ~~is required if the applicant was not able to pass Levels 1, 2, and 3 within the required time as specified in this paragraph~~ or proof the delay was caused by participation in a joint D.O./Ph.D. or M.D./Ph.D. program.

~~(2)~~ *a.* A standard score of 400 on Level 1 or Level 2 is required to pass the examination. A standard score of 350 on Level 3 is required to pass the examination.

~~(3)~~ *b.* A candidate shall have successfully completed a minimum of seven calendar months of resident training in a program approved by the board at the time of the application for Level 3 or enrollment in a resident training program approved by the board at the time of the application for Level 3.

~~(4)~~ *c.* Successful completion of a continuous, progressive three-year resident training program is required if the applicant passes the examination after more than six attempts on Level 1 or six attempts on Level 2 CE and Level 2 PF combined or three attempts on Level 3.

~~(5)~~ *d.* Each COMLEX level must be passed individually, and individual level scores shall not be averaged to compute an overall score.

~~(6)~~ *e.* Level 3 may be taken and passed only after Levels 1 and 2 are passed.

~~(7)~~ *f.* A failure of any COMLEX level, regardless of the jurisdiction for which it was taken, shall be considered a failure of that level for the purposes of Iowa licensure.

~~*b.*~~ **9.7(6)** *NBOME.* ~~The board accepts a passing score on the NBOME licensure examination for graduates of colleges of osteopathic medicine and surgery in any United States jurisdiction.~~

~~(1)~~ *a.* NBOME was a three-part examination. All three parts must have been successfully completed in sequential order within seven years of the successful completion of NBOME Part 1.

~~(2)~~ *b.* A passing score is required on each part of the examination.

~~(3)~~ *c.* A candidate shall have successfully completed a minimum of seven calendar months of resident training in a program approved by the board at the time of the application for NBOME Part 3. Candidates shall have completed their resident training by the last day of the month in which the examination was taken.

~~(4)~~ *d.* Successful completion of a three-year resident training program is required if the applicant passes the examination after more than six attempts on Part 1 or six attempts on Part 2 or three attempts on Part 3.

~~(5)~~ *e.* Each NBOME part must have been passed individually, and individual part scores shall not be averaged to compute an overall score.

~~(6)~~ *f.* Part 3 must have been taken and passed only after Parts 1 and 2 were passed.

~~(7)~~ *g.* A failure of any NBOME part, regardless of the jurisdiction for which it was taken, shall be considered a failure of that part for the purposes of Iowa licensure.

~~**9.7(6)**~~ **9.7(7)** *LMCC.*

a. The board accepts toward Iowa licensure a verification of a Licentiate's registration with the Medical Council of Canada, based on passing both parts of the Medical Council of Canada Qualifying Examination.

b. The Medical Council of Canada may be contacted at ~~P.O. Box/CP 8234, Station 'T',~~ 1021 Thomas Spratt Place, Ottawa, Ontario, Canada K1G ~~3H7~~ 5L5 or (613)~~521-9417~~ 520-2240.

9.7(8) *State licensing examinations.* The Iowa board of medicine administered a state licensing examination until 1968. Licensing examinations administered by the Iowa board of medicine or another U.S. jurisdiction prior to 1974 are accepted if the examination was passed according to criteria established by that state at the time and led to licensure in that state.

ITEM 10. Amend rule 653—9.8(147,148) as follows:

653—9.8(147,148) Permanent licensure application review process. The process below shall be utilized to review each application. Priority shall be given to processing a licensure application when a written request is received in the board office from an applicant whose practice will primarily involve provision of services to underserved populations, including but not limited to persons who are minorities or low-income or who live in rural areas.

9.8(1) No change.

9.8(2) After reviewing each application, board staff shall notify the applicant about how to resolve any problems. An applicant shall provide additional information when requested by staff or the board. ~~Staff shall refer an expedited endorsement applicant to the process for licensure by endorsement or to the committee if:~~

~~*a.* The applicant does not meet the requirements set forth in rule 653—9.6(147,148) for expedited endorsement; or~~

~~*b.* Staff has reasonable concerns about the accuracy or thoroughness of another jurisdiction's licensing process.~~

9.8(3) to **9.8(6)** No change.

9.8(7) If the committee is not able to eliminate questions or concerns without dissension from staff or a committee member, the committee shall recommend that the board:

a. and *b.* No change.

c. If the physician has not engaged in active clinical practice or board-approved training in the past three years in any jurisdiction of the United States or Canada, require an applicant to:

(1) to (4) No change.

d. to *g.* No change.

9.8(8) The board shall consider applications and recommendations from the committee and shall:

a. and *b.* No change.

c. If the physician has not engaged in active clinical practice or board-approved training in the past three years in any jurisdiction of the United States or Canada, require an applicant to:

(1) to (4) No change.

d. to *f.* No change.

g. Deny a license. The board may deny a license for any grounds on which the board may discipline a license. The procedure for appealing a license denial is set forth in rule ~~653—9.15(147,148)~~ 653—9.17(147,148).

ITEM 11. Amend subrule 9.9(2) as follows:

9.9(2) *Reactivation of the application.* To reactivate the application, an applicant shall submit a nonrefundable fee for reactivation of the application as specified in 653—paragraph 8.4(1)*"b"* ~~and shall update credentials~~ within 30 days. If the application is not reactivated within 30 days, the application for licensure is withdrawn and the applicant must reapply and submit a new nonrefundable application fee and a new application, documents and core credentials.

~~*a.* The period for requesting reactivation is limited to 90 days from the date the applicant is notified that the application is inactive, unless the applicant is granted an extension in writing by the committee or the board.~~

~~*b.* The period for reactivation of application shall extend 90 days from the date the request and fee are received in the board office. During this period, the applicant shall update credentials and submit the remaining requested materials unless granted an extension in writing by the committee or the board.~~

~~*c.* Once the reactivation period expires, the application for licensure is withdrawn and the applicant must reapply and submit a new nonrefundable application fee and a new application, documents and credentials.~~

ITEM 12. Adopt the following **new** subrule 9.9(3):

9.9(3) *Period of reactivation.* The period for reactivation of application shall extend 90 days from the date the request and fee are received in the board office. During this period, the applicant shall update core credentials and submit the remaining requested materials. If the applicant does not update core credentials or submit all materials during the 90-day period of reactivation, the application for licensure is withdrawn and the applicant must reapply and submit a new nonrefundable application fee and a new application, documents and core credentials.

ITEM 13. Amend subrule 9.10(1) as follows:

9.10(1) The board may impose limits or restrictions on the practice of any applicant ~~once licensed~~ in this state that are equal in force to the limits or restrictions imposed on the applicant by any jurisdiction.

ITEM 14. Amend rule 653—9.11(147,148) as follows:

653—9.11(147,148) Issuance of a ~~permanent~~ license.

9.11(1) *Issuance.* Upon the granting of permanent or administrative medicine licensure, staff shall issue ~~an original~~ a license to practice that shall expire on the first day of the licensee's birth month.

a. to *e.* No change.

f. A physician with an active permanent Iowa license is ineligible for an Iowa resident license.

9.11(2) *Display of license certificate.* The ~~original permanent~~ license certificate shall be displayed in the licensee's primary location of practice.

ITEM 15. Adopt the following **new** subrule 9.12(4):

9.12(4) *Practice name.* A licensee shall practice under the licensee's full legal name.

ITEM 16. Amend rule 653—9.13(147,148) as follows:

653—9.13(147,148) Renewal of a permanent or administrative medicine license.

9.13(1) and **9.13(2)** No change.

9.13(3) *Renewal application requirements.* A licensee seeking renewal shall submit a completed renewal application; information on continuing education, training on chronic pain management, training on end-of-life care, and training on identifying and reporting abuse; and the required fee prior to the expiration date on the current license.

a. and *b.* No change.

c. The first renewal fee shall be prorated on a monthly basis according to the date of issuance and the physician's month and year of birth, if the ~~original~~ initial permanent or administrative medicine license was issued for a period of less than 24 months.

9.13(4) to **9.13(6)** No change.

9.13(7) *Display of license.* Renewal licenses shall be displayed along with the ~~original permanent~~ license certificate in the primary location of practice.

ITEM 17. Amend rule 653—9.14(147,148), catchwords, as follows:

653—9.14(147,148) Inactive status and reinstatement of a ~~permanent~~ license.

ITEM 18. Amend subrule 9.15(2) as follows:

9.15(2) *Reinstatement of an unrestricted Iowa license that has been inactive for one year or longer.* An individual whose license is in inactive status and who has not submitted a reinstatement application that was received by the board within one year of the license's becoming inactive shall follow the application cycle specified in this rule and shall satisfy the following requirements for reinstatement:

a. Submit an application for reinstatement to the board upon forms provided by the board. The application shall require the following information:

(1) Full legal name, date and place of birth, license number, home address, mailing address, principal business address, and personal e-mail address regularly used by the applicant or licensee for correspondence with the board;

(2) A photograph of the applicant suitable for positive identification;

~~(2)~~ (3) A chronology accounting for all time periods from the date of initial licensure;

~~(3)~~ (4) Every jurisdiction in which the applicant is or has been authorized to practice including license numbers and dates of issuance;

(5) Documentation of successful completion of resident training approved by the board as specified in paragraph 9.3(1)*"c"* which was completed since the time of initial licensure. An official FCVS Physician Information Profile that supplies this information for the applicant is a suitable alternative;

~~(4)~~ (6) Verification of the applicant's hospital and clinical staff privileges, and other professional experience for the past five years if requested by the board;

~~(5)~~ (7) A statement disclosing and explaining any warnings issued, investigations conducted or disciplinary actions taken, whether by voluntary agreement or formal action, by a medical or professional regulatory authority, an educational institution, training or research program, or health facility in any jurisdiction;

~~(6)~~ (8) A statement of the applicant's physical and mental health, including full disclosure and a written explanation of any dysfunction or impairment which may affect the ability of the applicant to engage in practice and provide patients with safe and healthful care. Copies of evaluations, verification of medical condition from treating physicians, or other documentation may be requested if needed during the review process;

~~(7)~~ (9) A statement disclosing and explaining the applicant's involvement in civil litigation related to practice in any jurisdiction. Copies of the legal documents may be requested if needed during the review process;

~~(8)~~ (10) A statement disclosing and explaining any charge of a misdemeanor or felony involving the applicant filed in any jurisdiction, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside. Copies of the legal documents may be requested if needed during the review process; and

~~(9)~~ (11) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

b. and *c.* No change.

d. If the physician has not engaged in active clinical practice or board-approved training in the past three years in any jurisdiction of the United States or Canada, require an applicant to:

(1) to (4) No change.

e. No change.

ITEM 19. Amend rule 653—9.17(147,148) as follows:

653—9.17(147,148) Denial of licensure or determined to be ineligible for licensure through the IMLC or termination of a license issued through the IMLC.

9.17(1) No change.

9.17(2) *Appeal procedure.* An applicant who has received a preliminary notice of licensure denial or a Letter of Qualification that asserts the board has determined that the applicant is ineligible for licensure through the IMLC, or a notice that a medical license is ineligible for renewal through the IMLC, may appeal ~~the denial~~ and request a hearing on the issues related to the preliminary notice of licensure denial or ineligibility for licensure or licensure renewal through the IMLC by serving a request for hearing upon the executive director not more than 30 calendar days following the date when the ~~preliminary~~ notice ~~of denial~~ was mailed. The applicant's current address shall be provided in the request for hearing. The request is deemed filed on the date it is received in the board office. If the request is received with a USPS nonmetered postmark, the board shall consider the postmark date as the date the request is filed. The request shall specify the factual or legal errors and that the applicant desires an evidentiary hearing, and may provide additional written information or documents in support of licensure, or a Letter of Qualification that asserts the applicant is eligible for licensure through the IMLC, or the applicant is eligible for licensure renewal through the IMLC.

9.17(3) *Hearing.* If an applicant appeals the preliminary notice of licensure denial or a determination of ineligibility for licensure or licensure renewal through the IMLC and requests a hearing, the hearing shall be a contested case and subsequent proceedings shall be conducted in accordance with 653—25.30(17A).

a. ~~License denial hearings~~ Hearings for applicants denied licensure, or determined to be ineligible for licensure or licensure renewal through the IMLC are contested cases open to the public.

b. Either party may request issuance of a protective order in the event privileged or confidential information is submitted into evidence.

c. Evidence supporting the denial of the license or the determination of ineligibility for licensure or licensure renewal through the IMLC may be presented by an assistant attorney general.

d. While each party shall have the burden of establishing the affirmative of matters asserted, the applicant shall have the ultimate burden of persuasion as to the applicant's qualification for licensure or licensure eligibility or licensure renewal through IMLC.

e. The board, after a hearing on license denial, may grant or deny the application for licensure. The board shall state the reasons for its decision and may grant the license, grant the license with restrictions or deny the license. The final decision is a public record. After a hearing on ineligibility for licensure renewal through the IMLC, the board may uphold the termination of the license or allow the licensee to renew. The board shall state the reasons for its decision, which is a public record. After a hearing on a Letter of Qualification determination, the board may uphold the ineligible determination or issue a Letter of Qualification asserting the applicant is eligible for licensure through the IMLC. The board shall state the reasons for its decision, which is a public record.

f. Judicial review of a final order of the board denying licensure, ~~or~~ issuing a license with restrictions, terminating a license not eligible for renewal through the IMLC, or upholding a Letter of Qualification asserting that an applicant is ineligible for licensure through the IMLC may be sought in accordance with the provisions of Iowa Code section 17A.19, which are applicable to judicial review of any agency's final decision in a contested case.

9.17(4) No change.

9.17(5) *Failure to pursue appeal.* If an applicant appeals a preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC, in accordance with 9.17(2), but the applicant fails to pursue that appeal to a final decision within one year from the date of the preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC, the board may dismiss the appeal. The appeal may be dismissed only after the board sends a written notice by first-class mail to the applicant at the applicant's last-known address. The notice shall state that the appeal will be dismissed and that the preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC will become final if the applicant does not contact the board to schedule the appeal hearing within 30 days of the date the letter is mailed from the board office. Upon dismissal of an appeal, the preliminary notice of licensure denial or a notice of ineligibility for licensure or licensure renewal through the IMLC becomes final. A final ~~denial of an application for licensure~~ decision under this rule is a public record.

ITEM 20. Rescind subrule **9.20(1)**.

ITEM 21. Renumber subrules **9.20(2)** to **9.20(7)** as **9.20(1)** to **9.20(6)**.

ITEM 22. Adopt the following **new** rule 653—9.21(147,147B,148):

653—9.21(147,147B,148) Licensure through IMLC.

9.21(1) *Requirements for seeking a Letter of Qualification from the Iowa board of medicine.* An applicant shall meet all of the following requirements:

a. Designate Iowa as state of principal license. To designate Iowa as state of principal license, the physician must possess a full, unrestricted, permanent Iowa medical license and meet one of the following requirements at the time the application for a Letter of Qualification is reviewed by board staff:

(1) Iowa is the physician's primary residence, or

(2) At least 25 percent of the physician's medical practice occurs in Iowa, or

(3) The physician's employer is located in Iowa, or

(4) If the applicant does not meet any of the requirements under (1), (2), or (3), the applicant can designate Iowa as the state of principal license if Iowa is the applicant's state of residence for the purposes of federal income tax.

b. Provide evidence of the following qualifications:

(1) Graduation from a medical school accredited by the LCME, COCA, or a medical school listed in the International Medical Education Directory or its equivalent.

(2) Passage of each component of the USMLE or the COMLEX within three attempts, or any of its predecessor examinations accepted by the board as an equivalent examination for licensure purposes as prescribed in rule 653—9.7(147,148).

(3) Successful completion of graduate medical education approved by the ACGME or the AOA. "Successful completion" means participation in an ACGME or AOA postgraduate training program that achieves ABMS or AOA board eligibility status. A one-year transitional internship or a one-year rotating internship does not qualify as graduate medical education required in Iowa Code section 147B.1(2)*"k"*(3) and IMLC Section 5.4(1)*"c."*

(4) Hold specialty certification or a time-unlimited specialty certificate recognized by the ABMS or the AOA. The specialty certification or a time-unlimited specialty certificate does not have to be maintained once a physician is determined to be eligible for licensure through the IMLC.

(5) Has never been convicted of or received adjudication, deferred adjudication, community supervision, or deferred disposition for any criminal offense by a court of appropriate jurisdiction.

(6) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license.

(7) Has never had a controlled substance license or permit suspended or revoked by a state or the U.S. Drug Enforcement Administration (DEA).

(8) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

9.21(2) *Application.* A physician seeking licensure through the IMLC who is qualified to designate Iowa as state of principal license shall file an application for a Letter of Qualification with the interstate commission at www.imlcc.org. The application shall require the following:

a. Payment of a nonrefundable service fee to the interstate commission for an application for a Letter of Qualification. This service fee includes the cost for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) as specified in 653—subrule 8.3(1); and

b. Completion and submission of forms provided by the board, including required core credentials, documents, a completed fingerprint packet and the criminal history background checks by the DCI and the FBI, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant.

9.21(3) *Letter of Qualification.*

a. After receipt of all application materials, the board shall:

(1) Evaluate the applicant's eligibility for licensure through the IMLC by primary source verification of medical education, graduate medical education, licensing examination results, and other qualifications as determined by IMLC rule;

(2) Perform a criminal background check; and

(3) Issue a Letter of Qualification to the applicant verifying or denying the applicant's eligibility. The applicant may appeal a determination of eligibility to the Iowa board of medicine within 30 days of issuance of the Letter of Qualification according to the processes outlined in rule 653—9.17(147,148).

b. The Letter of Qualification is valid for a period of 365 days from its date of issuance to request licensure in a member state. During this period, the physician must maintain eligibility to claim Iowa as the state of principal license or designate a new state of principal license.

9.21(4) *Expedited licensure.* Physicians who have a valid Letter of Qualification may obtain licensure in Iowa through the IMLC. To obtain a permanent Iowa license through the IMLC, a qualified physician shall:

a. Complete the application process at the IMLC's website, www.imlcc.org.

b. Pay the licensure fee specified in 653—subrule 8.3(2) and any service fees that are required by the IMLC.

c. Comply with the continuing medical education requirements of the board, including mandatory trainings specified in 653—Chapter 11.

9.21(5) *Validity of a license issued through the IMLC.* A license issued through the IMLC is valid for a period consistent with other permanent licenses issued by the board. An Iowa license issued through the IMLC shall be deemed terminated if the licensee fails to maintain a state of principal license.

9.21(6) *Disciplinary actions against licenses issued through the IMLC.*

a. Physicians holding an Iowa license issued through the IMLC are subject to the laws and rules governing the practice of medicine in Iowa.

b. Any disciplinary action taken by another member board of the IMLC against a physician licensed through IMLC shall be deemed unprofessional conduct which may be subject to discipline by the board in addition to any other violation of the board's rules deemed appropriate by the board.

c. If a license issued through the IMLC to a physician is revoked, surrendered, or relinquished in lieu of discipline, or suspended by a member board of the IMLC, then the physician's Iowa expedited license is automatically and immediately suspended, without further action needed, for a period of 90 days upon entry of an order by the board. The 90-day suspension may be terminated early by the board.

d. Any disciplinary action taken by another member board not in the state of principal license may be deemed conclusive as to the matter of law and fact decided, and the board may either impose the same or lesser sanctions against the physician so long as such sanctions are consistent with the board's laws and rules or pursue separate disciplinary action against the physician pursuant to the board's laws and rules.

e. If the Iowa board, as the physician's state of principal license, revokes or suspends the physician's license, or accepts a license surrender in lieu of discipline, then all licenses issued to the physician through the IMLC shall automatically be placed, without further action necessary by any member board, on the same status. If the Iowa board subsequently reinstates the physician's license, the licenses issued by the other member boards shall remain encumbered until the member boards take action to reinstate the licenses.

9.21(7) *Renewal of license issued through the IMLC.* To be eligible for renewal of a license issued through the IMLC, a licensee shall:

a. Complete an online renewal application on a form provided by the IMLC at www.imlcc.org.

b. Complete an attestation that the licensee:

(1) Maintains eligibility to designate a state as the state of principal license, pursuant to paragraph 9.21(1)*"a"*;

(2) Maintains a full and unrestricted license in the designated state of principal license;

(3) Has not been convicted of or received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(4) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license;

(5) Has not had a controlled substance license or permit suspended or revoked by a state or the U.S. DEA.

c. Pay licensure fee for the renewal of a license issued through the IMLC and pay any service fee assessed by the IMLC.

d. If audited, submit verification of completion of continuing medical education requirements set forth in 653—Chapter 11.

9.21(8) *Waivers.* The laws and rules relating to the IMLC cannot be waived.

9.21(9) *Advisory opinions.* The board will recognize advisory opinions issued by the interstate commission on the meaning or interpretation of the IMLC, its bylaws, rules and actions when determining an applicant's eligibility for licensure through the IMLC.

ITEM 23. Amend **653—Chapter 9**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 147, 147B, 148, and 272C.

[Filed 12/21/17, effective 2/21/18]
[Published 1/17/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/17/18.

ARC 3588C

MEDICINE BOARD[653]

Adopted and Filed

Rule making related to experimental treatments for patients with a terminal illness

The Board of Medicine hereby amends Chapter 13, "Standards of Practice and Principles of Medical Ethics," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 148 and 272C and section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 144E, 147, 148 and 272C.

Purpose and Summary

The purpose of Chapter 13 is to establish standards of practice and principles of medical ethics for administrative medicine physicians, medical physicians and surgeons, and osteopathic physicians and surgeons. This rule making relates to the use of experimental treatments for patients with a terminal illness.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 11, 2017, as **ARC 3360C**. A public hearing was held on October 31, 2017, at 11 a.m. at the Board Office, Suite C, 400 S.W. 8th Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board of Medicine on December 15, 2017.

Fiscal Impact

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

Jobs Impact

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

Waivers

Rules in Chapter 13 are not subject to waiver or variance.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 21, 2018.

The following rule-making action is adopted:

Adopt the following **new** rule 653—13.13(144E,147,148,272C):

653—13.13(144E,147,148,272C) Standards of practice—experimental treatments for patients with a terminal illness.

13.13(1) *Exemption from discipline.* To the extent consistent with state law, the board shall not revoke, fail to renew, suspend, or take any action against a physician's license based solely on the physician's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product, or device.

13.13(2) *Eligible patient.* A physician shall ensure that a patient meets all of the following conditions prior to the use of an investigational drug, biological product, or device pursuant to this rule:

a. The patient has a terminal illness, attested to by the patient's treating physician.

b. The patient has considered and rejected or has tried and failed to respond to all other treatment options approved by the U.S. Food and Drug Administration (FDA).

c. The patient has received a recommendation from the patient's physician for an investigational drug, biological product, or device.

d. The patient has given written informed consent for the use of the investigational drug, biological product, or device.

e. The patient has documentation from the patient's physician that the patient meets the requirements of this rule.

13.13(3) *Investigational drug, biological product, or device.* A physician may recommend access to or treatment with an investigational drug, biological product, or device that has successfully completed phase 1 of an FDA-approved clinical trial but has not yet been approved for general use by the FDA and remains under investigation in an FDA-approved clinical trial.

13.13(4) *Terminal illness.* A physician shall ensure that a patient has a terminal illness prior to the use of an investigational drug, biological product, or device pursuant to this rule. A terminal illness is a progressive disease or medical or surgical condition that entails significant functional impairment and that is not considered by a treating physician to be reversible even with administration of treatments approved by the FDA and that, without life-sustaining procedures, will result in death.

13.13(5) *Written informed consent.* A physician shall obtain written informed consent prior to the use of an investigational drug, biological product, or device pursuant to this rule. Written informed consent is a written document that is signed by a patient, a parent of a minor patient, or a legal guardian or other legal representative of the patient and attested to by the patient's treating physician and a witness and that includes all of the following:

a. An explanation of the products and treatments approved by the FDA for the disease or condition from which the patient suffers.

b. An attestation that the patient concurs with the patient's treating physician in believing that all products and treatments approved by the FDA are unlikely to prolong the patient's life.

c. Clear identification of the specific proposed investigational drug, biological product, or device that the patient is seeking to use.

d. A description of the best and worst potential outcomes of using the investigational drug, biological product, or device and a realistic description of the most likely outcome. The description shall include the possibility that new, unanticipated, different, or worse symptoms might result and that death could be hastened by use of the proposed investigational drug, biological product, or device. The description shall be based on the treating physician's knowledge of the proposed investigational drug, biological product, or device in conjunction with an awareness of the patient's condition.

e. A statement that the patient's health plan or third-party administrator and provider are not obligated to pay for any care or treatments consequent to the use of the investigational drug, biological product, or device, unless the patient's health plan or third-party administrator and provider are specifically required to do so by law or contract.

f. A statement that the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment with the investigational drug, biological product, or device and that hospice care may be reinstated if treatment ends and the patient meets hospice eligibility requirements.

g. A statement that the patient understands that the patient is liable for all expenses consequent to the use of the investigational drug, biological product, or device and that this liability extends to the patient's estate unless a contract between the patient and the manufacturer of the investigational drug, biological product, or device states otherwise.

13.13(6) *Assisting suicide.* This rule shall not be construed to allow a patient's treating physician to assist the patient in committing or attempting to commit suicide as prohibited in Iowa Code section 707A.2.

13.13(7) *Grounds for discipline.* A physician may be subject to disciplinary action for violation of rule 653—13.13(144E,147,148,272C) or 653—Chapter 23. Grounds for discipline include, but are not limited to, the following:

a. The physician recommends access to or treatment with an investigational drug, biological product, or device to an individual who is not an eligible patient pursuant to this rule.

b. The physician fails to obtain appropriate written informed consent prior to recommending access to or treatment with an investigational drug, biological product, or device pursuant to this rule.

c. The physician assists the patient in committing or attempting to commit suicide as prohibited in Iowa Code section 707A.2.

This rule is intended to implement Iowa Code chapters 144E, 147, 148 and 272C.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/17/18.

ARC 3589C

MEDICINE BOARD[653]

Adopted and Filed

Rule making related to diagnosis and treatment of tick-borne disease

The Board of Medicine hereby amends Chapter 13, "Standards of Practice and Principles of Medical Ethics," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 148 and 272C and section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147, 148, and 272C and 2017 Iowa Acts, House File 577.

Purpose and Summary

The purpose of Chapter 13 is to establish standards of practice and principles of medical ethics for administrative medicine physicians, medical physicians and surgeons, and osteopathic physicians and surgeons. This rule making relates to the treatment of Lyme disease or other tick-borne diseases.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 11, 2017, as **ARC 3361C**. A public hearing was held on October 31, 2017, at 11 a.m. at the Board Office, Suite C, 400 S.W. 8th Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board of Medicine on December 15, 2017.

Fiscal Impact

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

Jobs Impact

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

Waivers

Rules in Chapter 13 are not subject to waiver or variance.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 21, 2018.

The following rule-making action is adopted:

Adopt the following **new** rule 653—13.14(147,148,272C):

653—13.14(147,148,272C) Standards of practice—tick-borne disease diagnosis and treatment.

13.14(1) *Exemption from discipline.* A person licensed by the board under Iowa Code chapter 148 shall not be subject to discipline under this chapter or the board's enabling statute based solely on the physician's recommendation or provision of a treatment method for Lyme disease or other tick-borne disease if the recommendation or provision of such treatment meets all the following criteria:

a. The treatment is provided after an examination is performed and informed consent is received from the patient.

b. The physician identifies a medical reason for recommending or providing the treatment.

c. The treatment is provided after the physician informs the patient about other recognized treatment options and describes to the patient the physician's education, experience, and credentials regarding the treatment of Lyme disease or other tick-borne disease.

d. The physician uses the physician's own medical judgment based on a thorough review of all available clinical information and Lyme disease or other tick-borne disease literature to determine the best course of treatment for the individual patient.

e. The treatment will not, in the opinion of the physician, result in the direct and proximate death of or serious bodily injury to the patient.

13.14(2) *Lyme disease.* According to the Centers for Disease Control and Prevention (CDC), Lyme disease is caused by the bacterium *Borrelia burgdorferi* and is transmitted to humans through the bite of infected blacklegged ticks, commonly known as deer ticks. Typical symptoms include fever, headache, fatigue, and a characteristic skin rash called erythema migrans. If left untreated, infection can spread to joints, the heart, and the nervous system. Lyme disease is diagnosed based on symptoms, physical findings (e.g., a rash), and the possibility of exposure to infected ticks. Laboratory testing is helpful if used correctly and performed with validated methods. Steps to prevent Lyme disease include using insect repellent, removing ticks promptly, applying pesticides, and reducing tick habitat. The ticks that transmit Lyme disease can occasionally transmit other tick-borne diseases as well.

13.14(3) *Lyme disease treatment.* Most cases of Lyme disease can be treated successfully with a few weeks of antibiotics. Over the past several years, the International Lyme and Associated Diseases Society (ILADS) has supported longer courses of antibiotics for some patients, versus the prescribed treatment durations identified by the Infectious Diseases Society of America (IDSA) and referenced by the CDC. While IDSA has expressed concern about overtreatment, ILADS points out that treatment decisions should be based on a risk-benefit analysis. Both groups have published evidence-based guidelines.

13.14(4) *Tick-borne diseases.* According to the CDC, tick-borne diseases include:

a. *Anaplasmosis* is transmitted to humans by tick bites primarily from the blacklegged tick (*Ixodes scapularis*) in the northeastern and upper midwestern regions of the United States (U.S.) and the western blacklegged tick (*Ixodes pacificus*) along the Pacific coast.

b. *Babesiosis* is caused by microscopic parasites that infect red blood cells. Most human cases of babesiosis in the U.S. are caused by *Babesia microti*. *Babesia microti* is transmitted by the blacklegged

tick (*Ixodes scapularis*) and is found primarily in the northeastern and upper midwestern regions of the U.S.

c. *Borrelia mayonii* infection has recently been described as a cause of illness in the upper midwestern region of the U.S. This infection has been found in blacklegged ticks (*Ixodes scapularis*) in Minnesota and Wisconsin. *Borrelia mayonii* is a new species and is the only species besides *B. burgdorferi* known to cause Lyme disease in North America.

d. *Borrelia miyamotoi* infection has recently been described as a cause of illness in the U.S. This infection is transmitted by the blacklegged tick (*Ixodes scapularis*) and has a geographic range similar to that of Lyme disease.

e. *Bourbon virus* infection has been identified in a limited number of patients in the midwestern and southern regions of the U.S. At this time, it is not known if the virus might be found in other areas of the U.S.

f. *Colorado tick fever* is caused by a virus transmitted by the Rocky Mountain wood tick (*Dermacentor andersoni*). Colorado tick fever occurs in the Rocky Mountain states at elevations of 4,000 to 10,500 feet.

g. *Ehrlichiosis* is transmitted to humans by the lone star tick (*Amblyomma americanum*), found primarily in the south central and eastern regions of the U.S.

h. *Heartland virus* cases have been identified in the midwestern and southern regions of the U.S. Studies suggest that lone star ticks (*Amblyomma americanum*) can transmit the virus. It is unknown if the virus may be found in other areas of the U.S.

i. *Lyme disease* is transmitted by the blacklegged tick (*Ixodes scapularis*) in the northeastern and upper midwestern regions of the U.S. and by the western blacklegged tick (*Ixodes pacificus*) along the Pacific coast.

j. *Powassan disease* is transmitted by the blacklegged tick (*Ixodes scapularis*) and the groundhog tick (*Ixodes cookei*). Cases have been reported primarily from northeastern states and the Great Lakes region.

k. *Rickettsia parkeri rickettsiosis* is transmitted to humans by the Gulf Coast tick (*Amblyomma maculatum*).

l. *Rocky Mountain spotted fever* is transmitted by the American dog tick (*Dermacentor variabilis*), Rocky Mountain wood tick (*Dermacentor andersoni*), and the brown dog tick (*Rhipicephalus sanguineus*) in the U.S. The brown dog tick and other tick species are associated with Rocky Mountain spotted fever in Central America and South America.

m. *Southern tick-associated rash illness* is transmitted via bites from the lone star tick (*Amblyomma americanum*) found in the southeastern and eastern regions of the U.S.

n. *Tick-borne relapsing fever* is transmitted to humans through the bite of infected soft ticks. Tick-borne relapsing fever has been reported in 15 states: Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Ohio, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming and is associated with sleeping in rustic cabins and vacation homes.

o. *Tularemia* is transmitted to humans by the dog tick (*Dermacentor variabilis*), the wood tick (*Dermacentor andersoni*), and the lone star tick (*Amblyomma americanum*). Tularemia occurs throughout the U.S.

p. *364D rickettsiosis* (*Rickettsia phillipi*) is transmitted to humans by the Pacific Coast tick (*Dermacentor occidentalis*). This is a new disease that has been found in California.

13.14(5) *Grounds for discipline.* A physician may be subject to disciplinary action for violation of these rules or the rules found in 653—Chapter 23. Grounds for discipline include, but are not limited to, the following:

a. The physician fails to perform and document an appropriate examination or fails to obtain and document appropriate informed consent from the patient.

b. The physician fails to identify and document a medical reason for recommending or providing the treatment.

c. The physician fails to inform the patient about other recognized treatment options or fails to describe to the patient the physician's education, experience, and credentials regarding the treatment of Lyme disease or other tick-borne diseases.

d. The physician fails to use the physician's own medical judgment based on a thorough review of all available clinical information and Lyme disease or other tick-borne disease literature to determine the best course of treatment for the individual patient.

e. The treatment provided, in the opinion of the physician, will likely result in the direct and proximate death of or serious bodily injury to the patient.

This rule is intended to implement Iowa Code chapters 147, 148 and 272C.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/17/18.

ARC 3590C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to practice of physical and occupational therapy

The Board of Physical and Occupational Therapy hereby amends Chapter 201, "Practice of Physical Therapists and Physical Therapist Assistants," and Chapter 208, "Practice of Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147, 148A, and 272C.

Purpose and Summary

These amendments add requirements for telehealth.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 8, 2017, as **ARC 3435C**. A public hearing was held on November 28, 2017, from 8 to 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. One comment was received from the Iowa Physical Therapy Association in support of the proposed amendments. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board of Physical and Occupational Therapy on December 19, 2017.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 21, 2018.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** rule 645—201.3(147):

645—201.3(147) Telehealth visits. A licensee may provide physical therapy services to a patient utilizing a telehealth visit if the physical therapy services are provided in accordance with all requirements of this chapter.

201.3(1) "Telehealth visit" means the provision of physical therapy services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the physical therapy session.

201.3(2) A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for a physical therapy session or to communicate with a patient between physical therapy sessions.

201.3(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person physical therapy. A licensee shall not utilize a telehealth visit if the standard of care for the particular physical therapy services cannot be met using technology.

201.3(4) Any physical therapist or physical therapist assistant who provides a physical therapy telehealth visit to a patient located in Iowa shall be licensed in Iowa.

201.3(5) Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the physical therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

a. The risks and limitations of the use of technology to provide physical therapy services;

b. The potential for unauthorized access to protected health information; and

c. The potential for disruption of technology during a telehealth visit.

201.3(6) A licensee shall only provide physical therapy services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

201.3(7) A licensee shall identify in the clinical record when physical therapy services are provided utilizing a telehealth visit.

ITEM 2. Adopt the following **new** rule 645—208.3(147):

645—208.3(147) Telehealth visits. A licensee may provide occupational therapy services to a patient utilizing a telehealth visit if the occupational therapy services are provided in accordance with all requirements of this chapter.

208.3(1) "Telehealth visit" means the provision of occupational therapy services by a licensee to a patient using technology where the licensee and the patient are not at the same physical location for the occupational therapy session.

208.3(2) A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the patient. A licensee may use non-real-time technologies to prepare for an occupational therapy session or to communicate with a patient between occupational therapy sessions.

208.3(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person occupational therapy. A licensee shall not utilize a telehealth visit if the standard of care for the particular occupational therapy services cannot be met using technology.

208.3(4) Any occupational therapist or occupational therapist assistant who provides an occupational therapy telehealth visit to a patient located in Iowa shall be licensed in Iowa.

208.3(5) Prior to the first telehealth visit, a licensee shall obtain informed consent from the patient specific to the occupational therapy services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the patient of the following:

a. The risks and limitations of the use of technology to provide occupational therapy services;

b. The potential for unauthorized access to protected health information; and

c. The potential for disruption of technology during a telehealth visit.

208.3(6) A licensee shall only provide occupational therapy services using a telehealth visit in the areas of competence wherein proficiency in providing the particular service using technology has been gained through education, training, and experience.

208.3(7) A licensee shall identify in the clinical record when occupational therapy services are provided utilizing a telehealth visit.

[Filed 12/19/17, effective 2/21/18]
[Published 1/17/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/17/18.

ARC 3591C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to practice of speech pathology and audiology

The Board of Speech Pathology and Audiology hereby amends Chapter 300, "Licensure of Speech Pathologists and Audiologists," Chapter 303, "Continuing Education for Speech Pathologists and Audiologists," and Chapter 304, "Discipline for Speech Pathologists and Audiologists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 147 and sections 154F.3 and 272C.2.

Purpose and Summary

This rule making updates the rules for consistency with terminology used in the Iowa Code, including technical updates throughout all three chapters. The application process is streamlined to require the

same documents from all applicants, and a sentence was added to clarify the title approved for use by assistants.

These amendments are intended to provide regulatory clarity to licensees by removing terms that identify specific organizations that offer continuing education and by identifying categories of organizations that may offer continuing education. These amendments reduce the need for the Board to update the rules when new organizations are established or existing organizations experience a name change. The amendments also limit to 16 hours the number of continuing education hours a presenter may earn biannually toward the 30 hours of required continuing education.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 25, 2017, as **ARC 3410C**. A public hearing was held on November 15, 2017, at 1:30 p.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board of Speech Pathology and Audiology on December 15, 2017.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board of Speech Pathology and Audiology for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 21, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 645—300.1(147) as follows:

645—300.1(147) Definitions. For purposes of these rules, the following definitions shall apply:
"Active license" means a license that is current and has not expired.
"ASHA" means the American Speech-Language Hearing Association.

"Assistant" means ~~a~~ an unlicensed person who works under the supervision of an Iowa-licensed speech pathologist or audiologist~~, does not meet the requirements to be licensed as a speech pathologist or audiologist,~~ and meets the minimum requirements set forth in these rules.

"Audiologist" means a person who engages in the application of principles, methods and procedures for measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to hearing and disorders of hearing and associated communication disorders for the purpose of nonmedically evaluating, identifying, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals, including the determination and use of appropriate amplification.

"Board" means the board of speech pathology and audiology.

"Full-time" means a minimum of 30 hours per week.

"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.

"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 ~~included~~ include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as a speech pathologist or audiologist in the state of Iowa.

"License expiration date" means December 31 of odd-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice speech pathology or audiology to an applicant who is or has been licensed in another state.

"On site" means:

1. To be continuously on site and present in the department or facility where services are being provided;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated.

"Reactivate" or *"reactivation"* means the process as outlined in rule 645—300.17(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice speech pathology or audiology to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of speech pathology and audiology to license persons that have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(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.

"Speech pathologist" means a person who engages in the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to the development and disorders of speech, fluency, voice, or language for the purpose of nonmedically evaluating, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals.

ITEM 2. Amend subrule 300.3(1) as follows:

300.3(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's ~~Web site (http://www.idph.state.ia.us/licensure)~~ website (www.idph.iowa.gov/licensure) or directly from the board office. All applications shall be sent to Board of Speech Pathology and Audiology, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 3. Amend subrule 300.3(4) as follows:

300.3(4) The application shall include:

a. An official copy of a current ~~American Speech-Language Hearing Association (ASHA)~~ ASHA certificate of clinical competence; or

b. Submission of the following:

(1) Official copies of academic transcripts sent directly from the school to the board showing proof of possession of a master's degree in speech pathology or a master's or doctoral degree in audiology or the equivalent of one of these degrees and official verification of completion of not less than 400 hours of supervised clinical training;

(2) Verification of nine months of full-time clinical experience, or equivalent, completed after the master's degree, under the supervision of a licensed speech pathologist or audiologist or as a part of the doctoral degree; and

(3) Results of the Praxis Examination.

ITEM 4. Amend subrule 300.4(2) as follows:

300.4(2) Foreign-trained speech pathologists and audiologists shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International ~~Educational~~ Education Research ~~Foundations~~ Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, ~~Web site~~ website www.ierf.org or E-mail at info@ierf.org; International Credentialing Associates, Inc., ~~7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo~~ 10801 Starkey Road, Suite 104 #108, Seminole, FL 33777, telephone (727)549-8555 or website www.icaworld.com. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

~~*b.* Provide a notarized copy of the certificate or diploma awarded to the applicant from a speech pathology or audiology program in the country in which the applicant was educated.~~

~~*c.*~~ *b.* Receive a final determination from the board regarding the application for licensure.

ITEM 5. Amend rule 645—300.6(147), introductory paragraph, as follows:

645—300.6(147) Temporary clinical license. A temporary clinical license for the purpose of obtaining clinical experience as a prerequisite for licensure is valid for one year and may be renewed at the discretion of the board. The license shall be designated "temporary clinical license in speech pathology" or "temporary clinical license in audiology."

ITEM 6. Amend rule 645—300.8(147), introductory paragraph, as follows:

645—300.8(147) Use of assistants. A licensee shall, in the delivery of professional services, utilize assistants only to the extent provided in these rules. Such assistants shall use the title provided by these rules.

ITEM 7. Amend rule 645—300.9(147) as follows:

645—300.9(147) Licensure by endorsement. An applicant who has been a licensed speech pathologist or audiologist under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;

2. Pays the licensure fee;

3. Shows evidence of licensure requirements that are similar to those required in Iowa;

~~3.~~ 4. Shows evidence of a current ASHA certificate or at least nine months of full-time clinical experience or its equivalent;

~~4.~~ 5. Shows evidence that the Praxis Examination scores have been sent directly from the examination service to the board;

~~5.~~ 6. Provides official copies of the academic transcripts; and

~~6.~~ 7. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

ITEM 8. Amend subrule 300.11(3) as follows:

300.11(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—303.2(147) and the mandatory reporting requirements of subrule 300.11(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. Submit the completed renewal application and renewal fee before the license expiration date.

~~*c.* 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 two years later.~~

ITEM 9. Amend subrule 300.11(4) as follows:

300.11(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 shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirements as identified in paragraph ~~*"e."*~~ *"f."*

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph ~~*"e."*~~ *"f."*

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph ~~*"e."*~~ *"f."*

d. Training may be completed through separate courses as identified in paragraphs *"a"* and *"b"* or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

~~*d.*~~ *e.* The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs *"a"* to *"c,"* including program date(s), content, duration, and proof of participation.

~~*e.*~~ *f.* The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall 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, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 303.

~~*f.*~~ *g.* The board may select licensees for audit of compliance with the requirements in paragraphs *"a"* to ~~*"e."*~~ *"f."*

ITEM 10. Amend subrule 300.11(7) as follows:

300.11(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule

~~305.1(3)~~ 5.20(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 11. Amend subrule 300.17(2) as follows:

300.17(2) Pay the reactivation fee that is due as specified in 645~~—Chapter 305~~ subrule 5.20(4).

ITEM 12. Amend rule 645—300.18(17A,147,272C) as follows:

645—300.18(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 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—300.17(17A,147,272C) prior to practicing speech pathology and audiology in this state.

ITEM 13. Amend rule 645—303.1(147) as follows:

645—303.1(147) Definitions. For the purpose of these rules, the following definitions shall apply:

"AAA" means the American Association of Audiology.

"Active license" means a license that is current and has not expired.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules.

"ASHA" means the American Speech-Language Hearing Association.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

"Board" means the board of speech pathology and audiology.

"Continuing education" means ~~a planned individual learning experience or activity~~ an approved program/activity that is directly related to the sciences or contemporary clinical practice of audiology, speech-language pathology and speech-language-hearing science and whose content and focus are beyond the basic preparation required for entry into the professions. These activities result in improving, adding to, or positively changing the knowledge and skills of the licensee to improve the safety and welfare of the public.

"Hour of continuing education" means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"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.

"License" means license to practice.

"Licensee" means any person licensed to practice speech pathology or audiology or both in the state of Iowa.

ITEM 14. Amend subrule 303.2(3) as follows:

303.2(3) Hours of continuing education credit may be obtained by participation in ~~a continuing education~~ an approved program or activity. Such programs and activities may take place individually or in group settings including in-person conferences, journal readings, teleconferences, videoconferences and online programs or activities as long as such programs and activities meet the criteria specified in the definition of continuing education in rule 645—303.1(147).

ITEM 15. Amend paragraph **303.3(2)"c"** as follows:

c. A licensee may present professional programs which meet the criteria in this rule. Two hours of credit will be allowed for each hour of newly developed presentation material. A maximum of 16 hours may be obtained per biennium. A course schedule or brochure must be maintained for audit.

ITEM 16. Adopt the following **new** paragraph **303.3(2)"g"**:

g. Continuing education shall be obtained by attending a program that meets the criteria in subrule 303.3(1) including but not limited to continuing education programs offered by AAA and

ASHA. Other individuals or groups may offer continuing education programs that meet the criteria in rule 645—303.3(147,272C) through one of the following organizations:

(1) National, state or local associations of speech pathology and audiology;
(2) Schools and institutes of speech pathology and audiology;
(3) Universities, colleges or community colleges.

Continuing education must be offered by or approved in advance of delivery by the organizations stated above.

ITEM 17. Amend subrule 304.2(11) as follows:

304.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of ~~convicion~~ conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ITEM 18. Amend paragraph **304.2(31)"h"** as follows:

h. Failure to comply with current Food and Drug Administration regulations 21 CFR §801.420, "Hearing aid devices; professional and patient labeling," and 21 CFR §801.421, "Hearing aid devices~~,~~; conditions for sale."

[Filed 12/19/17, effective 2/21/18]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/17/18.

ARC 3592C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rule making related to licensure to sell and safety standards for consumer fireworks

The State Fire Marshal hereby adopts new Chapter 265, "Consumer Fireworks Sales Licensing and Safety Standards," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 100.19 and 100.19A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 100.19 and 100.19A.

Purpose and Summary

2017 Iowa Acts, Senate File 489, relating to the purchase, use, and regulation of consumer and display fireworks, was enacted in 2017 by the Iowa General Assembly during its regular session. The legislation, which is now codified in the Iowa Code, requires the State Fire Marshal to promulgate administrative rules for the regulation of the storage, transportation, handling, and use of consumer fireworks; for the sale of consumer fireworks; and for the licensing of consumer fireworks retailers and registration of wholesalers of consumer fireworks. The legislation also authorizes the licensing fees that are collected to be used to pay for the costs of administration and enforcement of the legislation and establishes a Local Fire Protection and Emergency Medical Service Providers Grant Program to provide fireworks safety education and to purchase equipment related to the sale and use of consumer fireworks.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 21, 2017, as **ARC 3123C**. This rule making was also Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 3124C** on the same date and became effective on May 31, 2017.

A public hearing was held on September 8, 2017. Written and oral comments were received from stakeholders and members of the public prior to or at the public hearing. Additionally, stakeholders were invited to submit comments after the final rules were drafted, and an informal stakeholder meeting was held on December 15, 2017, to receive comments on the final draft of the rules. Changes in response to comments and suggestions received were incorporated into these Adopted and Filed rules.

The stakeholder groups generally were composed of industry representatives and nonindustry representatives. Both industry and nonindustry representatives offered comments concerning the initial fireworks sales period and also offered constructive comments for the purpose of improving the rules and implementing the safety standards of NFPA 1124. There were other comments received from members of the public who were opposed to the policy of legalizing fireworks.

The changes that were made from the emergency rules to these Adopted and Filed rules primarily involve the licensing process, which contained steps needed to implement the rules in a short period of time, and the inspections, for the same reason. Some rules were also reordered and renumbered, and citations have been updated.

Comments from nonindustry members included broad-based opposition to fireworks, along with specific comments about the regulatory system set out in the new legislation. Specific comments from nonindustry members included:

- Question regarding the efficacy of a revocation process that does not provide for immediate action if the licensee is in violation of the rules.
- Suggestion that licenses should be issued for a single sales period rather than for a year (which could cover two or more seasons).
- Question regarding a possible conflict between the NFPA standards regarding fireworks and the current state or local fire code provisions.
- Question regarding the appropriate action to be taken when an inspection of a fireworks sale site shows that the site does not match the site plan submitted and approved.
- Question regarding storage facilities, which require no separate licensing, and the impact on public safety in the jurisdictions where storage facilities are located.
- Question regarding verification of sites that sell exempt amounts, which are not subject to inspection, and particularly whether it is possible to identify compliance with the regulatory exemption for exempt-amount sales.
- Statement that local authorities are best suited to address public safety concerns at a local level.
- Question regarding local jurisdictional authority regarding related regulations and statutes, including local ordinances related to hazardous materials, noise and zoning.
- Statement that local authorities should be notified regarding licensee locations, for their awareness.
- Statement that the rules that require training of personnel who are staffing the sales location should be enforced, in order to ensure compliance.
- Comment regarding the time required to conduct inspections of every site, and the cost associated with that time, and the need for adequate compensation for that time, either through state-funded inspectors or through reimbursements to local agencies conducting inspections.

Comments from industry members included:

- Comment regarding the apparent inequity experienced by in-state permanent-site license holders, who pay a higher fee, and out-of-state retailers at temporary sites, which require a lower fee.

- Comment regarding the value of a statewide system for licensing and inspections, which can provide consistency for multiple-site sellers, and especially for temporary-site licensees.
- Comment related to pending litigation regarding local ordinances and local fees charged in addition to the state licensing requirements.
- Comment that the statute creates a state licensing and regulatory program, which does not allow for additional local regulation or control over the retail sales of consumer fireworks.
- Comment that inspections should be focused on compliance on site, and other licensing processes could be streamlined so long as compliance inspections occur.
- Comment regarding the limitation of local authorities to charge fees for compliance inspections and the limitation on local authorities' ability to use zoning codes or other local ordinances to interfere with otherwise lawful consumer fireworks activities.

The State Fire Marshal reviewed and considered the comments received at the public hearing in adopting these rules as well as the other comments received informally. Based on the input from many stakeholders, these rules were drafted to closely follow the legislation and to closely follow the rule-making authority granted in the legislation. The statutory parameters are workable, and the State Fire Marshal's office has worked closely with all stakeholders to identify ways to implement the statutory requirements through administrative rules that can be applied in practical ways to comply with the statute and accommodate the needs of the private sector and local governments. Along with the experience gained during the first licensing period, input from stakeholders was helpful in drafting the final rules.

Adoption of Rule Making

This rule making was adopted by the State Fire Marshal on December 27, 2017.

Fiscal Impact

The fiscal impact for the program is expected to be between $100,000 and $500,000; although at present, it is anticipated that annual costs to administer the program will be around $100,000. Annual costs include the costs of administering the licensing program, the costs associated with inspections and the enforcement of laws and regulations by the State Fire Marshal's office. Revenues from fees that are not retained for program costs will be distributed to local fire and emergency response entities through the grant program authorized by statute. Based on the number of licenses issued during the first two seasons, it appears that the fireworks program will be self-sustaining and that a grant program can be established that can benefit local communities in Iowa.

Jobs Impact

It is expected that there will be a positive impact on jobs and the economy, as there will be new opportunities for persons to be employed in the sale of fireworks. There will be a positive impact on the state economy from these new jobs and new business opportunities resulting from the sale of consumer fireworks, and from the sales tax revenue paid to the state from the sale of consumer fireworks.

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the State Fire Marshal does not have authority to waive requirements established by statute.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 21, 2018, at which time the Adopted and Filed Emergency rule making is hereby rescinded.

The following rule-making action is adopted:

Adopt the following **new** 661—Chapter 265:

CHAPTER 265
CONSUMER FIREWORKS SALES LICENSING AND SAFETY STANDARDS

DIVISION I
SAFETY STANDARDS

661—265.1(100) Sale of consumer fireworks—safety standards. Any retailer or community group offering for sale at retail any first-class or second-class consumer fireworks, as described in American Pyrotechnics Association (APA) Standard 87-1, as published in December 2001, shall do so in accordance with the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition (hereinafter referred to as "APA 87-1" and "NFPA 1124," respectively).

661—265.2 to **265.9** Reserved.

DIVISION II
CONSUMER FIREWORKS SALES—RESTRICTIONS

661—265.10(100) Sales allowed. A retailer or community group that is issued a license pursuant to this chapter is authorized to sell consumer fireworks as defined in this chapter. However, sales are permitted only as follows.

265.10(1) *Prohibited sale or transfer to persons under 18 years of age.*

a. A retailer or community group shall not transfer consumer fireworks, as described in APA 87-1, chapter 3, to a person who is under 18 years of age.

b. A person, firm, partnership or corporation shall not sell consumer fireworks to a person who is less than 18 years of age.

265.10(2) *Exceptions for persons under 18 years of age.*

a. A retailer selling or offering for sale consumer fireworks as described in APA 87-1, chapter 3, shall supervise any employees who are less than 18 years of age who are involved in the sale, handling, or transport of consumer fireworks in the course of their employment for the retailer.

b. A community group selling or offering for sale consumer fireworks as described in APA 87-1, chapter 3, shall ensure that any persons who are less than 18 years of age who are involved in the sale, handling, or transport of consumer fireworks by the community group, whether the persons less than 18 years of age are paid or unpaid, shall do so under the direct supervision of an adult member of the community group.

265.10(3) *Safety requirements—storage and retail sales.* A retailer or community group selling consumer fireworks as described in APA 87-1, chapter 3, shall do so in accordance with NFPA 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

265.10(4) *Dates of sale.*

a. *Permanent building.* A retailer or community group may sell consumer fireworks as described in APA 87-1, chapter 3, at a permanent building only between June 1 and July 8 and between December 10 and January 3 each year, all dates inclusive.

b. Temporary structure. A retailer or community group may sell consumer fireworks as described in APA 87-1, chapter 3, at a temporary structure between June 13 and July 8 each year, both dates inclusive.

661—265.11 to **265.19** Reserved.

DIVISION III
CONSUMER FIREWORKS RETAILER LICENSING

661—265.20(100) Definitions. The following definitions apply to Division III.

"APA 87-1" means the American Pyrotechnics Association Standard 87-1, as published in December 2001.

"Community group" means a nonprofit entity that is open for membership to the general public and is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code or a fraternal benefit society, as that term is defined in Iowa Code section 512B.3.

"First-class consumer fireworks" means the following consumer fireworks, as described in APA 87-1, chapter 3:

1. Aerial shell kits and reloadable tubes.
2. Chasers.
3. Helicopter and aerial spinners.
4. Firecrackers.
5. Mine and shell devices.
6. Missile-type rockets.
7. Roman candles.
8. Sky rockets and bottle rockets.
9. Multiple tube devices as described in this definition of first-class consumer fireworks that are manufactured in accordance with APA 87-1, section 3.5.

"NFPA 1124" means the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

"Retailer" means the same as defined in Iowa Code section 423.1.

"Second-class consumer fireworks" means the following consumer fireworks, as described in APA 87-1, chapter 3:

1. Cone fountains.
2. Cylindrical fountains.
3. Flitter sparklers.
4. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA 87-1, section 3.5.
5. Ground spinners.
6. Illuminating torches.
7. Toy smoke devices that are not classified as novelties pursuant to APA 87-1, section 3.2.
8. Wheels.
9. Wire or dipped sparklers that are not classified as novelties pursuant to APA 87-1, section 3.2.

661—265.21(100) License fee schedule. The following license fees shall be paid before issuance of a license for the retail sale of consumer fireworks.

265.21(1) *Permanent building—retailer—first-class consumer fireworks.* The annual fee is $1,000 for a retailer at a permanent building who devotes 50 percent or more of the retailer's retail floor space to the sale or display of first-class consumer fireworks.

265.21(2) *Temporary structure—retailer—first-class consumer fireworks.* The annual fee is $500 for a retailer at a temporary structure who devotes 50 percent or more of the retailer's retail floor space to the sale or display of first-class consumer fireworks.

265.21(3) *Retailer—first-class consumer fireworks—less than 50 percent of retail space.* The annual fee is $400 for a retailer who devotes less than 50 percent of the retailer's retail floor space to the sale or display of first-class consumer fireworks.

265.21(4) *Community group—first-class consumer fireworks.* The annual fee is $400 for a community group that offers for sale, exposes for sale, or sells first-class consumer fireworks.

265.21(5) *Retail sale of both first-class consumer fireworks and second-class consumer fireworks.* A license issued for the retail sale of first-class consumer fireworks allows the retailer or community group to sell or offer for sale both first-class consumer fireworks and second-class consumer fireworks at the same location. The license fee shall be based on the percentage of the retail space devoted to the sale of first-class fireworks.

265.21(6) *Retailer or community group—license for second-class fireworks only.* The annual fee is $100 for a community group that offers for sale, exposes for sale, or sells second-class consumer fireworks but not first-class consumer fireworks. A license issued for the sale of second-class consumer fireworks does not allow the community group to sell or offer or expose for sale any first-class consumer fireworks.

661—265.22(100) Fees collected.

265.22(1) *Administrative license fee.* A nonrefundable administrative fee of $100 is required with every application for a consumer fireworks retail sales license. The $100 fee will be applied to the license fee if the license is issued.

265.22(2) *Changing license class or amount.* If a retailer or consumer group is issued a license for the retail sale of one class or amount of consumer fireworks, and changes to a class or amount that requires a higher license fee, the retailer or consumer group shall pay only the difference in the two fees. The license for the lower class will be invalid after the issuance of the new license.

265.22(3) *No refund after issuance.* Payment is final when the license is issued, and the fee will not be refunded.

661—265.23(100) Consumer fireworks retail sales license.

265.23(1) *Application period.* The state fire marshal will begin accepting applications for consumer fireworks retail sales licenses beginning March 1 of each year. The license applications for permanent sites will be processed before the applications for temporary sites. Complete applications will be processed in the order they are submitted.

265.23(2) *Application form and instructions.* The application for a license for retail sales of first-class consumer fireworks or second-class consumer fireworks, or both first-class consumer fireworks and second-class consumer fireworks, shall be made to the state fire marshal. The application form and instructions may be found on the state fire marshal website at www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml.

265.23(3) *Application requirements.* Applications and the accompanying plans must include all required information and must be prepared in accordance with the application instructions. An application will not be processed until all required information is received in the form required by the instructions. If any required information is illegible or incomplete, that application will not be processed and a new application with all of the required information must be submitted. The state fire marshal's office may, in its discretion, allow an applicant to provide missing information without submitting a new application.

661—265.24(100) Submittal of application and required information.

265.24(1) The following must be submitted to the state fire marshal's office:

a. The completed application, signed by the owner, officer, director, or another person authorized to sign documents on behalf of the retailer or community group.

b. Document(s) that establish that the applicant is either a community group or retailer.

c. The plan(s) for each retail sales location, including any permanent or temporary building or structure.

d. The plan(s), including any required site plan(s) for the location(s) and for any building(s) or structure(s), whether permanent or temporary, that will be used for the storage of consumer fireworks.

e. All plans and drawings must be legible and include all required information and measurements.

f. Proof that the applicant has obtained commercial general liability insurance with minimum per-occurrence coverage of at least $1 million and aggregate coverage of at least $2 million.

g. The applicable license fee.

265.24(2) Updating contact information. If any of the contact information for the retailer or community group changes during the period that the license is valid, that information shall be updated and submitted to the state fire marshal's office within five working days of when the information changed.

661—265.25(100) Fireworks site plan review and approval.

265.25(1) *Plan approval.*

a. A license is required for each location where the retail sales of consumer fireworks are conducted. The plan(s) for each retail sales location, including any permanent or temporary building or structure, and for each building or structure used for the storage of fireworks must be submitted.

b. Every location where the retail sales of consumer fireworks take place or where consumer fireworks are stored, including any permanent or temporary building(s) or structure(s), must do so in accordance with NFPA 1124.

c. The retailer or community group shall also submit to the state fire marshal's office the proposed plan(s), including any required site plan(s) for the location(s) and for any building(s) or structure(s), whether permanent or temporary, that will be used for the storage of fireworks.

d. The plan(s) will be reviewed to determine whether it is in accordance with NFPA 1124. If the plan(s) is incomplete or noncompliant, the retailer or community group will receive notification of deficiencies that need to be corrected.

NOTE: Regarding the incorporation of the reference to NFPA 102, 1995 edition, Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures into NFPA 1124 concerning tents and membrane structures, Sections 7.3.5 and 7.4.8.1.2 of NFPA 1124 should be read together with Section A.7.4.8.1.2 in the Explanatory Material in Annex A to NFPA 1124 and used for the purposes of (1) determining the requirements for the means of egress in tents and membrane structures except as modified by Section 7.3.14 of NFPA 1124 for special requirements for the retail sales of consumer fireworks, and (2) to prohibit the use, discharge, or ignition of fireworks within the tent or membrane structure. The other provisions of NFPA 1124, including the sections relating to the retail sales of consumer fireworks in tents or membrane structures, remain applicable.

265.25(2) *Plans not required.* In the discretion of the state fire marshal, plans may not be required in the following circumstances:

a. For permanent buildings or temporary structures in which only exempt amounts of first-class or second-class consumer fireworks are offered for sale, pursuant to section 7.3.1, NFPA 1124. The licensee shall make current product inventory information available to the state fire marshal upon request.

b. For permanent buildings that were licensed in the previous year and for which there have been no changes to the site, building or floor plan. If any changes have been made, a new or updated plan shall be submitted.

c. For permanent buildings which are currently classified as a retail occupancy and in which second-class consumer fireworks are the only fireworks are offered for sale.

661—265.26(100) Plan review and inspection—guidelines.

265.26(1) *Inspections.*

a. Any retailer or community group offering for sale at retail any consumer fireworks, as described in APA 87-1, shall do so in accordance with NFPA 1124. Every location and any building or structure where the retail sales of consumer fireworks are conducted or where consumer fireworks are stored is subject to an inspection. In the discretion of the state fire marshal, prelicense inspections may not be required in the following circumstances:

(1) For permanent buildings or temporary structures in which only exempt amounts of first-class or second-class consumer fireworks are offered for sale, pursuant to section 7.3.1, NFPA 1124. The licensee shall make current product inventory information available to the state fire marshal upon request.

(2) For permanent buildings that were licensed in the previous year and for which there have been no changes to the site, building or floor plan. If any changes have been made, then a new or updated plan shall be submitted.

b. State licensing inspections shall only be conducted by persons approved by the state fire marshal. The inspection form shall be approved by the state fire marshal and will be available only to approved inspectors.

c. Each location, including the building(s) or structure(s) where the retail sales of consumer fireworks will be conducted or are conducted or where consumer fireworks are stored, must pass the state licensing inspection when conducted. Each location, including the building(s) or structure(s) must pass all elements of the inspection as conducted.

661—265.27(100) Issuance and display of license. The submitted application, any additional documents and information, and the completed inspection form shall be reviewed by the state fire marshal's office.

265.27(1) If all of the requirements are met and the correct license fee is paid, the state fire marshal shall issue the license. The license will be sent by email or can be downloaded from the state fire marshal's website at www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml. The license shall be effective for the applicable date(s) for the sales of consumer fireworks.

265.27(2) The license must be clearly displayed at the location where the retail sales of consumer fireworks for which the license was issued are conducted.

661—265.28(100) Unauthorized use of license. Only the retailer or the community group which is issued the license may use that license for the retail sales of consumer fireworks. Each license will be issued for a specific location. The license may not be transferred to or used at any other location.

265.28(1) If the retailer or community group to which the license is issued changes the location where the retail sale of consumer fireworks will be sold, the retailer or community group shall submit a new application and all required information for the new site and pay the applicable license fee. The application must be reviewed and approved in order for a new license to be issued.

265.28(2) The licensed retailer or community group or the authorized representative of the licensed retailer or community group must be personally present at all times when consumer fireworks are being sold.

265.28(3) No unlicensed retailer, community group, person, group of people, business, or other for-profit or nonprofit entity may use the license issued to another retailer or community group for the retail sales of consumer fireworks, unless the licensed retailer or community group or the authorized representative of the licensed retailer or community group is personally present at all times when consumer fireworks are being sold.

661—265.29 Reserved.

DIVISION IV
CONSUMER FIREWORKS WHOLESALER REGISTRATION

661—265.30(100) Definitions. The following definitions apply to Division IV.

"Consumer fireworks" means first-class consumer fireworks and second-class consumer fireworks, as those terms are defined in Iowa Code section 100.19.

"NFPA 1124" means the National Fire Protection Association (NFPA) Standard 1124, published in the Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

"Wholesaler" means a person who engages in the business of selling or distributing consumer fireworks for the purpose of resale in this state.

661—265.31(100) Annual registration. Each wholesaler shall register with the state fire marshal annually.

265.31(1) *Registration process.* Each wholesaler shall complete the annual registration form and submit the form to the state fire marshal's office. The registration form and instructions may be found on the state fire marshal website at www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml.

265.31(2) *Registration fee.* Each wholesaler shall pay an annual registration fee of $1,000 to the state fire marshal.

661—265.32(100) Safety regulations—storage and transfer. Each wholesaler shall comply with all of the requirements of NFPA 1124 for the storage and transfer of consumer fireworks.

661—265.33(100) Insurance—required. While operating as a wholesaler, each wholesaler shall maintain commercial general liability insurance with minimum per-occurrence coverage of at least $1 million and aggregate coverage of at least $2 million.

661—265.34 to **265.39** Reserved.

DIVISION V
VIOLATIONS—LICENSE REVOCATION

661—265.40(100) Revocation of license. The consumer fireworks retail sales license granted to a retailer or community group shall be revoked upon a finding by the state fire marshal that the licensee intentionally violated any of the rules in Division III of this chapter.

265.40(1) *Notice of violation.* The state fire marshal, any paid or volunteer member of a fire department, or any law enforcement officer may investigate a complaint of a violation of the rules in Division III of this chapter. After a review of the investigation, the state fire marshal may issue a Notice of Violation and Order to Show Cause to the licensee. The Notice shall contain the date, time and place for the hearing before the division of the state fire marshal.

265.40(2) *Hearing.* A hearing on the violation shall be held before the division of the state fire marshal.

265.40(3) *Findings.* If, after a hearing on the Order to Show Cause, the division of the state fire marshal finds that the licensee intentionally violated any of the rules in Division III, the state fire marshal shall revoke the license or licenses of the retailer or community group for the retail sale of consumer fireworks.

661—265.41(100) Petition for judicial review. The licensee may file a petition for judicial review of the decision of the division of the state fire marshal in accordance with the terms of the Iowa administrative procedure Act, Iowa Code chapter 17A.

661—265.42(100) License revocation effective date. The revocation of the license or licenses for the retail sale of consumer fireworks commences on the thirty-first day after the date of the order of the division of the state fire marshal, if a petition for judicial review has not been filed in the district court. If the licensee has filed a petition for judicial review, the revocation of the license or licenses for the retail sale of consumer fireworks commences on the thirty-first day following the entry of the order of the district court, if the order affirms the order of the division of the state fire marshal.

661—265.43(100) Revocation—denial of new license. A new license shall not be issued to a person whose license has been revoked or to the business in control of the premises on which the violation occurred for a period of one year if there is a finding that the owner of the business had actual knowledge of the violation resulting in the license revocation.

661—265.44 to **265.49** Reserved.

DIVISION VI
FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES GRANT PROGRAM

661—265.50(100) Consumer fireworks fee fund. All fees received from the licenses issued for the retail sale of consumer fireworks and the annual registration fees received from wholesalers of consumer fireworks shall be deposited into the consumer fireworks fee fund pursuant to Iowa Code section 100.19. The state fire marshal shall use the fees deposited into this fund to fulfill the responsibilities of the state fire marshal for the administration and enforcement of Iowa Code sections 100.19 and 100.19A.

661—265.51(100) Local fire protection and emergency medical service providers grant program. The local fire protection and emergency medical service providers grant program is established by the state fire marshal. The grant program shall be funded with only those moneys from the consumer fireworks fee fund which are not needed by the state fire marshal to fulfill the responsibilities of the state fire marshal for the administration and enforcement of Iowa Code sections 100.19 and 100.19A.

265.51(1) *Definitions.* The following definitions apply to Division VI.

"Emergency medical services" means the same as defined in Iowa Code section 147A.1(5).

"Fire protection service" means volunteer or paid fire departments.

265.51(2) *Authorized applicants.* Any local fire protection service provider or local emergency medical service provider in the state of Iowa may apply for grant funds from the local fire protection and emergency medical service providers grant program.

265.51(3) *Authorized purposes of grant funds.* The grant funds in the local fire protection and emergency medical service providers grant program may only be used for the following:

a. To establish or provide fireworks safety education programming to members of the public.

b. To purchase necessary enforcement, protection, or emergency response equipment related to the sale and use of consumer fireworks in this state.

265.51(4) *Application.* The application for grant funds shall be made to the state fire marshal. The application form may be found at www.dps.state.ia.us/fm/building/licensing/consumerfireworksindex.shtml. Applications must be received on or before June 30 of each year. The application shall include all of the following:

a. The application shall be signed by a person who is an official, owner, or another person who has authorization to sign on behalf of the fire protection service or the emergency medical service provider entity.

b. The specifics of the proposed use of the grant funds.

(1) If the application is for equipment, the applicant should include a detailed description of the equipment, the company or entity from which the purchase will be made, the cost, and a justification as to how this equipment purchase fits the purposes of the grant program.

(2) If the application is for safety education programming, the application shall include a detailed description of the programming, the specific people who will be providing the programming, and a description of the materials to be purchased and used.

c. The amount of grant funds requested.

265.51(5) *Approval of application.* The state fire marshal shall review the application and determine whether to make the award of grant funds. The state fire marshal has the sole discretion in determining whether or not to award funds from the grant program to the applicant and the amount of funds awarded to each applicant. Factors to be considered in making an award of grant funds include, but are not limited to:

a. The amount of grant funds available.

b. The number of applicants for grant funds.

c. The proposed use of the grant funds and whether the use is consistent with the approved program purposes.

d. Whether the applicant has previously been approved for grant funds from this program.

e. The applicant's use of any previous grant funds received from the program.

265.51(6) *Report required.* All grant recipients shall file a report with the state fire marshal that lists the amount of grant funds received and the purpose(s) for which the grant funds were spent. The state fire marshal may conduct an inspection or audit to determine compliance with the rules and purposes of the grant program, in addition to any other authorized audits.

These rules are intended to implement Iowa Code sections 100.19 and 100.19A.

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AGENCY	RULE	DELAY
Workforce Development Department[871]	22.9(3) [IAB 12/20/17, **ARC 3529C**]	Effective date of January 24, 2018, delayed until the adjournment of the 2018 General Assembly by the Administrative Rules Review Committee at its meeting held January 5, 2018. [Pursuant to §17A.8(9)]