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PREFACE

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

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

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

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

JACK EWING, Administrative Code Editor Telephone: 515.281.6048 Email: Jack.Ewing@legis.iowa.gov
Publications Editing Office (Administrative Code) Telephone: 515.281.3355 Email: AdminCode@legis.iowa.gov

CITATION of Administrative Rules

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

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

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

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

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

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

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**PLEASE NOTE:**

Rules will not be accepted by the Publications Editing Office after 12 o’clock noon on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

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

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

**Note change of filing deadline**
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IAB 1/26/22 ARC 6162C
Procurement Conference Room, A Level
Hoover State Office Bldg.
Des Moines, Iowa
Via conference call: Dial: 1.866.685.1580
Conference code: 0009991200
February 15, 2022 11 a.m. to 12 noon

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High school programs; flexible student and school support program; accountability framework, amendments to ch 12
IAB 2/9/22 ARC 6182C
State Board Room, Second Floor
Grimes State Office Bldg.
Des Moines, Iowa
Via videoconference:
IDOE.zoom.us/j/95808248304?pwd=a3NOeEhtUXorTTBqTENZWDh6VEhWQT09
March 1, 2022

Open enrollment—criteria for failure to reasonably respond to a student’s failure to meet academic standards, 17.5(3)
IAB 2/9/22 ARC 6184C
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March 1, 2022 9 to 11 a.m.

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IAB 2/9/22 ARC 6183C
State Board Room, Second Floor
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Des Moines, Iowa
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March 1, 2022 9:30 to 10 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]
IAB 1/12/22 ARC 6144C
Via video/conference call
Contact Christine Paulson
Email: christine.paulson@dnr.iowa.gov
February 14, 2022 1 to 2 p.m.

LABOR SERVICES DIVISION[875]
Community right to know, rescind ch 110; amend chs 130, 140
IAB 2/9/22 ARC 6177C
150 Des Moines St.
Des Moines, Iowa
9 a.m.
(If requested)
March 2, 2022

Asbestos removal—ten-day notices, 155.5
IAB 2/9/22 ARC 6173C
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10 a.m.
(If requested)
March 2, 2022

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IAB 2/9/22 ARC 6179C
Health Professions Board Room
400 S.W. 8th St., Suite H
Des Moines, Iowa
Via Zoom: link available 24 hrs in advance at https://pharmacy.iowa.gov/meetings
March 3, 2022 10 to 10:30 a.m.
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<td>Contact Tracy George</td>
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<tr>
<td>Email: <a href="mailto:tracy.george@iowadot.us">tracy.george@iowadot.us</a></td>
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<td>March 3, 2022 9 a.m.</td>
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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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Proposing rule making related to high school programs, school accreditation, and flexible student and school support program and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 12, “General Accreditation Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, House Files 793, 847, and 868, and 2021 Iowa Acts, Senate File 517.

Purpose and Summary

2021 Iowa Acts, Senate File 517 and House File 793, altered the physical education requirements and other academic requirements for students participating in the Legislative Page program and the Junior Reserve Officers’ Training Corps, respectively. Division I of House File 847 comprehensively revised the process by which schools seek flexibility from general accreditation standards. Division III of House File 868 comprehensively revised and modernized the Department of Education’s accountability framework for accreditation, accountability, and improvement for school districts and accredited nonpublic schools. These proposed amendments implement the above changes.

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 State Board no later than 4:30 p.m. on March 1, 2022. Comments should be directed to:

Thomas Mayes  
Department of Education  
Grimes State Office Building, Second Floor  
400 East 14th Street  
Des Moines, Iowa 50319-0146  
Phone: 515.281.8661  
Email: thomas.mayes@iowa.gov
Public Hearing

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

March 1, 2022
10 to 11 a.m.
State Board Room, Second Floor
Grimes State Office Building
Des Moines, Iowa
Via videoconference:
IDOE.zoom.us/j/95808248304?pwd=a3N
OeEhtUXorTTBqTENZWDh6VehWQ0T09

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 515.281.5295.

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 12.5(14) as follows:

12.5(14) Unit. A unit is a course which meets one of the following criteria: it is taught for at least 200 minutes per week for 36 weeks; it is taught for the equivalent of 120 hours of instruction; it requires the demonstration of proficiency of formal competencies associated with the course according to the State Guidelines for Competency-Based Education or its successor organization; or it is an equated requirement as a part of an innovative, flexible student and school support program filed as prescribed in rule 281—12.9(256). A fractional unit shall be calculated in a manner consistent with this subrule. Unless the method of instruction is competency-based, multiple-section courses taught at the same time in a single classroom situation by one teacher do not meet this unit definition for the assignment of a unit of credit. However, the third and fourth years of a world language may be taught at the same time by one teacher in a single classroom situation, each yielding a unit of credit.

ITEM 2. Adopt the following new subrule 12.5(22):

12.5(22) Additional provisions related to the high school program.

a. Legislative page program. The board of directors of a school district and the authorities in charge of an accredited nonpublic school shall each establish a policy to award credit toward graduation to a student if the student participates in the legislative page program at the state capitol for a regular session of the general assembly. The student shall be excused from the physical education requirements of paragraph 12.5(5) “f.” and is exempt from the physical activity requirements of subrule 12.5(19), while participating in the legislative page program. The student must complete the graduation requirements of subrule 12.3(5) and the introductory paragraph of subrule 12.5(5), but participation in the legislative page program for a complete regular session of the general assembly shall count as one-half unit of social studies credit required for purposes of the introductory paragraph of subrule 12.5(5).

b. Junior reserve officers’ training corps. A student who is enrolled in a junior reserve officers’ training corps shall not be required to participate in physical education activities under paragraph 12.5(5) “f.” or to meet the physical activity requirements of subrule 12.5(19), but shall receive
one-eighth unit of physical education credit for each semester, or the equivalent, of junior reserve officers’ training corps the student completes.

**ITEM 3.** Amend subrule 12.8(2) as follows:

12.8(2) Submission of a comprehensive school improvement plan. A school or school district shall submit to the department and respective area education agency a multiyear comprehensive school improvement plan on or before September 15, 2000. Beginning July 1, 2001, a school or school district shall submit a revised five-year comprehensive school improvement plan by September 15 of the school year following the comprehensive site visit specified in Iowa Code section 256.11 which incorporates, when appropriate, areas of improvement noted by the school improvement visitation team as described in pursuant to subrule 12.8(4). A school or school district may, at any time, file a revised comprehensive school improvement plan with the department and respective area education agency.

**ITEM 4.** Rescind subrule 12.8(4) and adopt the following new subrule in lieu thereof:

12.8(4) Accreditation, monitoring, and enforcement. The state board shall establish, and the department shall use, for the school year commencing July 1, 2021, and each succeeding school year, an accreditation, monitoring, and enforcement process for school districts and nonpublic schools seeking accreditation pursuant to this chapter. The process established shall include all of the following requirements.

a. Phase I monitoring.

   (1) Phase I monitoring shall consist of annual monitoring by the department of all accredited schools and school districts for compliance with state and federal school laws, regulations, and rules adopted by the state board under Iowa Code chapter 17A, including but not limited to the following:

   1. Accreditation standards adopted by the state board as provided in this chapter.
   2. Fiscal compliance.
   5. All other requirements of this chapter applicable to accredited schools and school districts.

   (2) Phase I monitoring may include but shall not be limited to the following:

   1. One or more desk audits requiring submission of information to the department in a manner and on forms prescribed by the department.
   2. One or more remote or on-site visits to schools or school districts to address accreditation issues identified in a desk audit. Such a visit may be conducted by an individual departmental consultant or may be a comprehensive site visit by a team of departmental consultants and other subject-matter professionals.
   3. A review of district finances by department staff or a neutral third party.
   4. A review of local school board policies and procedures by department staff or a neutral third party.

   (3) The department shall provide a public report annually of findings of noncompliance and required corrective actions for each accredited school and school district. The purpose of the phase I process is to bring schools and school districts into minimum compliance with federal and state laws, regulations, and rules and no citation or corrective action may be designed to require more than minimum compliance.

   (4) The department shall provide a written report annually to the state board of any monitoring review resulting in multiple or substantial findings of noncompliance or noncompliance findings that remain uncorrected for more than 30 days past the deadline set by the department for correction.

   (5) The department shall eliminate duplicative reporting on the part of schools and school districts for phase I monitoring, and is prohibited from collecting information not specifically permitted by federal or state law, regulation, or rule.
(6) Enforcement actions under phase I monitoring are limited to actions permitted pursuant to subparagraphs 12.8(4) "c"(2) and 12.8(4) "c"(3). Violations of federal legal requirements shall follow the procedures and limitations of the governing federal statute and regulations.

b. Phase II monitoring.

(1) Phase II monitoring shall take place when any of the following conditions are present:

1. When either the annual monitoring or the biennial on-site visit of phase I indicates that an accredited school or school district is deficient and fails to be in compliance with accreditation standards.

2. In response to a petition filed with the director requesting such an accreditation committee visitation that is signed by eligible electors residing in the school district equal in number to at least 20 percent of the registered voters of the school district.

3. In response to a petition filed with the director requesting such an accreditation committee visitation that is signed by 20 percent or more of the parents or guardians who have children enrolled in the school or school district.

4. At the direction of the state board.

5. When the school budget review committee submits to the department a recommendation for a fiscal review pursuant to Iowa Code section 257.31(18).

(2) Phase II monitoring shall consist of a full desk audit of all monitoring requirements and an on-site visit to the school or school district for the purpose of determining the extent of noncompliance; the reason for lack of correction, if applicable; and a recommendation for corrective action to the director and the state board.

(3) Phase II monitoring requires the use of an accreditation committee appointed by the director. The accreditation committee shall be made up primarily of department staff but may request the assistance of third-party specialists at the discretion of the director. An accreditation committee visit to a nonpublic school requires membership on the committee from nonpublic school instructional or administrative staff or board members. A member of a committee shall not have a direct interest in the school district or nonpublic school being visited.

(4) After visiting the school district or nonpublic school, the accreditation committee shall, within 30 days, determine whether the accreditation standards have been met and shall make a report to the director, together with a recommendation on what enforcement actions, if any, should be recommended to the state board.

c. Enforcement.

(1) The department shall enforce the laws, regulations, and rules applicable to school districts and nonpublic schools consistent with the process outlined in this subrule. The department shall coordinate its enforcement of Iowa Code chapter 216 with the Iowa state civil rights commission to reduce duplication of efforts.

(2) If, after having an opportunity to correct, if permitted, a school district is found to be in noncompliance with federal education laws including but not limited to the federal Elementary and Secondary Education Act of 1965; the federal Individuals with Disabilities Education Act, 20 U.S.C. §1400 et seq., as amended; the federal Civil Rights Act of 1964; or Iowa Code chapter 216; or Iowa Code section 279.73 or 279.74, the director shall recommend, and the state board may do, one of the following within 30 days of the finding of noncompliance:

1. Impose conditions on funding provided to a school district, including directing the use of school district funds and designating the school district a high-risk grantee under 2 CFR §200.207.

2. Withhold payment of state or federal funds to a school district, in whole or in part, until noncompliance is corrected. Initial withholding of state funds is at the discretion of the director for a period of 60 calendar days, after which it is subject to approval of the state board every 60 calendar days. Withholding of federal funds is subject to the governing federal statute or regulation.

(3) The director may use any of the following permitted enforcement mechanisms and shall exercise discretion to ensure that enforcement actions are proportionate to school district or nonpublic school noncompliance:

1. Advise the school district or nonpublic school on the availability of appropriate technical assistance.
2. Require the school district or nonpublic school to complete a corrective action plan or plan for improvement by a reasonable deadline.
3. Recommend a phase II visit to the school district or nonpublic school to the state board.
4. Refer conduct of school district or nonpublic school staff or school board members, or school authorities, to the office of the attorney general for investigation.
5. Refer financial concerns to the auditor of state for investigation.
6. Recommend removal of accreditation of the school district or school to the state board.
7. Take any other enforcement mechanism available to the director.

(4) The department shall focus enforcement activities on all of the following:
1. Improving educational results for children, families, and students.
2. Ensuring that public agencies and their governing boards meet requirements of state and federal laws.

ITEM 5. Adopt the following new subrule 12.8(5):

12.8(5) Loss of accreditation.

a. If the recommendation pursuant to subrule 12.8(4) is that a school district or nonpublic school not remain accredited, the accreditation committee shall provide the school district or nonpublic school with a report that includes a list of all of the deficiencies, a plan prescribing the actions that must be taken to correct the deficiencies, and a deadline date for completion of the prescribed actions. The accreditation committee shall advise the school district or nonpublic school of available resources and technical assistance to improve areas of weakness. The school district or nonpublic school shall be provided with the opportunity to respond to the accreditation committee’s report. The director shall review the accreditation committee’s report and the response of the school district or nonpublic school and shall provide a report to the state board along with copies of the accreditation committee’s report, the response to the accreditation committee’s report, and other pertinent information. At the request of the school district or nonpublic school, the school district or nonpublic school may appear before the state board and address the state board directly regarding any part of the plan specified in the report. The state board may modify the plan. During the period of time specified in the plan for its implementation by a school district or nonpublic school, the school district or school shall remain accredited.

b. The accreditation committee shall revisit the school district or nonpublic school and shall determine whether the deficiencies in the standards have been corrected.

c. The accreditation team shall make a report and recommendation to the director and the state board. The committee recommendation shall specify whether the school district or nonpublic school shall remain accredited. For a school district, the committee report and recommendation shall also specify under what conditions the district may remain accredited. The conditions may include but are not limited to providing temporary oversight authority, operational authority, or both oversight and operational authority to the director and the state board for some or all aspects of the school district in order to bring the school district into compliance with minimum standards.

d. The state board shall review the report and recommendation, may request additional information, and shall determine whether the deficiencies have been corrected.

e. If the deficiencies have not been corrected, and the conditional accreditation alternatives contained in the report are not mutually acceptable to the state board and the local board, the state board shall deaccredit the school district and merge the territory of the school district with one or more contiguous school districts at the end of the school year. The state board may place a district under receivership for the remainder of the school year. The receivership shall be under the direct supervision and authority of the area education agency in which the district is located. The decision of whether to deaccredit the school district or to place the district under receivership shall be based upon a determination by the state board of the best interests of the students, parents, residents of the community, teachers, administrators, and school district board members and upon the recommendations of the accreditation committee and the director.

f. In the case of a nonpublic school, if the deficiencies have not been corrected, the state board may deaccredit the nonpublic school. The deaccreditation shall take effect on the date established by
the resolution of the state board, which shall be no later than the end of the school year in which the nonpublic school is deaccredited.

ITEM 6. Amend 281—Chapter 12, Division IX, heading, as follows:

**EXEMPTION REQUEST FLEXIBLE STUDENT AND SCHOOL SUPPORT PROGRAM PROCESS**

ITEM 7. Rescind rule 281—12.9(256) and adopt the following new rule in lieu thereof:

281—12.9(256) Flexible student and school support program.

12.9(1) General. The state board shall establish a flexible student and school support program to be administered by the director. Under the program, upon request of the board of directors of a public school district or the authorities in charge of an accredited nonpublic school, the director may, for a period not to exceed three years, grant the applicable board of directors or the authority in charge of the nonpublic school the ability to use the flexible student and school support program to implement evidence-based practices in innovative ways to enhance student learning, well-being, and postsecondary success.

12.9(2) Exemptions available. Approval to participate in the flexible student and school support program shall exempt the school district or nonpublic school from one or more of the requirements of the educational program specified in subrule 12.5(3), 12.5(4), 12.5(5), 12.5(12), 12.5(13), 12.5(19), or 12.5(20), or the minimum school calendar requirements in subrule 12.1(7). An exemption shall be granted only if the director deems that the request made is an essential part of an educational program to support student learning, well-being, and postsecondary success; is necessary for the success of the program; and is broadly consistent with the intent of the requirements of the educational program specified in subrule 12.5(3), 12.5(4), 12.5(5), 12.5(12), 12.5(13), 12.5(19), or 12.5(20), or the minimum school calendar requirements in subrule 12.1(7).

12.9(3) Use of funds. Approval to participate in the flexible student and school support program shall include authority for a school district to use funds from the school district’s flexibility account under Iowa Code section 298A.2(2) to implement all or part of the flexible student and school support program.

12.9(4) Application. The application for the flexible student and school support program shall include all of the following and be submitted on forms and in a format prescribed by the department:

a. A description of the proposed educational program, including evidence used to design the program and evidence of involvement of board members, parents, students, community members, and staff in development of the program.

b. Program goals and measures of program effectiveness and success, including student success and performance.

c. A plan for program administration, including the use of personnel, facilities, and funding.

d. A plan for evaluation of the proposed program on at least an annual basis, including a plan for program revisions, if necessary.

e. The estimated financial impact of the program on the school district or nonpublic school.

12.9(5) Exemptions not available. Approval to participate in the program does not exempt the school district or nonpublic school from federal law or any other requirements of state law that are not specifically exempted by the director.

12.9(6) Annual report to the department. Each school district or nonpublic school approved to participate in the flexible student and school support program shall file an annual report with the department on the status of the program on forms and in a format prescribed by the department.

12.9(7) Renewal. Participation in the flexible student and school support program may be renewed for additional periods of years, each not to exceed three years. The director may revoke approval of all or part of any application or approved education program if the annual report or any other information available to the department indicates that conditions no longer warrant use of an exemption or funding from the school district’s flexibility account under Iowa Code section 298A.2(2). Notice of revocation must be provided by the director to the school district or nonpublic school prior to the beginning of the school year for which participation is revoked.
EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to criteria for late-filed open enrollment and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 17, “Open Enrollment,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 847.

Purpose and Summary

2021 Iowa Acts, House File 847, added an additional reason for late-filed open enrollment: “a consistent failure of the resident district to reasonably respond to a student’s failure to meet basic academic standards after notice provided by a parent or guardian.” House File 847 requires the State Board to “adopt by rule the criteria for determining a resident district’s consistent failure to reasonably respond to a student’s failure to meet basic academic standards.” This rule making proposes to adopt such criteria.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The final Fiscal Note for 2021 Iowa Acts, House File 847, identified no fiscal impact to the State and can be found at www.legis.iowa.gov/docs/publications/FN/1221404.pdf.

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 March 1, 2022. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov
Public Hearing

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

March 1, 2022  
9 to 9:30 a.m.  
State Board Room, Second Floor  
Grimes State Office Building  
Des Moines, Iowa  
Via videoconference:  
IDOE.zoom.us/j/95808248304?pwd=a3NOeEhtUXorTTBqTENZWDh6VEhWQT09

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 515.281.5295.

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 subrule 17.5(3):

17.5(3) Criteria for determining whether a resident district consistently failed to reasonably respond to a student’s failure to meet basic academic standards. School officials, upon having data to evidence a student’s failure to meet basic academic standards and having received notice from a student’s parent/guardian, must have failed to respond to the student’s failure.

a. Basic academic standards include Iowa academic standards for English language arts, mathematics, science, and social studies.

b. Evidence of a student’s failure to meet basic academic standards may include, but shall not be limited to, one or more of the following:

1. Failure to meet grade-level benchmarks on universal screening assessments.
2. Failure to achieve proficiency on standards-based outcome assessments.
3. Receiving a grade of D or F (or equivalent) for a course.

b. A district’s consistent failure to respond may include, but shall not be limited to, one or more of the following:

1. Failure to provide evidence-based interventions or strategies targeted to the student’s needs.
2. Failure to monitor student growth over time.
3. Failure to make changes to the student’s improvement plan if the student does not show progress.
EDUCATION DEPARTMENT[281]

Notice of Intended Action

Proposing rule making related to teacher intern preparation program standards and providing an opportunity for public comment

The State Board of Education hereby proposes to amend Chapter 77, “Standards for Teacher Intern Preparation Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 256.7(3) and 256.16(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.16(3).

Purpose and Summary

Chapter 77 outlines the standards and program requirements that all alternative licensure educator preparation programs must meet in order to be approved to prepare educators in Iowa. Compliance with these standards is required and is evaluated during each educator preparation program’s approval review. The standards are also applied in an annual reporting system. This rule making proposes to update the standards to align with legislatively mandated changes and Board of Educational Examiners rules for licensure.

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 March 1, 2022. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov
Public Hearing

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

March 1, 2022 9:30 to 10 a.m. State Board Room, Second Floor Grimes State Office Building Des Moines, Iowa
Via videoconference: IDOE.zoom.us/j/95808248304?pwd=a3NOeEhtUXorTTBqTENZWDh6VEhWQT09

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 515.281.5295.

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 77.8(5)“a” as follows:
   a. An offer of employment to a teacher intern candidate in the program in one of the endorsements identified on the department’s website at www.educateiowa.gov/pk-12/educator-quality/practitioner-preparation;

ITEM 2. Amend paragraph 77.10(7)“b” as follows:
   b. Students with disabilities. This will include preparation in developing and implementing individualized education programs and behavioral intervention plans, preparation for educating individuals in the least restrictive environment and identifying that environment, and strategies that address difficult and violent student behavior and improve academic engagement and achievement;

ITEM 3. Amend paragraph 77.10(7)“e” as follows:
   e. Students who may be at risk of not succeeding in school. This preparation will include classroom management addressing high-risk behaviors including, but not limited to, behaviors related to substance abuse.

ITEM 4. Amend subparagraph 77.11(2)“a”(2) as follows:
   (2) Completion of coursework that meets the state minimum requirements for at least one of the BOEE’s secondary endorsement areas, unless the endorsement area requirements are embedded in the teacher intern professional core; and

ITEM 5. Adopt the following new subparagraph 77.11(2)“e”(3):
   (3) Recommendation for an intern license for one or more of the endorsements identified on the department’s teacher preparation website at www.educateiowa.gov/pk-12/educator-quality/practitioner-preparation.
EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

The State Board of Education hereby proposes to amend Chapter 97, “Supplementary Weighting,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 847.

Purpose and Summary

This proposed rule making adds a position, which was inadvertently omitted from recent amendments, to the supplementary weighting assignments for operational function sharing.

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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

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 March 1, 2022. Comments should be directed to:

Thomas Mayes
Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.242.5614
Email: thomas.mayes@iowa.gov

Public Hearing

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

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

The following rule-making action is proposed:

Amend paragraph 97.7(10)“c” as follows:

c. A school district that shares the operational functions of a curriculum director, master social worker, independent social worker, school counselor, work-based learning coordinator, special education director, or mental health professional shall be assigned a supplementary weighting of three pupils for the function. For the school budget years beginning July 1, 2022; July 1, 2023; and July 1, 2024, the weighting shall be two pupils.

ARC 6176C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rule making related to the electronic filing system and providing an opportunity for public comment

The Inspections and Appeals Department hereby proposes to adopt new Chapter 16, “Administrative Electronic Document Management System,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 10A.802.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 10A.802.

Purpose and Summary

The proposed adoption of Chapter 16 implements Iowa Code section 10A.802. The proposed chapter establishes an electronic filing system for contested case and other administrative proceedings conducted by the Administrative Hearings Division of the Department.

Fiscal Impact

This rule making does not have a fiscal impact to the State of Iowa in excess of the amounts set forth in Iowa Code section 17A.4.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6. Furthermore, use of the administrative electronic document management system is not required. Individuals may continue to utilize paper filing and document management.
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 March 1, 2022. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following new 481—Chapter 16:

CHAPTER 16
ADMINISTRATIVE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM

481—16.1(10A) Scope. This chapter governs the filing of documents through the division of administrative hearings’ administrative electronic document management system (AEDMS). To the extent the rules in this chapter are inconsistent with any other administrative rule of the division, the rules in this chapter shall govern. Pursuant to Iowa Code section 10A.802, these rules shall prevail over any other law, including Iowa Code chapter 17A, or agency rule that specifies the method, manner, or format for sending, receiving, serving, retaining, or creating paper records or other documents related to a contested case proceeding, including but not limited to a request or demand for a contested case proceeding, a notice of hearing, and a proposed or final decision.

481—16.2(10A) Definitions.

“AEDMS” means the administrative electronic document management system, the division’s electronic filing and case management system.

“Agency record” means for all cases the electronic files maintained in AEDMS, filings the division maintains in paper form, and exhibits and other materials filed with or delivered in relation to a contested case hearing.

“Confidential” means agency files, documents, or information excluded from public access by federal or state law or administrative rule, court rule, court order, or case law.

“Division” means the division of administrative hearings in the department of inspections and appeals.
“Electronic filing” means the receipt of a document submitted to AEDMS for filing, as confirmed by the transmission of the notice of electronic filing.

“Electronic record” means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means.

“Electronic service” means the AEDMS electronic transmission of a link where registered users of AEDMS who are entitled to receive notice of the filing may view and download filed documents.

“File stamp” means the date and time that is affixed at the top of the first page of a document when it is filed in AEDMS.

“Nonelectronic filing” means a process by which a paper document or other nonelectronic item is filed with the division.

“Notice of electronic filing” means a document generated by AEDMS when a document is electronically filed.

“PDF” means an electronic document filed in a portable document format which is readable by the free Adobe® Acrobat® Reader.

“Protected information” means personal information, the nature of which warrants protection from unlimited public access, including but not limited to:

1. Social security numbers.
2. Financial account numbers.
3. Dates of birth.
5. Individual taxpayer identification numbers.
6. Personal identification numbers.
7. Other unique identifying numbers.
8. Confidential information.

“Public” refers to agency files, documents, or information that is not confidential or protected.

“Registered user” means an individual who has registered for an electronic filing account through AEDMS. A registered user can electronically file documents and electronically view and download files through the use of a username and password.

“Signature” means the following:

1. For a registered user electronically filing a document in AEDMS, “signature” means the registered user’s username and password accompanied by one of the following approved signature representations:
   - “Digitized signature” means an electronically embeddable image of a person’s handwritten signature;
   - “Electronic signature” means an electronic symbol ("/s/" or "/registered user’s name/") executed or adopted by a person with the intent to sign the document; or
   - “Nonelectronic signature” means a handwritten signature applied to an original document that is then scanned and electronically filed.
2. For a party signing a document that another registered user will electronically file, “signature” means the signatory’s name affixed to the document as a digitized or nonelectronic signature.

481—16.3(10A) Registration, username, and passwords.

16.3(1) Registration.

a. Registration. Every individual filing documents or viewing or downloading filed documents must register as a registered user of AEDMS.

b. Changes in registered user’s contact information. If a registered user’s email address, mailing address, or telephone number changes, the user must promptly make the necessary changes to the registered user’s information contained in AEDMS. The registered user shall promptly give notice of changes in contact information to any nonregistered party in every active proceeding in which the registered user is a party.
c. Duties of registered user. Each registered user shall ensure that the user’s email account information is current, that the account is monitored regularly, and that email notices sent to the account are timely opened.

d. Division-initiated registration. The division may complete the registration process on behalf of an individual in certain instances and email the username and password to the user. When the division completes the registration process, the user is required to promptly log in and change the password. Following initial notification regarding account registration, the user is required to promptly update and maintain accurate contact information for the AEDMS account.

16.3(2) Use of username and password. A registered user is responsible for all documents filed with the user’s username and password unless proven by clear and convincing evidence that the registered user did not make or authorize the filing.

16.3(3) Username and password security. If a username or password is lost, misappropriated, misused, or compromised, the registered user of that username/password shall notify the division promptly.

16.3(4) Denial of access. The agency may refuse to allow an individual to electronically file or download information in AEDMS due to misuse, fraud, or other good cause.

481—16.4(10A) Electronic filing not mandatory.

16.4(1) Electronic filing not mandatory. Registration and filing through AEDMS, although encouraged, is not mandatory, and the division shall still accept the traditional filing of paper or other electronic documents.

16.4(2) What constitutes filing. The electronic transmission of a document to AEDMS consistent with the procedures specified in these rules, together with the production and transmission of a notice of electronic filing, constitutes filing of the document.

16.4(3) Electronic file stamp. Documents filed through AEDMS are officially filed when affixed with an electronic file stamp. Filings so endorsed shall have the same force and effect as documents time-stamped in a nonelectronic manner.

481—16.5(10A) Filing of paper documents.

16.5(1) Conversion of paper or other electronic documents filed. When a party files a document other than through AEDMS, the division will convert the filed documents to an electronic format viewable to registered users of AEDMS. The original of converted documents need not be retained by the division.

16.5(2) Form of paper documents. Each document must be printed on only one side and be delivered to the division with no tabs, staples, or permanent clips but may be organized with paperclips, clamps, or some other type of temporary fastener or may be delivered to the division in an appropriate file folder. The division may reject nonconforming submissions.

481—16.6(10A) Date and time of filing.

16.6(1) Date of filing. An electronic filing may be made any day of the week, including holidays and weekends, and any time of the day AEDMS is available.

16.6(2) Time of filing. A document is timely filed if it is filed before midnight on the date the filing is due.

16.6(3) Rejected filing. The division may reject nonconforming electronic filings. A rejected electronic filing is not filed. In such instances, the date and time of filing will be when the filer submits a corrected document and it is approved.

481—16.7(10A) Signatures.

16.7(1) Registered user. A username and password accompanied by a digitized, electronic, or nonelectronic signature shall serve as the registered user’s signature on all electronically filed documents.
16.7(2) Format. Any AEDMS filing requiring a signature must be signed with either a nonelectronic signature, an electronic signature, or a digitized signature. The following information about the person shall be included under the person’s signature:

a. Name;
b. Name of firm or governmental agency;
c. Mailing address;
d. Telephone number; and
e. Email address.

16.7(3) Multiple signatures. By filing a document containing multiple signatures, the registered user confirms that the content of the document is acceptable to all persons signing the document and that all such persons consent to having their signatures appear on the document.

481—16.8(10A) Redaction of electronic documents.

16.8(1) Responsibilities of filers generally.

a. It is the responsibility of the filer to ensure that a confidential document is certified as confidential.
b. It is the responsibility of the filer to ensure that protected information is omitted or redacted from documents before the documents are filed. This responsibility exists even when the filer did not create the document.
c. The division will not review filings to determine whether appropriate omissions or redactions have been made or whether a document has been properly certified as confidential.

16.8(2) Omission and redaction requirements.

a. Protected information that is not material to the proceedings. A filer may redact protected information from documents filed with the division when the information is not material to the proceedings.
b. Protected information that is material to the proceedings. When protected information is material to the proceedings, a filer must certify the document as confidential when submitting the filing to the division.
c. Protected information in a confidential document. Parties are not required to redact protected information from documents that are certified as confidential.

16.8(3) Information that may be redacted. A filer may redact the following information from documents available to the public unless the information is material to the proceedings:

a. Driver’s license numbers.
b. Information concerning medical treatment or diagnosis.
c. Employment history.
d. Personal financial information.
e. Proprietary or trade secret information.
f. Information concerning crime victims.
g. Sensitive security information.
h. Home addresses.

16.8(4) Improperly included protected information. A party may ask the division to restrict access to improperly included protected information from a filed document. The division may order a properly redacted document to be filed.

481—16.9(10A) General requirements when filing documents.

16.9(1) Format. All documents must be converted to a PDF before they are filed in AEDMS. Documents submitted must be properly scanned, which includes having the pages in the correct order and orientation and having the scanned content of the document be legible.

16.9(2) Separating documents. Each document must be separated and uploaded with the correct document type selection on the document upload page. Any attachments to a document shall be uploaded as such and linked to the correct document prior to submission.
16.9(3) Selecting document types. For each electronically filed document, a filer must choose an accurate document type from the options listed on the document upload page. Once a document is submitted into AEDMS, only the division may make corrections to the document type the filer has chosen.

16.9(4) Correcting errors. If a filer discovers an error in the electronic filing or docketing of a document, the filer must contact the division as soon as possible. If the division discovers an error in the filing or docketing of a document, the division may notify the filer of the error and advise the filer of what further action the filer must take, if any, to address the error.

481—16.10(10A) Case initiation and service.

16.10(1) Case initiation. A case may be initiated by an agency or governmental entity via AEDMS by the electronic filing of a transmittal form pursuant to rule 481—10.4(10A).

16.10(2) Filings by registered user. All subsequent filings made by a registered user shall be electronically filed via AEDMS. To the extent another party to the case is not a registered user, the registered user shall serve those filings upon the nonregistered user pursuant to the applicable rules of contested case procedure and any other controlling law.

16.10(3) Electronic service and distribution of electronic filings.

a. When a document is electronically filed, that document will be served automatically through AEDMS to all parties to the proceeding who are registered users. No other service to those registered users is required unless ordered by the division.

b. Notices of electronic filing will continue to be sent to registered users appearing or intervening in a proceeding until they have filed a withdrawal of appearance.

16.10(4) Division-generated documents. All documents issued by the division shall be electronically filed and served upon registered users. Division-generated documents shall be served upon nonregistered users pursuant to the applicable rules of contested case procedure and any other controlling law.

These rules are intended to implement Iowa Code section 10A.802.

ARC 6177C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Proposing rule making related to community right to know and providing an opportunity for public comment


Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 89B.8.

State or Federal Law Implemented

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

Purpose and Summary

These proposed amendments eliminate obsolete language, update obsolete references, and make editorial changes.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.
LABOR SERVICES DIVISION[875](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 Commissioner for a waiver of the discretionary provisions, if any, pursuant to 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 March 2, 2022. Comments should be directed to:

Lanny Zieman
Division of Labor Services
150 Des Moines Street
Des Moines, Iowa 50309
Email: lanny.zieman@iwd.iowa.gov

Public Hearing

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

March 2, 2022
9 a.m.
150 Des Moines 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 the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commissioner 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. Rescind and reserve 875—Chapter 110.
ITEM 2. Amend rule 875—130.2(89B) as follows:

875—130.2(89B) Records accessibility.

130.2(1) Records do not need to be accessible to the public if the information is a trade secret or the employer has notified the division in writing that certain information should not be accessible to the public for reasons that because the information is not relevant to public health and safety or the release of the information is proven to cause damage to the employer.

130.2(2) Accessible records include the material safety data sheets. The employer shall also provide information concerning the quantity of each hazardous chemical stored or used. Quantity information
may include the manner of purchase such as in gallon containers, barrels, tankers, etc. Additionally, the employer shall provide information specifying the quantity as less than 500 pounds, between 500 pounds and 1000 pounds, between 1000 pounds and 5000 pounds, or in excess of 5000 pounds.

130.2(3) An employer is not required to make a copy of a material safety data sheet if the interested person is given an opportunity to review and make notes regarding the material safety data sheet.

If an employer provides a copy of a material safety data sheet at the request of the interested person, a reasonable fee can be charged for the actual cost of copying.

ITEM 3. Amend rule 875—130.3(89B) as follows:

875—130.3(89B) Application for exemption. To obtain an order from the commissioner pursuant to Iowa Code chapter 89B and rule 875—130.2(89B), an employer shall make a written application to the commissioner setting forth the specific grounds for the claimed exemption. Upon receipt of an application, the commissioner shall give the applicant notice and opportunity to be heard at a full evidentiary hearing before the commissioner.

ITEM 4. Rescind paragraph 130.4(1)“a” and adopt the following new paragraph in lieu thereof:

a. The commissioner may take official notice that similar information of the employer-applicant has been deemed a trade secret for the purpose of 29 CFR 1910.1200, and may summarily grant the exemption based on the official notice.

ITEM 5. Amend paragraph 130.4(1)“b” as follows:

b. The criteria for determining a trade secret under this rule chapter shall be identical to that under rule 875—110.6(88,89B) 29 CFR 1910.1200.

ITEM 6. Amend rule 875—130.7(89B) as follows:

875—130.7(89B) Filing with division. Upon receipt of application for information, the division shall determine if the applicant has a legitimate interest, and if so, the division shall make a written demand upon the employer to provide the requested information to the division. If the employer complies, the division shall forward copies to the interested person. Requests for the information under rule 875—130.6(89B) will be kept confidential. The division shall not disclose the name of the interested person to any person.

ITEM 7. Amend subrule 130.8(1) as follows:

130.8(1) The division has not received a reply within 30 days of the request for information pursuant to rule 875—130.7(89B); or

ITEM 8. Amend subrule 130.8(2) as follows:

130.8(2) The division finds on an IOSH occupational safety and health inspection that the employer’s records materially distort the information given the public or an emergency response group department so as to pose a serious hazard to community health, environment, or emergency response personnel.

ITEM 9. Amend subrule 130.10(1) as follows:

130.10(1) If after conducting an investigation or inspection of the employer’s workplace the commissioner finds that the complaint is meritorious, the commissioner shall issue an order to comply to the employer which shall set forth with specificity the employer’s noncompliance with the Act Iowa Code chapter 89B or rules. The commissioner shall give the employer a period of 30 days to take remedial steps for compliance. The commissioner may establish a shorter period of time if justification is provided in the order to comply.

ITEM 10. Amend subrule 140.2(3) as follows:

140.2(3) Procedure. The employer application which shall be procedurally processed in the same manner as an application for exemption under 875—subrule 130.5(5) waiver pursuant to 875—Chapter 1.
ITEM 11. Amend rule 875—140.3(89B) as follows:

875—140.3(89B) Agreement between an employer and fire department. In instances where the posting of a sign for each hazardous chemical would be ambiguous, repetitive, or where space is limited by the physical characteristics of the structure, or in situations, such as in a building, structure, or location, where a wide variety of materials may be stored having varying degrees of hazards, the identifying symbol shall indicate the most severe degree of hazard in each category except when a high hazard rating would be misleading because of the presence of an insignificant quantity of the material requiring the rating.

The employer and the local fire department may enter into a written agreement with the fire chief of the local fire department providing for the posting of signs for the most hazardous chemical in each principal category as set forth in subrule 140.1(2). The agreement is subject to the approval of the division pursuant to the procedure for a variance, as specified in rule 875—140.2(89B). If the variance is approved, the employer shall post in the same location as the required posted signs a sign stating: “Signs not posted for all hazardous chemicals.” The sign shall be in block letters at least 3 inches in height.

ITEM 12. Rescind rule 875—140.4(89B) and adopt the following new rule in lieu thereof:

875—140.4(89B) Information submitted to local fire department. Via certified mail, the employer shall submit to the local fire department a list of hazardous chemicals that the employer’s facility consistently generates, uses, stores, or transports. The employer shall submit updated information as it becomes available to the employer.

140.4(1) This rule shall apply to any amount of a hazardous chemical that meets at least one of the following:

a. Is a U.S. Department of Transportation Division 1.1, Division 1.2, or Division 1.3 explosive;

b. Is a U.S. Department of Transportation Division 2.3 toxic gas;

c. Is a U.S. Department of Transportation Division 6.1 toxic substance;

d. Is a U.S. Department of Transportation Division 4.3 material;

e. Is a U.S. Department of Transportation Radioactive Yellow III material;

f. Has an NFPA 704-2022 health rating of greater than or equal to 3;

g. Has an NFPA 704-2022 flammability rating of 4; or


140.4(2) This rule shall apply to a hazardous chemical that is present in aggregate quantities of 25 gallons of liquid; 250 pounds of nonliquid; or 250 combined pounds of liquid and nonliquid, and is classified as;

a. NFPA 704-2022 health rating of greater than or equal to 2;

b. NFPA 704-2022 flammability rating of greater than or equal to 3; or

c. NFPA 704-2022 reactivity rating of greater than or equal to 2.

140.4(3) In addition to a list of the hazardous chemicals, the employer shall provide the following:

a. Employer’s name;

b. Name, phone number, and email address of employer’s contact person;

c. Employer’s mailing address;

d. Address of the facility where hazardous chemicals are present;

e. NFPA numerical hazard rating in health, flammability, and reactivity for each hazardous chemical;

f. Any information which constitutes a special hazard pursuant to NFPA 704-2022, Chapter 5, for each listed chemical; and

g. Any other special hazard information from the safety data sheets which may be relevant.

140.4(4) If requested by the fire department, the employer shall provide to the fire department the information listed in this subrule, unless the fire department tours the facility annually.
LABOR SERVICES DIVISION[875](cont’d)

a. A diagram which shows the permanent location of each hazardous chemical within the employer’s facility, as well as easily recognizable reference points such as doorways, stairs, and windows; and

b. A copy of safety data sheets.

ITEM 13. Rescind and reserve rule 875—140.5(89B).

ARC 6173C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

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

The Labor Commissioner hereby proposes to amend Chapter 155, “Asbestos Removal and Encapsulation,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 88B.3(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 88B.

Purpose and Summary

Iowa Code section 88B.3(1) authorizes the Commissioner to administer Iowa Code chapter 88B. This rule making provides additional clarification for asbestos-removal professionals regarding the ten-day notice of commencement of work as well as exemptions to the notice requirement related to disaster emergency proclamations. The proposed amendment to subrule 155.5(1) establishes a deadline for the commencement of an asbestos-removal project after notice has been given to the Division of Labor Services. This provides accurate notice to the Division as to when asbestos-removal professionals will begin work at a jobsite. The proposed amendment to subrule 155.5(3) allows asbestos-removal professionals to provide a ten-day notice on the Division’s website. The proposed amendment to subrule 155.5(4) ensures that asbestos-removal professionals identify the applicable disaster and disaster emergency proclamation in any notice that deviates from subrule 155.5(1) because of a disaster emergency proclamation.

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 Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 1.
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 March 2, 2022. Comments should be directed to:

Lanny Zieman  
Division of Labor Services  
150 Des Moines Street  
Des Moines, Iowa 50309  
Email: lanny.zieman@iwd.iowa.gov

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

March 2, 2022  
10 a.m.  
150 Des Moines 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 the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commissioner and advise of specific needs.

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

The following rule-making action is proposed:

Amend rule 875—155.5(88B) as follows:

875—155.5(88B) Ten-day notices.

155.5(1) General. Permittees shall notify the division at least ten working days before an asbestos project begins. A project begins when site preparations for asbestos abatement, encapsulation, or removal begin; when asbestos abatement, encapsulation, or removal begins; or when any demolition begins, whichever is sooner. Legible electronic transmissions of ten-day notices in the proper format shall be accepted. If work on the asbestos-removal project does not commence within 30 calendar days of the original start date identified in the ten-day notice given by permittees to the division, a revised ten-day notice shall be submitted to the division.

155.5(2) No change.

155.5(3) Format. The notice shall be submitted online at www.iowadivisionoflabor.gov or be on an 8½” by 11” sheet of paper and shall contain the following information:

a. to g. No change.

155.5(4) Disaster emergency proclamations. For structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation, the permittee shall file the notice described by this rule as early as possible, but not later than the working day following the
initiation of the project. A description of the disaster and the disaster emergency proclamation shall be included in the notice.

ARC 6179C

PHARMACY BOARD[657]

Amended Notice of Intended Action

Proposing rule making related to records, dispensing, and controlled substances and providing an opportunity for public comment

The Board of Pharmacy hereby proposes to amend Chapter 6, “General Pharmacy Practice,” Chapter 8, “Universal Practice Standards,” and Chapter 10, “Controlled Substances,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 124.301, 147.76 and 155A.13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.301 and 155A.13.

Purpose and Summary

The proposed amendments provide minimum security and monitoring system requirements to be utilized by Iowa pharmacies to prevent and detect unauthorized access to prescription drugs and records; require an exact measure or count of all schedules of controlled substances for a controlled substance inventory count; require a program to be established to monitor controlled substance accountability; require a system to be established to ensure controlled substance accountability; require development and execution of a corrective action plan following the report of the theft or loss of controlled substances; and require a controlled substances inventory to be taken with each change in pharmacist in charge.

Reason for Amendment of Notice of Intended Action

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as ARC 5834C.

Following the Board’s review of the comments received in response to the proposed amendments, the Board made significant changes to the proposed amendments to revise, or remove entirely, some of the proposed requirements. The proposed amendments remove the provision allowing a pharmacist to delegate the dispensing of a prescription which otherwise requires pharmacist counseling while the pharmacist is on a break. The amendments that were adjusted or added include:

- Requirement to maintain a basic alarm system and video surveillance system, required by December 1, 2022, but allowing each pharmacy to determine utilization commensurate with the pharmacy operation;
- Requirement to maintain accountability of Schedules III through V controlled substances, but with a range of options for the registrant to employ in that effort;
- Requirement to conduct a controlled substance inventory count with every change in pharmacist in charge, including when the incoming pharmacist in charge is interim or temporary; and
- Requirement to develop and implement a corrective action plan in response to a report of theft or loss from the registrant which addresses the conditions which contributed to the theft or loss.

Fiscal Impact, Jobs Impact, Waivers

Statements related to the fiscal impact, jobs impact, and waiver of this rule making may be found in the preamble of ARC 5834C.
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 March 1, 2022. Comments should be directed to:

Sue Mears  
Board of Pharmacy  
400 S.W. 8th Street, Suite E  
Des Moines, Iowa 50309  
Email: sue.mears@iowa.gov

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

March 3, 2022  
10 to 10:30 a.m.  
Health Professions Board Room  
400 S.W. 8th Street, Suite H  
Des Moines, Iowa  
Also via Zoom – link available 24 hours in advance at https://pharmacy.iowa.gov/meetings

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 Board and advise of specific needs.

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 subrule 6.7(5):

6.7(5) Minimum physical security and monitoring system requirements. Each pharmacy located in Iowa shall develop and implement policies and procedures to ensure appropriate physical security and monitoring of the pharmacy to prevent unauthorized access to prescription drugs, including controlled substances, and pharmacy records. The physical security and monitoring shall include the components identified herein, and the policies and procedures shall establish the utilization of such components commensurate with the pharmacy operation. The policies and procedures shall establish the retention of documentation of activities or recordings retained from the alarm and video surveillance systems as well as contingencies when the systems are temporarily unavailable.

a. No later than December 1, 2022, a basic alarm system.

b. No later than December 1, 2022, a video surveillance system.

c. Controlled access to computer records.

d. A designated location that can be monitored, away from drug storage and handling areas, where personal items of pharmacy staff may be stored while on site.

ITEM 2.  Adopt the following new paragraph 8.3(3)“e”:

e. Ensuring that the pharmacy provides adequate security to prevent unauthorized access and diversion.
ITEM 3. Adopt the following new paragraphs 10.14(2)“d” to “g”:

d. To the extent possible, a separation of duties related to the purchasing, receiving, stocking, dispensing, and reconciling of controlled substance inventory.

e. The reconciliation of controlled substances in Schedule II pursuant to subrule 10.18(4).

f. The reconciliation of controlled substances in Schedules III through V pursuant to rule 657—10.20(124).

g. A controlled substance accountability program to document review of controlled substance inventory adjustments, review patterns of controlled substance loss, and create an action plan following a report of theft or loss pursuant to subrule 10.21(5).

ITEM 4. Amend subrule 10.18(4) as follows:

10.18(4) Reconciliation. The registrant shall be responsible for reconciling or ensuring the completion of a reconciliation of the perpetual inventory balance with the physical inventory of all Schedule II controlled substances at least annually. In case of any discrepancies between the physical inventory and the perpetual inventory, the registrant shall be notified immediately but no later than one business day. The registrant shall determine the need for further investigation, and significant discrepancies shall be reported to the board pursuant to rule 657—10.21(124) and to the DEA pursuant to federal DEA regulations. Periodic reconciliation records shall be maintained and available for review and copying by the board or its authorized agents for a period of two years from the date of the record. The reconciliation process may be completed using either of the following procedures or a combination thereof:

a. The individual responsible for a disbursement shall verify that the physical inventory matches the perpetual inventory following each disbursement transaction and documents that reconciliation in the perpetual inventory record. If controlled substances are maintained on the patient care unit, the nurse or other responsible licensed health care provider verifies that the physical inventory matches the perpetual inventory following each dispensing and documents that reconciliation in the perpetual inventory record. If any Schedule II controlled substances in the registrant’s current inventory have been disbursed and verified in this manner within the year and there are no discrepancies noted, no additional reconciliation action is required. A perpetual inventory record for a drug that has had no activity within the year shall be reconciled pursuant to paragraph 10.18(4)“b.”

b. A physical count of each Schedule II controlled substance stocked by the registrant that has not been reconciled pursuant to paragraph 10.18(4)“a.” shall be completed at least once each year, and that count shall be reconciled with the perpetual inventory record balance. The physical count and reconciliation may be completed over a period of time not to exceed one year in a manner that ensures that the perpetual inventory and the physical inventory of Schedule II controlled substances are annually reconciled. The individual performing the reconciliation shall record the date, the time, the individual’s initials or unique identification, and any discrepancies between the physical inventory and the perpetual inventory.

ITEM 5. Amend subrule 10.19(1) as follows:

10.19(1) Record and procedure. Each inventory record, except the periodic count and reconciliation required pursuant to subrule 10.18(4), shall comply with the requirements of this subrule and shall be maintained for a minimum of two years from the date of the inventory.

a. to e. No change.

f. The inventory record, unless otherwise provided under federal law, shall include the following information:

(1) and (2) No change.

(3) The quantity of the substance, which shall be an exact count or measure of the substance and may not be an estimated count or measure.

(4) to (6) No change.

For all substances listed in Schedule I or II, the quantity shall be an exact count or measure of the substance.
b. For all substances listed in Schedule III, IV, or V, the quantity may be an estimated count or measure of the substance unless the container has been opened and originally held more than 100 dosage units. If the opened commercial container originally held more than 100 dosage units, an exact count of the contents shall be made. Products packaged in nonincorporated containers may be estimated to the nearest one-fourth container.

ITEM 6. Amend subrule 10.19(4) as follows:

10.19(4) Change of ownership, pharmacist in charge, or registered location.

a. When there is a change in ownership, pharmacist in charge, or location for a registration, an inventory shall be taken of all controlled substances in compliance with subrule 10.19(1). The inventory shall be taken following the close of business the last day under terminating ownership, terminating pharmacist in charge’s employment, or at the location being vacated. The inventory shall serve as the ending inventory for the terminating owner, pharmacist in charge, or location, as well as a record of the beginning inventory for the new owner, pharmacist in charge, or location.

b. When there is a change of pharmacist in charge, including when the incoming pharmacist in charge is temporary or interim pursuant to paragraph 8.35(6) “d,” an inventory shall be taken of all controlled substances in compliance with subrule 10.19(1). An inventory shall be taken following the close of business the last day of duty of the outgoing pharmacist in charge. The inventory may serve as the beginning inventory for the incoming pharmacist in charge, unless the incoming pharmacist in charge did not immediately assume the duties of pharmacist in charge following the outgoing pharmacist in charge. Any lapse in time between the outgoing pharmacist in charge and the incoming pharmacist in charge shall cause an inventory to be taken prior to the opening of business on the first day of duty of the incoming pharmacist in charge. An inventory count shall not be required in the case of an interim pharmacist in charge if the pharmacy maintains perpetual inventory logs for all controlled substances pursuant to rule 657—10.20(124).

ITEM 7. Adopt the following new rule 657—10.20(124):

657—10.20(124) Schedule III through V accountability. A registrant shall ensure accountability of Schedule III through V controlled substances through one or more of the measures identified herein.

1. Perpetual inventory log, which may be maintained by electronic means, so long as the system complies with the perpetual inventory requirements in rule 657—10.18(124).
2. Documented audit and reconciliation of all controlled substances every six months.
3. Routine documented cycle counts of substances, so long as all controlled substances are counted every 90 days and identified discrepancies are investigated and documented.
4. Other measure preapproved by the board.

ITEM 8. Adopt the following new subrule 10.21(5):

10.21(5) Action plan following loss. Within seven days following the report of theft or loss, a registrant shall develop and initiate implementation of an action plan to address the conditions which contributed to the theft or loss, which shall include any directives including, but not limited to, inventory counts, audits, and perpetual inventory counts provided by a board compliance officer.

ARC 6178C

PHARMACY BOARD[657]

Notice of Intended Action

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

The Board of Pharmacy hereby proposes to amend Chapter 20, “Compounding Practices,” Iowa Administrative Code.
Legal Authority for Rule Making

This rule making is proposed 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 section 147.76.

Purpose and Summary

These proposed amendments would allow veterinarians who have obtained compounded preparations for office stock use to dispense the compounded preparations to the owner of a veterinary patient to treat an immediate medical need when timely access to a patient-specific supply of compounded medication is not available, no commercially available product can meet the need of the patient, lack of treatment will likely result in patient harm, and the supply does not exceed 14 days.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

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 March 1, 2022. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:
ITEM 1. Amend rule 657—20.2(124,126,155A), definition of “Office use,” as follows:

“Office use” means that a compounded product has been prepared and distributed to a practitioner for administration to a patient by the practitioner in the course of the practitioner’s professional practice. A compounded product distributed to a practitioner for “office use” shall not require a patient-specific prescription and may not be further distributed to another practitioner or dispensed to a patient for self-administration, except as provided in subrule 20.15(2).

ITEM 2. Amend rule 657—20.15(124,126,155A) as follows:

657—20.15(124,126,155A) Compounding for office use.

20.15(1) No change.

20.15(2) Veterinary compounded preparations. Veterinary compounded preparations may be sold to a practitioner for office use if the preparations are compounded by an Iowa-licensed pharmacy or outsourcing facility and sold directly to the practitioner by the pharmacy or outsourcing facility. Veterinary compounded preparations sold to a practitioner for office use may be dispensed to the owner of a veterinary patient to treat an immediate medical need when timely access to a patient-specific supply of compounded medication is not available, no commercially available product can meet the need of the patient, lack of treatment will likely result in patient harm, and the supply does not exceed 14 days.

20.15(3) Office use. Compounded preparations distributed for office use pursuant to subrule 20.15(1) or 20.15(2) and in accordance with the labeling requirements of subrule 20.15(4) do not require a patient-specific prescription but do require that the compounded preparation be administered to a patient in the course of the practitioner’s professional practice. Compounded preparations distributed for office use pursuant to this rule shall not be further distributed to other practitioners or dispensed to a patient for self-administration, except as provided in subrule 20.15(2).

20.15(4) No change.

ARC 6180C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to polysomnography licensure fees and providing an opportunity for public comment

The Board of Respiratory Care and Polysomnography hereby proposes to amend Chapter 5, “Fees,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 147 and 152B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 147 and 152B.

Purpose and Summary

This proposed rule making seeks to amend polysomnography license fees. When polysomnography licensure first started, fees were set at a higher rate to pay back startup costs associated with licensing the profession. Those startup costs have been paid back. This rule making seeks to reduce the higher rate polysomnographists are currently paying for initial licensure, renewal, and reactivation to the same rate respiratory therapists pay.
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

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

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 March 1, 2022. Comments should be directed to:

Tony Alden
Professional Licensure Division
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.4401
Fax: 515.281.3121
Email: tony.alden@idph.iowa.gov

Public Hearing

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

March 2, 2022  
9 to 10 a.m.  
Fifth Floor Conference Room 526  
Lucas 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. In an effort to ensure accuracy in memorializing a person’s comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees 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 5.17(1)“b” as follows:
   b. The initial license fee for a polysomnographic technologist license is $330, plus the cost for 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).

ITEM 2. Amend paragraph 5.17(2)“b” as follows:
   b. The biennial license renewal fee for each biennium for a polysomnographic technologist license is $330.

ITEM 3. Amend paragraph 5.17(4)“b” as follows:
   b. The reactivation fee to practice as a polysomnographic technologist is $390, plus the cost for 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) if the license has been on inactive status for two or more years.

ARC 6181C

REGENTS BOARD[681]

Notice of Intended Action

Proposing rule making related to standardized tests and regent admission index (RAI) and providing an opportunity for public comment

The Board of Regents hereby proposes to amend Chapter 1, “Admission Rules Common to the Three State Universities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 262.9(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 262.9(3).

Purpose and Summary

The proposed amendments to Chapter 1 remove the standardized test as a requirement for university admission of first-time undergraduate students but retain it as a component for automatic admission with the RAI. These amendments clarify that a first-time undergraduate student who does not report one or more of the three RAI factors will have the student’s application reviewed on an individual basis.

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 rule 681—19.18(17A).
Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on March 1, 2022. Comments should be directed to:

Aimee ClaeyS
Board of Regents
11260 Aurora Avenue
Urbandale, Iowa 50322
Phone: 515.281.6456
Email: aimee.claey@iowaregents.edu

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend 681—Chapter 1, preamble, as follows:

PREAMBLE

The state board of regents has adopted the following requirements governing admission of students to the three state universities.
Each university is expected to describe in its catalog the requirements and other information necessary to make the admission process operate within the framework of these requirements.

Amendments and changes in these requirements normally are proposed by the universities to the regent committee on educational relations, which examines the proposals and makes specific recommendations through the council of provosts to the state board of regents, which is empowered by law to establish the admission requirements.

The regent universities recognize that the traditional measures of academic performance do not adequately describe some students’ potential for success. Therefore, the regent universities strongly encourage all interested students to apply for admission. Applicants who feel their academic record is not an accurate reflection of their potential for success are encouraged to provide supplemental information explaining their circumstances, in addition to the application, academic transcripts, and test scores.

ITEM 2. Amend subrule 1.1(1) as follows:

1.1(1) Application. Applicants must submit a formal application for admission, together with the appropriate application fee as approved by the state board of regents pursuant to Iowa Code subsection 262.9(3) section 262.9(19) and detailed in rule 681—1.7(262), and have their secondary school provide a transcript of their academic record, including credits and grades, rank in class (when available), and certification of graduation. Applicants must also submit SAT Reasoning Test or ACT scores. Applicants whose primary language is not English must also meet the English language proficiency
requirement specified by each university. Applicants may be required to submit additional information or data to support their applications.

ITEM 3. Amend subrule 1.1(2) as follows:

1.1(2) Admission criteria.
   a. A regent admission index (RAI) will be calculated for each freshman applicant using applicants who submit all components used in the equation below. For purposes of calculating the RAI, the ACT composite score has a top value of 36 (SAT scores will be converted to ACT composite equivalents), high school GPA is expressed on a four-point scale, and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

\[
RAI = (3 \times \text{ACT composite score}) + (30 \times \text{high school grade point average}) + (5 \times \text{number of high school courses completed in the core subject areas})
\]

b. Freshman applicants from Iowa high schools who have an RAI of at least 245 and who meet the minimum requirements of the regent universities will qualify for automatic admission to any of the three regent universities. Freshman applicants who have an RAI below 245 or who do not have all components used in the RAI may also be admitted to a specific regent university; however, each regent university will review these applications on an individual basis, and admission decisions will be specific to each institution.

ITEM 4. Amend rule 681—1.2(262) as follows:

681—1.2(262) Admission of undergraduate students by transfer from other colleges. Students desiring admission to the University of Iowa, Iowa State University, or the University of Northern Iowa must meet the requirements in this rule and also any special requirements for the curriculum, school, or college of their choice.

Applicants must submit a formal application for admission, together with the appropriate application fee as approved by the state board of regents pursuant to Iowa Code subsection 262.9(19) and detailed in rule 681—1.7(262), and request that each college they have attended send an official transcript of record to the admissions office. High school academic records and standardized test results may also be required. The Test of English as a Foreign Language (TOEFL) is required of foreign students whose first language is not English.

1.2(1) No change.

1.2(2) Admission of students with fewer than 24 semester hours of college credit will be based on high school academic and standardized test records in addition to review of the college record.

1.2(3) and 1.2(4) No change.

This rule is intended to implement Iowa Code section 262.9(3).

ITEM 5. Amend subrule 1.6(1), definition of “Accredited private institution,” as follows:

“Accredited private institution” means an institution of higher education as defined in Iowa Code section 261.9, subsection 5 261.9(1).

ARC 6175C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to motor vehicle registration and certificates of title and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 400, “Vehicle Registration and Certificate of Title,” Iowa Administrative Code.
Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321.20, 321.34 and 435.26B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.19, 321.20, 321.25, 321.34, 321.37, 321.50, 321.103, 321.126, 321.129, 321.170, 435.26B and 554D.103(8).

Purpose and Summary

This proposed rule making relates to the vehicle registration and certificate of title process and aligns with existing legal authority and Department practice. It also eliminates outdated or irrelevant requirements or options and accommodates modern electronic procedures and terminology. The following paragraphs describe the specific proposed amendments:

Contiguous county registration. The proposed amendments add a new definition of “contiguous county” and update the rules addressing where an applicant shall apply for vehicle registration and title to conform with Iowa Code section 321.20(4), which requires the Department to implement a process that allows a person to register and title a vehicle in a county that is contiguous to the person’s county of residence.

Electronic lien and title. The proposed amendments add a new definition of “electronic lien and title” or “ELT” as well as a new rule about ELT, which is a system that facilitates the electronic security interest process intended in Iowa Code section 321.50(4). The proposed rule aligns with the current Department practice of providing a security interest holder with an electronic record of a title when a security interest has been delivered to the Department by electronic means.

Registration products and plates for exempt vehicles. The proposed amendments update the general provisions for issuing vehicle registration and a certificate of title to identify all the products that are distributed during the registration transaction, namely, the vehicle registration, certificate of title, receipt, validation sticker and license plates. The amendments also add new subrule 400.2(10), which conforms with the current Department practice for issuing registration plates to exempted vehicles, including issuing regular registration plates to certain eligible agencies under Iowa Code section 321.19(1)”c.”

Title and registration application and supporting documents. The proposed amendments update the rules related to vehicle registration and title application requirements and supporting documents as follows:

• Specify that if there are two or more owners of a vehicle, all owner signatures are required on the application.

• Comply with existing Department practice of requiring a lessor to include the leasing number on the application for a leased vehicle, if applicable.

• Update the rules to encompass the use of electronic registration and titling (ERT) by a dealer when delivering a vehicle to another dealer for sale to a customer. This change is meant to address the way the rule currently reads, which makes it appear to allow use of ERT only when the dealer is selling a vehicle directly to a customer. This will allow flexibility in the submission process for the vehicle owner’s written authorization.

• Align with the current Department practice of comparing the security interest listed on the certificate of title with the security interest listed on the reverse side of the manufacturer’s certificate of origin (MCO) and more accurately reflecting Iowa Code, which allows a final-stage vehicle manufacturer to assign an incomplete MCO to retail buyers.

• Clarify that a signature, unless otherwise specified, includes an ink signature or an electronic signature, which also aligns with the new definition of signature included in this rule making.

Bonded titles. The proposed amendments update the bonded title process rules to align with current Department practice and provide further detail as to what steps the Department will take if an owner
TRANSPORTATION DEPARTMENT[761](cont’d)

of record or security interest is found during a records search for a vehicle subject to the bonded title process.

Temporary registration. The proposed amendments update the rule governing temporary use of a vehicle without license plates or a registration card to align with Iowa Code section 321.25, which states a person may operate a vehicle with a temporary registration for 45 days from the date the vehicle was delivered, rather than the date when the vehicle was purchased.

Voluntary contributions to anatomical gift fund. The proposed amendments address voluntary contributions made to the Anatomical Gift Public Awareness and Transplantation Fund during a vehicle registration transaction to clarify that funds are transferred monthly rather than quarterly.

Manufactured or mobile homes. The proposed amendments update the rule encompassing certificate of title requirements in a situation where a manufactured or mobile home is converted to or from real property to align with the Iowa Code and Department of Revenue rules addressing the scenarios that can occur at the time of conversion. Specifically, the amendments address what the secured party, owner, assessor, or county treasurer should do in each of those scenarios. Ensuring that a proper initial conversion process is followed will help streamline the reconversion process. Also, new subrule 400.40(3) is proposed to conform the rules with Iowa Code section 435.26B. The proposed subrule outlines the current Department practice of utilizing Form 411186 when an owner is surrendering a certificate of title for a manufactured or mobile home, and it sets a records search fee of $5 as authorized by Iowa Code section 435.26B.

Fee refunds and credits. The proposed amendments update the rule related to fee refunds and credits to allow a statement of nonuse to be used for vehicles registered under the International Registration Plan pursuant to Iowa Code chapter 326. In addition, these amendments align the refund process for annual registration fees with the requirements set forth in Iowa Code section 321.126, and they also outline how the Department will round credits in the uncommon scenario where a customer may be receiving credit from two registration years.

Notice of vehicle registration suspension or revocation. The proposed amendments more clearly outline the notice requirements when issuing a vehicle registration suspension or revocation, including specifying the basis for the suspension or revocation and providing information regarding how a person subject to suspension or revocation may come back into compliance and have the suspension or revocation lifted.

License plate stickers and surrender of plates. The proposed amendments update the rules addressing license plate stickers to clarify that because of the design of the “flying our colors” license plate, a person with that plate who also has a persons with disabilities sticker or special truck sticker must affix the sticker to the lower left corner of the plate rather than the lower right corner so as to not obscure the plate text. These amendments also update the rule related to disposal of surrendered registration plates by requiring the county treasurer to return surrendered plates to Iowa Prison Industries rather than destroy the plates, which will help ensure credit is received for the returned plates.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. The $5 fee for the Department to complete the records search required to process the affidavit in lieu of surrender of title for mobile homes under subrule 400.40(3) will impact approximately 15 transactions per year, and will result in approximately $75 (15 x $5) of additional funds being deposited into the Road Use Tax Fund annually.

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 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 March 1, 2022. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on March 3, 2022, via conference call at 9 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on March 1, 2022, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

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 Tracy George and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

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 761—400.1(321), parenthetical implementation statute, as follows:

761—400.1(321,322,544) Definitions.

ITEM 2. Adopt the following new definitions of “Contiguous county,” “Electronic lien and title” and “Signature” in rule 761—400.1(321):

“Contiguous county” means any county in Iowa that directly borders an adjacent Iowa county, including sharing a common corner or corners.

“Electronic lien and title” or “ELT” means an information technology system authorized by the department for the purpose of providing an electronic record of the certificate of title to a security interest holder in order to subject a vehicle to an electronic lien and to allow for the submission and receipt of forms related to security interests through electronic means as described in Iowa Code section 321.50.

“Signature,” unless otherwise specified, shall include a signature in ink or an electronic signature as provided in Iowa Code section 554D.103(9). A requirement to sign a document unless otherwise specified shall allow for a signature in ink or an electronic signature.
ITEM 3. Amend rule 761—400.1(321), definition of “Manufacturer’s certificate of origin,” as follows:

“Manufacturer’s certificate of origin” means a certification signed by the manufacturer, distributor or importer that the vehicle described has been transferred to the person or dealer named and that the transfer is the first transfer of the vehicle in ordinary trade and commerce.

1. and 2. No change.

3. For 1992 and subsequent model year vehicles, the form used for manufacturers’ certificates of origin shall be the universal form adopted in 1990 by the American Association of Motor Vehicle Administrators (AAMVA). This requirement does not apply to trailer-type vehicles. A copy of this universal form may be obtained from the motor vehicle and motor carrier services bureau division at the address in subrule 400.6(1).

ITEM 4. Amend rule 761—400.1(321), implementation sentence, as follows:


ITEM 5. Amend rule 761—400.2(321) as follows:

761—400.2(321,322) Vehicle registration, and certificate of title, receipt, validation sticker and registration plates—general provisions.

400.2(1) No change.

400.2(2) Vehicles exempt from titling or registration. A certificate of title shall not be issued for a vehicle which is exempt from the titling or registration provisions of Iowa Code chapter 321, unless issuance of a certificate of title is specifically authorized in Iowa Code chapter 321 or as provided in 761—Chapter 410.

400.2(3) Issuance of a certificate of title, receipt, validation sticker and registration plates upon payment of registration fees. Except as otherwise provided in Iowa Code chapter 321 or this chapter of rules, the current year registration fee and any delinquent registration fees and penalties, if any, shall be paid prior to issuance of a certificate of title, receipt, validation sticker and registration plates.

400.2(4) to 400.2(9) No change.

400.2(10) Plates for exempted vehicles. Upon application, the department shall issue plates for exempted vehicles under subrules 400.2(5), 400.2(6) and 400.2(8) in accordance with the requirements in Iowa Code sections 321.18, 321.19, 321.22 and 321.70, as applicable, and this chapter. As authorized by Iowa Code sections 8A.361 and 8A.362(7), the Iowa department of administrative services may order the issuance of regular registration plates for exempted vehicles assigned to the Iowa department of administrative services. The following process applies to regular registration plates issued to an exempted vehicle under Iowa Code section 321.19(1)“c”:;

a. The requesting agency under Iowa Code section 321.19(1)“c.” other than the Iowa department of administrative services, shall file an application with the department in the form and manner prescribed by the department and shall certify the authorized purpose for which issuance of the registration plates for an exempted vehicle is requested.

b. The Iowa department of administrative services or the department may order the issuance of regular registration plates for exempted vehicles as authorized by Iowa Code section 321.19(1)“c.” The plates shall be assigned to a specific vehicle. The requesting agency shall notify the department within ten days of assigning the plate to another vehicle.

c. In accordance with Iowa Code section 321.19, the department shall maintain separate records of regular registration plates issued to exempted vehicles, which shall be available in a manner that allows law enforcement and other persons authorized by Iowa Code section 321.11(3) to query vehicle and owner information by the registration plate number.

d. If a vehicle to which regular registration plates are assigned under this subrule is no longer used for an exempted purpose, the requesting agency shall surrender the plates to the department and the department shall cancel the plates. The department may revoke the plates and require the agency
to surrender the plates pursuant to Iowa Code section 321.103 if the department determines use of the plates is no longer authorized.

This rule is intended to implement Iowa Code sections 321.18 through 321.22, 321.24, 321.34, 321.103, 321.123, 321.170 and 322C.2(19).

ITEM 6. Amend subrule 400.3(10) as follows:

400.3(10) Signature of applicant. The owner shall sign the application form in ink, unless submitted electronically. If there are two or more owners, all owner signatures are necessary.

ITEM 7. Amend subrule 400.3(14) as follows:

400.3(14) Leased vehicle. As required by Iowa Code section 423.26, the lessor shall list the lease price of the vehicle and the lessor’s leasing number, if applicable, on the application form.

ITEM 8. Amend paragraph 400.3(17)“k” as follows:

k. An end user that is a motor vehicle dealer licensed by the department under Iowa Code chapter 322 or 322C and that electronically submits an application on behalf of the person owner or owners to whom the dealer is transferring or delivering the vehicle shall disclose to the person all owners or, if there is more than one owner and the title application uses “or” between the names of the owners, at least one owner, that the application will be submitted electronically and shall obtain the person’s written authorization from all owners, or if there is more than one owner and the title application uses “or” between the names of the owners, written authorization from at least one owner, to submit the application on the person’s owner’s behalf. The written authorization shall be retained at the motor vehicle dealer’s principal place of business for a period of six months from the date of application and shall be available for inspection by the department at the department’s request. The motor vehicle dealer shall also review with and disclose to the person owner or owners all details of the application, before submitting the application, and shall provide a complete, true, and accurate copy of the application to the person owner or owners immediately after submitting the application. The written authorization shall be submitted electronically as a scanned document with the electronic application in the form and manner required by the department.

ITEM 9. Amend subrule 400.4(1) as follows:

400.4(1) New vehicle. If application is made for a new vehicle, a manufacturer’s certificate of origin, properly assigned to the applicant, shall be submitted. A manufacturer’s certificate of origin shall not be accepted if the assignment to the applicant is made by any person other than the manufacturer, importer or distributor, a licensed motor vehicle dealer franchised to sell that line-make of vehicle, or a final-stage manufacturer motor vehicle dealer licensed under rule 761—425.11(322).

a. No change.

b. An uncanceled security interest noted on the reverse side of a manufacturer’s certificate of origin (MCO) shall be noted as a separate security interest on the certificate of title, in addition to any security interest acknowledged by the applicant, unless the applicant indicates in the security interest area on the title application that the security interest acknowledged by the applicant is the same as the one noted on the reverse side of the MCO.

c. No change.

d. If a final-stage manufacturer is a motor vehicle dealer licensed under rule 761—425.11(322), the final-stage manufacturer may reassign the original manufacturer’s certificate of origin or an incomplete or intermediate MCO to the retail buyer.

ITEM 10. Amend rule 761—400.5(321) as follows:

761—400.5(321) Where to apply for registration or certificate of title.

400.5(1) Except as otherwise provided, application for the registration of a vehicle or a certificate of title of a vehicle, or transfers thereof, shall be made to the county treasurer as described in Iowa Code chapter 321, including, when applicable, the county treasurer of a contiguous county to the county designated for the owner under Iowa Code section 321.20(1) for registration and issuance of a certificate
of title. When none of the primary users of a non-resident-owned vehicle are located in Iowa, the vehicle may be registered by the county treasurer of any county.

400.5(2) Application shall be made to the department’s motor vehicle and motor carrier services bureau division for the following:
   a. to g. No change.

400.5(3) Application for a certificate of title for a vehicle subject to apportioned registration under Iowa Code chapter 326 may be made to either the county treasurer or to the department’s motor vehicle and motor carrier services bureau division.

400.5(4) Application for apportioned registration shall be made to the department’s motor vehicle and motor carrier services bureau division. See 761—Chapter 500.

This rule is intended to implement Iowa Code sections 321.18 to through 321.23, 321.46(2), and 321.170.

ITEM 11. Amend subrule 400.6(1) as follows:

400.6(1) Information and forms for vehicle registration, certificate of title, or other procedures covered under Iowa Code sections 321.18 to through 321.173 may be obtained from the county treasurer or by mail from the Motor Vehicle and Motor Carrier Services Bureau Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at Iowa Department of Transportation, 6310 SE Convenience Blvd., Ankeny, Iowa 50021; by telephone at (515)237-3264 (515)237-3110; or on the department’s website at www.iowadot.gov.

ITEM 12. Amend subrule 400.13(1) as follows:

400.13(1) Procedures. This subrule describes the procedures to be followed to obtain a “bonded” certificate of title. The procedures described are in addition to the regular procedures for titling and registering a vehicle.
   a. The applicant shall submit a bond application to the motor vehicle and motor carrier services bureau division on a form prescribed by the department. The application shall be accompanied by evidence of ownership of the vehicle.
   b. The department shall search the state files to determine if there is an owner of record or security interest for the vehicle and if the vehicle has been reported stolen or embezzled.
   (1) If an owner of record is found, the applicant shall complete a request for release of personal information form explaining that the applicant is the current owner and is requesting a duplicate title. The department shall mail the release letter by first-class mail to the owner of record at the owner’s last known address. The release letter shall notify the owner of the right to claim ownership of the vehicle or to waive all rights or claims.
   (2) If the owner of record makes a claim, a motor vehicle investigator shall review the claim.
   (2) (3) If the department receives no response from the owner of record within ten days after the date of mailing or the owner of record does not want the owner’s personal information released, the owner of record waives all rights or claims; or if the letter is returned as undeliverable, the department will continue processing the bond application.
   (4) If one or more security interests are found and can be identified, the department shall send a certified letter and application for cancellation of security interest to a lienholder to the last known address of that lienholder. If a lienholder releases the lien, the department shall continue to process the application. If a lienholder responds with a request to claim the vehicle, the department will review the claim. If the certified letter is returned as undeliverable, the department shall continue to process the application.
   (5) If one or more security interests is found but a lienholder cannot be identified because the record is held by another jurisdiction, the department shall return the application to the applicant and inform the applicant which jurisdiction holds the record(s) to the vehicle.
   c. to e. No change.

ITEM 13. Amend paragraph 400.16(2)“a” as follows:
   a. The applicant shall apply to the county treasurer for a certificate of title and registration, including, when applicable, the county treasurer of a contiguous county to the county designated for
the owner under Iowa Code section 321.20(1) for registration and issuance of a certificate of title. The county treasurer, upon receiving an application that indicates the vehicle is a specially constructed, reconstructed, street rod or replica motor vehicle, shall forward the application to a motor vehicle investigator of the department.

ITEM 14. Amend rule 761—400.19(321) as follows:

761—400.19(321) Temporary use of vehicle without plates or registration card.

400.19(1) No change.

400.19(2) Temporary use of vehicle without registration card. A person who acquires a vehicle which is currently registered or in a dealer’s inventory at the time of sale and who has possession of plates which may be attached to the vehicle acquired may operate or permit the operation of the vehicle not to exceed 45 days from the date of purchase delivery or transfer without a registration card, if ownership evidence is carried in the vehicle.

400.19(3) No change.

This rule is intended to implement Iowa Code sections 321.25, 321.33 and 321.46.

ITEM 15. Amend rule 761—400.26(321) as follows:

761—400.26(321) Anatomical gift. Voluntary contributions collected by the county treasurer or the department to the anatomical gift public awareness and transplantation fund shall be in whole dollar amounts. The county treasurer and the department shall remit contributions collected to the department of public health quarterly monthly to the funds specified in Iowa Code section 321.44A.

This rule is intended to implement Iowa Code section 321.44A.

ITEM 16. Amend rule 761—400.40(321) as follows:

761—400.40(321) Manufactured or mobile home converted to or from real property.

400.40(1) Conversion to real property. When a manufactured or mobile home is converted to real property under Iowa Code section 435.26, the assessor shall collect its vehicle certificate of title. The process shall be as follows:

a. If a security interest is noted on the title and the secured party is given a mortgage for the land on which the home is located, the assessor shall collect the certificate of title as provided in rule 701—74.5(435).

b. If a security interest is noted on the title and the secured party is not given a mortgage for the land on which the home is located, the secured party shall retain the certificate of title as provided in Iowa Code section 435.26. At the time the security interest is released, the secured party may surrender the certificate of title to the county treasurer, who shall cancel the title as converted to real estate and destroy the title.

c. If there is no security interest noted on the title, the owner shall surrender the certificate of title to the assessor. The assessor shall note the conversion on the face of the certificate of title above the assessor’s signature, date the notation and deliver the title to the county treasurer. The county treasurer shall note the conversion on the vehicle record and then cancel the title as converted to real estate and destroy the certificate of title.

d. If the assessor identifies in the county records a security interest no longer exists that would prevent the title to the home and the title to the land to merge under Iowa Code section 435.26 and the county treasurer verifies there is no lien on the certificate of title, the title to the home and the title to the land shall merge, and the county treasurer shall cancel the title as converted to real estate and destroy the certificate of title.

400.40(2) No change.

400.40(3) Affidavit for surrender of certificate of title.

a. As provided in Iowa Code section 435.26B, an owner may effectuate a surrender of the certificate of title by recording with the county recorder Form 411186 if all of the following requirements are met:
TRANSPORTATION DEPARTMENT[761](cont’d)

(1) There is no record that a certificate of title has been issued or surrendered for a manufactured or mobile home that is located outside a manufactured home community or mobile home park.

(2) The manufactured home or mobile home has been converted to real estate by being placed on a permanent foundation.

(3) The manufactured or mobile home is entered on the tax rolls.

b. The fee for the duties performed by the department pursuant to Iowa Code section 435.26B(1) ‘i’(2) shall be $5.

This rule is intended to implement Iowa Code sections 321.1, 435.1, 435.26, 435.26A, 435.26B and 435.27.

ITEM 17. Amend subrule 400.44(5) as follows:

400.44(5) Statement of nonuse. If the owner of a vehicle, on which the registration fees have not been paid for more than three complete registration years, certifies to the county treasurer of the owner’s residence, or to the department in a form and manner prescribed by the department if a vehicle is registered under Iowa Code chapter 326, that the vehicle has not been moved or operated upon the highway since the year it was last registered, the county treasurer may register the vehicle may be registered upon payment of the current year’s registration fee.

ITEM 18. Amend subrule 400.45(1) as follows:

400.45(1) The department shall suspend or revoke registration and plates under Iowa Code section 321.101 when a written request is received from a peace officer or the county treasurer’s office that issued the registration and or plates.

a. The notice of suspension or revocation shall contain the following:

(1) The basis of the request for suspension or revocation.

(2) Information regarding how the person may satisfy the violation and have the suspension or revocation removed, if applicable.

(3) Information notifying the person of the right to appeal the suspension or revocation in accordance with rule 761—400.56(321).

b. A request from a peace officer shall be submitted on a form prescribed by the department.

c. A request from a county treasurer’s office shall be signed by the county treasurer or designee.

ITEM 19. Amend rule 761—400.50(321,326) as follows:

761—400.50(321,326) Refund of registration fees.

400.50(1) Vehicles registered by county treasurer:

a. The department shall refund annual registration fees for vehicles registered by the county treasurer pursuant to Iowa Code section 321.126.

b. A claim for refund shall be made on a form prescribed by the department. Except as provided in Iowa Code section 321.126, the claim may be submitted by the owner, the owner may submit a claim for refund to the county treasurer’s office in any county.

c. and d. No change.

e. If the claim for refund is for excess credit or no replacement vehicle:

(1) No change.

(2) The claim for refund shall be approved or denied by the motor vehicle and motor carrier services bureau division.

f. All claims for refund shall be made on a form prescribed by the department. The claim for refund shall be filed with the department.

400.50(2) Vehicles registered by the department. Forms and instructions for claiming a refund on apportioned registration fees under Iowa Code section 326.15 may be obtained from the motor vehicle and motor carrier services bureau division. The claim for refund shall be filed at the same address.

This rule is intended to implement Iowa Code sections 25.1, 321.126 to 321.128 321.126 through 321.129 and 326.15.
ITEM 20. Amend rule 761—400.53(321) as follows:

761—400.53(321) Stickers.

400.53(1) and 400.53(2) No change.

400.53(3) Persons with disabilities parking sticker. A persons with disabilities special registration plate parking sticker shall be affixed to the lower right corner of the rear registration plate. A flying our colors plate sticker shall be affixed to the lower left corner of the rear registration plate and above the validation sticker to allow for full view of all numerals and letters printed on the plate pursuant to Iowa Code section 321.37.

400.53(4) Special truck sticker. An owner of a special truck, registered pursuant to Iowa Code section 321.121, who has been issued either regular registration plates or special registration plates other than special truck registration plates must obtain from the county treasurer a sticker which distinguishes the vehicle as a special truck. The sticker shall be affixed to the lower right corner of the rear registration plate. EXCEPTION: If the vehicle displays front and rear plates, two stickers shall be issued with one sticker affixed to the lower right corner of the front plate and rear plate. For natural resources plates and flying our colors plates, the stickers must be affixed to the lower left corner of the front and rear plates.

This rule is intended to implement Iowa Code sections 321.34, 321.37, 321.40, 321.41, 321.121 and 321.166.

ITEM 21. Amend rule 761—400.56(321) as follows:

761—400.56(321) Hearings. The department shall send notice by certified mail to a person whose certificate of title, vehicle registration, license, or permit is to be revoked, suspended, canceled, or denied. The notice shall be mailed to the person’s mailing address as shown on departmental records and shall become effective 20 days from the date mailed. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13. The request shall be submitted in writing to the director of the motor vehicle and motor carrier services bureau at the address in subrule 400.6(1). The request for a contested case shall be deemed timely submitted if it is delivered or postmarked on or before the effective date specified in the notice of revocation, suspension, cancellation, or denial.

This rule is intended to implement Iowa Code sections 17A.10 to through 17A.19, 321.101 and 321.102.

ITEM 22. Amend rule 761—400.60(321) as follows:

761—400.60(321) Credit of registration fees.

400.60(1) and 400.60(2) No change.

400.60(3) Credit from/to apportioned registration.

a. No change.

b. Pursuant to Iowa Code sections 321.126 and 321.127, the owner or lessee of a motor vehicle may claim credit for the apportioned registration fees due when changing the vehicle’s registration from registration by the county treasurer to apportioned registration. Application for apportioned registration shall be submitted to the department’s motor vehicle and motor carrier services bureau division; see 761—Chapter 500.

400.60(4) No change.

400.60(5) Rounding. If credit from two registration years or two registration fees, or some combination of both, is available, the credits shall first be added together, then it shall be determined whether the sum meets the minimum required under Iowa Code section 321.46(3) “c,” and then the sum shall be rounded to the nearest whole dollar.

This rule is intended to implement Iowa Code sections 321.46, 321.46A, 321.48, 321.116, 321.117, 321.126 and 321.127.
TRANSPORTATION DEPARTMENT[761](cont’d)

ITEM 23. Amend rule 761—400.63(321) as follows:

761—400.63(321) Disposal of surrendered registration plates. The county treasurer shall either destroy or return plates that have been surrendered to the county treasurer to Iowa state prison industries for recycling.

This rule is intended to implement Iowa Code sections 321.5 and 321.171.

ITEM 24. Adopt the following new rule 761—400.72(321):

761—400.72(321) Electronic lien and title.

400.72(1) The department may authorize the use of an electronic lien and title (ELT) system to provide an electronic record of the certificate of title to a security interest holder, to subject a vehicle to an electronic lien, and to allow for the submission and receipt of forms related to security interests through electronic means.

a. The department shall authorize ELT providers for transmission of vehicle data, title data and forms necessary to process security interest transactions through electronic means. The department may establish application forms and approval processes as necessary for ELT providers.

b. The department may authorize an ELT lender to participate in the ELT system if the ELT lender has first established a service relationship with an authorized ELT provider. The department may establish application forms and approval processes as necessary for ELT lenders.

400.72(2) For each individual transaction, an authorized ELT lender may choose to use either the ELT process or the paper security interest process as provided in Iowa Code section 321.50 and rules 761—400.8(321) and 761—400.10(321).

400.72(3) If a security interest is released through ELT and there are no other secured parties, but the ELT lender does not request a paper title to be printed and provided to the owner, or the ELT lender does not otherwise provide a paper title to the owner, then the owner of the vehicle may apply to the county treasurer or the department for a certificate of title to be printed and provided to the owner by submitting an application form in the form and manner prescribed by the department.

a. If there is more than one owner of the vehicle, any owner may apply to the department or the county treasurer, as applicable, for the certificate of title to be printed and provided to whomever the owner specifies.

b. If an owner is deceased, the signatures and documents specified in subrules 400.14(4) and 400.14(5) shall be required. A person entitled to vehicle ownership under the laws of descent and distribution shall sign the required forms and shall insert the words “heir at law” following the signature on the application form.

This rule is intended to implement Iowa Code section 321.50.
IOWA FINANCE AUTHORITY[265]

Rule making related to beginning farmer tax credit program

The Iowa Finance Authority hereby amends Chapter 44, “Iowa Agricultural Development Division,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 16.5 and 16.81.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 16.77, 16.79A, 16.81 and 16.82 as amended by 2021 Iowa Acts, Senate File 619.

Purpose and Summary

Division XIX of 2021 Iowa Acts, Senate File 619, amended various elements of the Beginning Farmer Tax Credit Program to encourage the increased utilization of the tax credit by allowing eligible taxpayers and beginning farmers to enter into leases solely for the transfer of agricultural improvements, allowing eligible taxpayers to participate in the program for 15 years, allowing eligible taxpayers to enter into agreements with different qualified beginning farmers, and changing the cap on the tax credit so eligible taxpayers are limited to $50,000 per lease agreement, rather than $50,000 for all agreements. This rule making is adopted to conform Chapter 44 to the changes outlined in 2021 Iowa Acts, Senate File 619.

This rule making also adopts a change to the fee schedule. The change to the fee schedule for beginning farmer tax credit applications is prompted by Iowa Code section 16.81, which set forth a fee schedule that remained in place on an interim basis until December 31, 2021, after which the fee schedule is no longer in effect. Iowa Code section 16.81 requires that the Authority adopt rules to “impose, assess, and collect application fees.”

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 1, 2021, as ARC 6067C.

The Authority received comments from Christina Gruenhagen on behalf of Farm Bureau. With respect to Item 1 of the published Notice, Ms. Gruenhagen expressed concern that the definition of “agricultural asset” in the Authority’s Notice differed from 2021 Iowa Acts, Senate File 619, in a way that would imply that crops or livestock must be depreciable to qualify as an agricultural asset. With respect to Item 4 of the published Notice, which sets forth the fee schedule, Ms. Gruenhagen requested that the Authority clarify the language describing the fees and label the accompanying table with a descriptive title. Ms. Gruenhagen also requested that the Authority write out an equation for the calculation of the fees.

In response to the comments received, Item 1 has been revised so that the definition of “agricultural asset” corresponds more closely to the definition as amended by Senate File 619. Item 4 has been revised to add a title and labels to the accompanying table. The Authority determined that the table is clear and sufficient for the purpose of informing potential applicants of the fees. In lieu of including a written equation, the Authority has revised paragraph 44.6(3)”f” to clarify that the table should be used to calculate the amount of fees owed.
Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Authority finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on January 7, 2022, because these amendments confer a benefit to Iowans who wish to begin farming in Iowa and eligible taxpayers by making the tax credit more attractive and increasing the incentive to eligible taxpayers to lease land to beginning farmers. In addition, the fees collected from applicants pay for the administration of the program. If fees cannot be collected from applicants, the Authority’s ability to effectively administer this program would be negatively impacted.

Adoption of Rule Making

This rule making was adopted by the Authority on January 5, 2022.

Fiscal Impact

The fees are expected to have a fiscal impact of less than $100,000 annually or $500,000 over five years.

Jobs Impact

The Authority anticipates that the benefits offered by the amendments to the program may encourage more new farmers to begin farming in Iowa.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making became effective on January 7, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 265—44.2(16), definitions of “Agricultural asset,” “Agricultural improvements,” “Agricultural land” and “Agricultural lease agreement,” as follows:

“Agricultural asset” means agricultural land located in this state, including any agricultural improvements, depreciable agricultural property, machinery, equipment, and other depreciable agricultural property, crops, or livestock.

“Agricultural improvement” means any improvements, including buildings, structures or fixtures suitable for use in farming which are if located on any size parcel of agricultural land. “Agricultural improvements” includes a single-family dwelling located on agricultural land which is or will be occupied by the beginning farmer and structures attached to or incidental to the use of the dwelling.

“Agricultural land” means land located in Iowa suitable for use in farming, any portion of which may include an agricultural improvement, and which is or will be operated as a farm.
"Agricultural lease agreement" or "agreement" means an agreement for the transfer of agricultural assets, that must at least include a lease of agricultural land, from an eligible taxpayer to a qualified beginning farmer as provided in 2019 Iowa Acts, House File 768, section 9 Iowa Code section 16.79A.

ITEM 2. Amend subparagraph 44.6(1)“a”(5) as follows:
(5) The taxpayer is not a partner of a partnership, shareholder of a family farm corporation, or member of a family farm limited liability company that is the lessee of an agricultural asset that is part of an agricultural lease agreement. If a beginning farmer has an ownership interest in the agricultural asset that does not exceed 10 percent, the tax credit award is reduced by an amount equivalent to the beginning farmer’s ownership percentage. For example, if a beginning farmer owns 9 percent of an agricultural asset that is the subject of the agricultural lease agreement, the tax credit award is reduced by 9 percent.

ITEM 3. Amend paragraph 44.6(2)“a” as follows:
a. A beginning farmer tax credit is allowed only for agricultural assets that are subject to an agricultural lease agreement entered into by an eligible taxpayer and a qualifying beginning farmer participating in the beginning farmer tax credit program established pursuant to 2019 Iowa Acts, House File 768, section 7 Iowa Code section 16.78. The tax credit is allowed regardless of whether the principal agricultural asset is soil, pasture, or a building or other structure used in farming.

ITEM 4. Adopt the following new paragraphs 44.6(3)“f” and “g”:
f. Upon submission of the application or a request to amend an agricultural lease agreement, the authority shall collect the application fee. The authority shall collect fees in the amounts based upon the acreage of the land that is the subject of the agreement and the length of the lease, as indicated in the chart below.

### Application Fees Chart

<table>
<thead>
<tr>
<th>Leased Acres</th>
<th>Length of Lease in Years</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>2</td>
</tr>
<tr>
<td>100 or fewer</td>
<td>$300</td>
</tr>
<tr>
<td>101 to 250</td>
<td>$400</td>
</tr>
<tr>
<td>251 or more</td>
<td>$500</td>
</tr>
</tbody>
</table>

g. For any amendment to a previously approved agricultural lease agreement, an amendment fee of $100 shall be paid at the time the amendment is submitted.

ITEM 5. Amend subrule 44.6(4) as follows:
44.6(4) Requirements of an agricultural lease agreement.

a. The agricultural lease agreement must meet the following requirements:
(1) The agreement must include the lease of agricultural land located in this state, including any or agricultural improvements, located in this state and may provide for the rental of agricultural equipment as defined in Iowa Code section 322F.1.
(2) The agreement must include provisions which describe the consideration paid for the agreement in a manner that allows the authority to calculate the value of the lease in order to determine the tax credit amount as provided in 2019 Iowa Acts, House File 768, section 11 Iowa Code section 16.82.
(3) No change.
(4) The agreement must be for at least two years, but not more than five years. The agreement may be renewed any number of times by the eligible taxpayer and qualified beginning farmer for a term of at least two years, but not more than five years. At the end of the approved agricultural lease agreement term, a new application must be submitted to the authority. However, an eligible taxpayer shall not participate in the program for more than 15 years. For the purposes of this subparagraph, an eligible taxpayer first participating in the beginning farmer tax credit program on or after January 1, 2019, as provided in 2019 Iowa Acts, chapter 161, for a tax year beginning on or after that date, may also participate in the program for not more than 15 years.
(5) No change.
b. An eligible taxpayer may apply and be approved to enter into agreements with different qualified beginning farmers.

c. The agreement cannot be assigned, and the agricultural land subject to the agreement shall not be subleased.

d. The agricultural assets shall not be leased or rented at a rate that is substantially higher than the market rate for similar agricultural assets leased or rented within the same community. As used in this paragraph, when referring to an agricultural asset that is cropland, “substantially higher” means not more than 30 percent above the average cash rent paid for cropland rented in the same county according to the most recent cash rent survey for cropland published by a unit of Iowa State University of Science and Technology recognized by the authority.

[Filed Emergency After Notice 1/7/22, effective 1/7/22]
[Published 2/9/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.
ARC 6188C

ECONOMIC DEVELOPMENT AUTHORITY [261]

Adopted and Filed

Rule making related to high quality jobs program


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate Files 366 and 619.

Purpose and Summary

The amendments to Chapter 68 reflect legislative changes to the High Quality Jobs Program in 2021 Iowa Acts, Senate Files 366 and 619. Additionally, the amendments eliminate references to processes for claiming tax credits and incorporate standard definitions from Chapter 173. Amendments to Chapter 173 clarify the applicability of that chapter while preserving references in other rule chapters that apply to the High Quality Jobs Program. An amendment in Chapter 174 changes the date that qualifying wage thresholds are updated each year from July 1 to September 1. Other amendments in Chapters 187 and 188 provide clarifications and align the rules with current administration of the program.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as ARC 6046C. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Authority Board on January 21, 2022.

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 IEDA 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 March 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 261—68.1(15) as follows:

261—68.1(15) Administrative procedures and definitions.

68.1(1) Administrative procedures. The HQJP is subject to the requirements of the authority’s rules located in 261—Part VII, additional application requirements and procedures, and 261—Part VIII, legal and compliance. Part VII and Part VIII include standard definitions; standard program requirements; wage, benefit and investment requirements; application review and approval procedures; contracting; contract compliance and job counting; and annual reporting requirements. The standard definitions in 261—Chapter 173 in Part VII have been incorporated as applicable in subrule 68.1(2) and are not otherwise applicable to the HQJP.

68.1(2) Definitions. In addition to the standard definitions located in 261—Chapter 173, the following definitions apply to the HQJP:

“Annual base rent” means the business’s annual lease payment minus taxes, insurance and operating or maintenance expenses.

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

“Award date” means the date the board approved an application for project completion assistance, other direct financial assistance, or tax incentives.

“Base employment level” means the number of full-time equivalent positions at a business, as established by the authority and a business using the business’s payroll records, as of the date a business applies for tax incentives or project completion assistance. The number of jobs the business has pledged to create shall be in addition to the base employment level. The number of jobs the business has pledged to retain are included as all or a part of the base employment level. If the project is a modernization project, the job obligations will not include created or retained jobs. The business will be required to maintain the base employment level.

“Benefits” means nonwage compensation provided to an employee. Benefits include medical and dental insurance plans; pension, retirement, and profit-sharing plans; child care services; and life insurance, vision insurance, and disability insurance coverage. Benefits may include other nonwage compensation as determined by the board.

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

“Brownfield site” means the same as defined in Iowa Code section 15.291.

“Business” means a sole proprietorship, partnership, corporation, or other business entity organized for profit under the laws of the state of Iowa or another state, under federal statutes, or under the laws of another country.

“Community” means a city, county, or other entity established pursuant to Iowa Code chapter 28E.

“Contractor or subcontractor” means a person who contracts with the eligible business or subcontracts with a contractor for the provision of property, materials, or services for the construction or equipping of a facility of the eligible business.

“Created job” means a new, permanent, full-time equivalent (FTE) position added to a business’s payroll in excess of the base employment level.

“Department” means the Iowa department of revenue.

“Economically distressed area” means a county meeting the requirements of a distressed area pursuant to rule 261—174.6(15).

“Eligible business” means a business meeting the conditions of Iowa Code section 15.329.

“Employee” means:
1. An individual filling a full-time position that is part of the payroll of the business receiving financial assistance from any of the programs identified in rule 261—173.1(15).

2. A business’s leased or contract employee, provided all of the following elements are satisfied:
   - The business receiving the tax incentives or project completion assistance has a legally binding contract with a third-party provider to provide the leased or contract employee.
   - The contract between the third-party provider and the business specifically requires the third-party provider to pay the wages and benefits at the levels required and for the time period required by the authority as conditions of the award to the business.
   - The contract between the third-party provider and the business specifically requires the third-party provider to submit payroll records to the authority, in form and content and as frequently as required by the authority, for purposes of verifying that the business’s job creation/retention and benefit requirements are being met.
   - The contract between the third-party provider and the business specifically authorizes the authority, or its authorized representatives, to access the third-party provider’s records related to the funded project.
   - The business receiving the tax incentives or project completion assistance agrees to be contractually liable to the authority for the performance or nonperformance of the third-party provider.

"Financial assistance" means assistance provided only from the funds, rights, and assets legally available to the authority. Financial assistance includes assistance provided in the form of grants, loans, forgivable loans, float loans, equity-like assistance, and royalty payments and other forms of assistance deemed appropriate by the board, consistent with Iowa law.

"Fiscal impact ratio" or “FIR” means a ratio calculated by estimating the amount of taxes to be received by the state from a business and dividing the estimate by the estimated cost to the state of providing certain project completion assistance and tax incentives to the business, reflecting a ten-year period of taxation and incentives and expressed in terms of current dollars. “Fiscal impact ratio” does not include taxes received by political subdivisions.

"Full-time equivalent job" or “full-time” means the employment of one person:

1. For 8 hours per day for a five-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations and other paid leave; or

2. The number of hours or days per week, including paid holidays, vacations and other paid leave, currently established by schedule, custom, or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit, provided that the number of hours per week is at least 32 hours per week for 52 weeks per year, including paid holidays, vacations, and other paid leave.

For purposes of this definition, “employment of one person” means the employment of one natural person and does not include “job sharing” or any other means of aggregation or combination of hours worked by more than one natural person.

"Grayfield site" means the same as defined in Iowa Code section 15.291.

"Greenfield site" means a site that does not meet the definition of a brownfield site or grayfield site. A project proposed at a site located on previously undeveloped or agricultural land shall be presumed to be a greenfield site.

"High quality jobs" means created or retained jobs that meet the wage requirements established in subrule 68.2(4) and subrules 68.2(7) and 68.2(8) when applicable.

"Laborshed area" means the geographic area surrounding an employment center from which the employment center draws its commuting workers. The Iowa department of workforce development (IWD) determines the employment centers and defines the boundaries of each laborshed area. IWD defines laborshed areas by surveying commuters within the various zip codes surrounding an employment center, combining the zip codes into as many as three zones, and determining how many people commute from a zip code to the employment center from each zone. The zones reflect the fact that as the distance from an employment center increases, the number of people willing to commute to the employment center decreases. The laborshed wage applicable to the project shall be the laborshed
wage for the closest laborshed area, as determined by road distance between the employment center and the zip code of the project location.

“Laborshed wage” means the same as defined in Iowa Code section 15.327. The authority will calculate the laborshed wage as follows:

1. The most current covered wage and employment data available from IWD will be used.
2. The wage will be computed as a mean wage figure and represented in terms of an hourly wage rate.
3. Only the wages paid by employers for jobs performed within the first two zones of a laborshed area will be included.
4. The wages paid by employers in the following categories will be excluded from the calculation: government, retail trade, health care and social assistance, and accommodations and food service. The wages paid by employers in all other categories will be included in the calculation.
5. To the extent that a laborshed area includes zip codes from states other than Iowa, the wages paid by employers in those zip codes may be included if IWD has finalized a data-sharing agreement with the state in question and has received the required data.
6. Only those wages within two standard deviations from the mean wage will be included.

“Loan” means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the conditions of the award. “Loan” includes deferred loans, forgivable loans, and float loans. A “deferred loan” is one for which the payment for principal, interest, or both is not required for some specified period. A “forgivable loan” is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions. A “float loan” means a short-term loan (not to exceed 30 months) made from obligated but unexpended monies.

“Maintenance period” means the period of time between the project completion date and the maintenance period completion date.

“Maintenance period completion date” means the date on which the maintenance period ends. The specific date on which the maintenance period ends will be established by contract between the authority and the business. The maintenance period completion date will be a date on or after the project completion date and will be used to establish the period of time during which the project, the created jobs, and the retained jobs must be maintained. Rule 261—187.3(15) provides standard durations for project completion and maintenance periods.

“Modernization project” means a project that will result in increased skills and wages for current employees and that does not involve created or retained jobs. The business must maintain the base employment level.

“Program” means the high quality jobs program created pursuant to Iowa Code chapter 15, part 13.

“Project” means the same as defined in rule 261—173.2(15) an activity or set of activities directly related to the start-up, location, modernization, or expansion of a business, and proposed in an application by a business, that are consistent with the goals of the program.

“Project completion assistance” means the same as defined in rule 261—173.2(15) financial assistance or technical assistance provided to an eligible business in order to facilitate the start-up, location, modernization, or expansion of the business in this state and provided in an expedient manner to ensure the successful completion of the start-up, location, modernization, or expansion project.

“Project completion date” means the date by which a recipient of incentives or assistance has agreed to meet all the terms and obligations contained in an agreement with the authority. The specific date on which the project completion period ends will be established by contract between the authority and the business. The project completion date will be a date on which the project must be completed, all incented jobs must be created or retained, and all other applicable requirements must be met. Rule 261—187.3(15) provides standard durations for project completion and maintenance periods.

“Project completion period” means the period of time between the award date and the project completion date.

“Qualifying wage threshold” means the laborshed wage for an eligible business.

“Retail business” means any business engaged in the business of selling tangible personal property or taxable services at retail in this state. Retail business includes a business obligated to collect sales
or use tax under Iowa Code chapter 423. “Retail business” includes any business engaged in selling tangible personal property or taxable services online.

“Retained job” means a full-time equivalent permanent position that is included in the base employment level which remains continuously filled or authorized to be filled as soon as possible and which is at risk of elimination if the project for which the business is seeking assistance does not proceed. The authority may require a business to verify that a job is at risk. Such verification may include the signed statement of an officer of the business, documentation that the business is actively exploring other sites for the project, or any other information the authority may reasonably require during the application review process to establish that a job is at risk.

ITEM 2. Amend rule 261—68.2(15) as follows:

261—68.2(15) Eligibility requirements.

68.2(1) No change.

68.2(2) Relocations and reductions in operations.

a. The business shall not be solely relocating operations from one area of the state while seeking state or local incentives. A project that does not create new jobs or involve a substantial amount of new capital investment shall be presumed to be a relocation. In determining whether a business is solely relocating operations for purposes of this subrule, the authority will consider whether a letter of support for the move has been provided from the affected local community.

b. The business shall not be in the process of reducing operations in one community while simultaneously applying for assistance under the program.

(1) For purposes of this subrule, a reduction in operations within 12 months before or after an application for assistance is submitted to the authority will be presumed to be a reduction in operations while simultaneously applying for assistance under the program.

(2) Pursuant to 2021 Iowa Acts, Senate File 619, the authority shall not presume that a reduction in operations is a reduction while simultaneously applying for assistance as described in subparagraph 68.2(2)“b”(1) with regard to a business that submits an application on or before June 30, 2022, if the business demonstrates to the satisfaction of the authority that the reduction in operations occurred after March 1, 2020, and that the reduction in operations was due to the COVID-19 pandemic. The authority shall consider whether the benefit of the project proposed by a business described in this subparagraph outweighs any negative impact related to the business’s reduction in operations. A business described in this subparagraph shall remain subject to all other eligibility requirements of the program.

c. This subrule will not be construed to prohibit the business from expanding its operations in a community if existing operations of a similar nature in this state are not closed or substantially reduced.

68.2(3) No retail Retail or service businesses. The business shall not be a retail or service business. For purposes of this subrule, the business shall not be a service business if the business provides services to a local consumer market which does not have unless a significant proportion of its sales coming from, as determined by the authority, are outside the this state.

68.2(4) No change.

68.2(5) Determination of sufficient benefits. The business shall provide offer a sufficient package of benefits to each full-time employee holding a created or retained job included in the business’s base employment level and to each full-time employee at the project location until the maintenance period completion date. The business shall offer a sufficient benefits package to its employees as defined in 261—Chapter 172. The benefits package provided shall meet the criteria established by the board. The board shall periodically approve such criteria to reflect the most current benefits package typically offered by employers. The criteria established by the board may include, but not be limited to, premium percentages to be paid by the business, deductible requirements, and other such criteria as determined necessary to the evaluation of benefits offered by a business.

68.2(6) to 68.2(8) No change.

68.2(9) Other benefits. A business may seek benefits and assistance for its project from other applicable federal, state, and local programs in addition to those provided in this program. However, a business which has received assistance for its project from the wage-benefit tax credit program or the
Enterprise zone program shall not be eligible for tax incentives and assistance under this program. A business which has received assistance for its project from the new jobs and income program or the new capital investment program shall not be eligible for tax incentives and assistance under this program for the same project. However, the business may receive tax incentives and assistance under this program for subsequent projects.

68.2(10) No change.

ITEM 3. Amend paragraph 68.3(1)“a” as follows:

a. The project shall not be initiated prior to application. The authority will accept applications only for projects proposed to begin after application and board approval.

(1) Any one of the following may indicate that a project has been initiated:

1. The start of construction of new or expanded buildings;
2. The start of rehabilitation of existing buildings;
3. The purchase or leasing of existing buildings; or
4. The installation of new machinery and equipment or new computers to be used in the operation of the business’s project.

(2) The purchase of land or signing an option to purchase land or earthmoving or other site development activities not involving actual building construction, expansion or rehabilitation shall not constitute project initiation. The costs of any land purchase and site development work incurred prior to the award are not eligible qualifying investment expenses.

ITEM 4. Amend rule 261—68.4(15) as follows:

261—68.4(15) Tax incentives.

68.4(1) Sales and use tax refund. Pursuant to Iowa Code section 15.331A, the approved business may claim a refund of the sales and use taxes paid under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise tangible personal property, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

a. Filing a claim. To receive the refund, the approved business shall file a claim with the department of revenue as follows: pursuant to the department’s applicable rules.

(1) The contractor or subcontractor shall state under oath, on forms provided by the department of revenue, the amount of sales or goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services upon which sales or use tax has been paid prior to the project completion, and shall file the forms with the approved business before final settlement is made.

(2) The approved business shall, not more than 12 months following project completion, make application to the department of revenue for any refund of the amount of the sales and use taxes paid pursuant to Iowa Code chapter 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services.

(3) The eligible business shall inform the department of revenue in writing within two weeks of project completion.

b. Racks, shelving, and conveyor equipment. If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may be entitled to a refund of sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department of revenue for a refund. The application must include the refund amount being requested and documentation such as invoices or contracts which substantiate the requested amount. The department of revenue will validate the refund amount and issue the refund.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the department of revenue to businesses approved for high-quality jobs program and enterprise zone program benefits shall not exceed $500,000 during a
fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business’s application does not receive a refund or tax credits due to the $500,000 fiscal year limitation, the approved business’s application shall be considered in the succeeding fiscal year. An approved business that receives a refund or a tax credit in one fiscal year shall not be considered in a succeeding fiscal year. No business shall receive more than $500,000 in refunds or credits pursuant to this paragraph.

68.4(2) Corporate tax credit for certain sales taxes paid by third-party. Third-party developer tax credit. Pursuant to Iowa Code section 15.331C, the approved business may claim a corporate tax credit up to an amount equal to the sales and use taxes paid by a third-party developer under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise tangible personal property, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An approved business may elect to receive a refund of all or a portion of an unused tax credit.

a. Filing a claim. To receive the tax credit, the approved business shall file a claim with the department of revenue as follows: pursuant to the department’s applicable rules.

   (1) The third-party developer shall state under oath, on forms provided by the department of revenue, the amount of sales and use taxes paid and submit the forms to the approved business.

   (2) The approved business shall, not more than 12 months following project completion, submit the completed forms to the department of revenue.

   (3) The department of revenue shall issue a tax credit certificate in an amount equal to all or a portion of the sales and use taxes paid by a third-party developer under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business.

   (4) The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate issued by the department of revenue is attached to the approved business’s tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business’s name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue.

b. Racks, shelving, and conveyor equipment. If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may claim a corporate tax credit up to the amount of sales and use taxes paid by a third-party developer and attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department of revenue for a tax credit. The application must include the tax credit amount being requested and documentation from the third-party developer such as invoices or contracts which substantiate the requested amount. The department of revenue will confirm the tax credit amount and issue a tax credit certificate in an amount equal to all or a portion of the sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate is attached to the approved business’s tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business’s name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An approved business may elect to receive a refund of all or a portion of an unused tax credit.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment approved by the authority for businesses under the high-quality jobs program and enterprise zone program shall not exceed $500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business’s application
does not receive a refund or tax credits due to the $500,000 fiscal year limitation, the approved business’s application shall be considered in the succeeding fiscal year. An approved business that receives a refund or a tax credit in one fiscal year shall not be considered in a succeeding fiscal year. No business shall receive more than $500,000 in refunds or credits pursuant to this paragraph.

68.4(3) Value-added property tax exemption. Pursuant to Iowa Code section 15.332, the community may exempt from taxation all or a portion of the actual value added by improvements to real property directly related to jobs created or retained by the project and used in the operations of the approved business. The exemption may be allowed for a period not to exceed 20 years beginning the year the improvements are first assessed for taxation. For purposes of this subrule, improvements include new construction and rehabilitation of and additions to existing structures. The exemption shall apply to all taxing districts in which the real property is located. The community shall provide the authority and the local assessor with a copy of the resolution adopted by its governing body which indicates the estimated value and duration of the authorized exemption.

68.4(4) Investment tax credit.

a. Claiming the investment tax credit. Pursuant to Iowa Code section 15.333, the approved business may claim an investment tax credit equal to a percentage of the new investment. The tax credit shall be earned can be claimed when the qualifying asset is placed in service.

(1) Five-year amortization period. The tax credit shall be amortized over a five-year period. The annual amounts that may be claimed by the business during that period are subject to negotiations. The final five-year amortization period and the negotiated annual amounts will be specified in a contract entered into with the authority. The tax credit shall be allowed against taxes imposed under Iowa Code chapter 422, division II, III, or V and against the moneys and credits tax imposed in Iowa Code section 533.24. The approved business shall not claim a tax credit in excess of the amount specified in a contract entered into with the authority.

(2) Flow-through of tax credits. If the business is a partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 or 501A and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual’s earnings of the partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 or 501A and filing as a partnership for federal tax purposes, or estate or trust.

(3) Seven-year carryforward. A tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

b. Investment qualifying for the tax credit. For purposes of this subrule, new investment means all of the following:

(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1, subsection 1, paragraphs “e” and “j.” 427A.1(1) “e” and “j.” purchased for use in the operation of the approved business.

(2) The purchase price of real property and any buildings and structures located on the real property.

(3) The cost of improvements made to real property which is used in the operation of the approved business.

(4) The annual base rent paid to a third-party developer by an approved business for a period equal to the term of the lease agreement but not to exceed the maximum term specified in a contract entered into with the authority, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer’s costs to build or renovate the building for the approved business. Annual base rent shall be considered only when the project includes the construction of a new building or the major renovation of an existing building. The approved business shall enter into a lease agreement with the third-party developer for a minimum of five years.

The approved business shall not claim a tax credit above the amount defined in the final award documentation or the amount specified in a contract entered into with the authority.

68.4(5) Insurance premium tax credit. Pursuant to Iowa Code section 15.333A, the approved business may claim an insurance premium tax credit equal to a percentage of the new investment.
a. **Claiming the tax credit.** The tax credit shall be earned when the qualifying asset is placed in service. The tax credit shall be amortized equally over a five-year period which the authority will, in consultation with the eligible business, define. The five-year amortization period shall be specified in a contract entered into with the authority. The tax credit shall be allowed against taxes imposed under Iowa Code chapter 432. A tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first. The approved business shall not claim a tax credit in excess of the amount specified in a contract entered into with the authority.

b. **Investment qualifying for the tax credit.** For purposes of this subrule, new investment means all of the following:

1. The cost of machinery and equipment, as defined in Iowa Code section 427A.1, subsection 1, paragraphs “e,” and “j,” 427A.1(1)“e” and “j,” purchased for use in the operation of the approved business.

2. The purchase price of real property and any buildings and structures located on the real property.

3. The cost of improvements made to real property which is used in the operation of the approved business.

4. The annual base rent paid to a third-party developer by an approved business for a period equal to the term of the lease agreement but not to exceed the maximum term specified in a contract entered into with the authority, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer’s costs to build or renovate the building for the approved business. Annual base rent shall be considered only when the project includes the construction of a new building or the major renovation of an existing building. The approved business shall enter into a lease agreement with the third-party developer for a minimum of five years.

The approved business shall not claim a tax credit above the amount defined in the final award documentation or the amount specified in a contract entered into with the authority.

68.4(6) **Research activities credit.** Pursuant to Iowa Code section 15.335, the approved business may claim a corporate tax credit for increasing research activities in Iowa during the period the approved business is participating in the program.

a. **Calculation.** The credit equals the sum of the following:

1. Six and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities.

2. Six and one-half percent of the basic research payments determined under Section 41(c)(4)(A) of the Internal Revenue Code during the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities.

The state’s apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures.

b. **Alternate calculation.** In lieu of the credit amount computed in subparagraph 68.4(6)”a”(1), the approved business may elect to compute the credit amount for qualified research expenses incurred in Iowa in a manner consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used for the taxpayer’s federal income tax. The election made under subrule 68.4(6) is for the tax year and the taxpayer may use either the method outlined in paragraph “a” or this paragraph for any subsequent year.

For purposes of this alternate credit computation method, the credit percentages applicable to the qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code are 1.65 percent, 2.20 percent, and 2.75 percent, respectively.

c. **Additional research activities credit.** The credit allowed in this subrule is in addition to the credit authorized in Iowa Code sections 422.10 and 422.33(5). However, if the alternative credit computation method is used in Iowa Code section 422.10 or 422.33(5), the credit allowed in this subrule shall also be computed using that method.
d. Flow through of tax credits. If the eligible business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual’s earnings from the partnership, S corporation, limited liability company, or estate or trust.

e. Definitions. For purposes of this subrule, “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for federal credit for increasing research activities under Section 31 of the Internal Revenue Code except that, for the alternative incremental credit, such amounts are for research conducted within Iowa. For purposes of this subrule, “Internal Revenue Code” means the same as defined in Iowa Code section 15.335.

f. Refunds. Any credit in excess of the tax liability for the taxable year shall be refunded with interest computed under Iowa Code section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on its final, completed return credited to the tax liability for the following year.

g. Renewable energy generation components. For purposes of this subrule, “research activities” includes the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa. A renewable energy generation component will no longer be considered innovative when more than 200 megawatts of installed effective nameplate capacity has been achieved. Research activities credits awarded under this program and the enterprise zone program for innovative renewable energy generation components shall not exceed the amount specified in Iowa Code section 15.335.

68.4(7) Maximum tax incentives available. Tax incentives awarded under this program are based upon the number of jobs created or retained that pay the qualifying wage threshold for HQJP as established in 261—Chapter 174 and as defined in 261—Chapter 173 and the amount of qualifying investment. The maximum possible award is based on the following schedule:

a. No The business is required to maintain the base employment level, but no high quality jobs are created or retained but and economic activity is furthered by the qualifying investment. For purposes of this paragraph, “economic activity” means a modernization project which will result in increased skills and wages for the current employees of a project involving retained jobs.

(1) Less than $100,000 in qualifying investment.
   1. Investment tax credit or insurance premium tax credit of up to 1 percent.
   2. Reserved.
(2) $100,000 to $499,999 in qualifying investment.
   1. Investment tax credit or insurance premium tax credit of up to 1 percent.
   2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer tax credit, or both, if applicable.
(3) $500,000 or more in qualifying investment.
   1. Investment tax credit or insurance premium tax credit of up to 1 percent.
   2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer tax credit, or both, if applicable.

b. 1 to 5 high quality jobs are created or retained.

(1) Less than $100,000 in qualifying investment.
   1. Investment tax credit or insurance premium tax credit of up to 2 percent.
   2. Reserved.
(2) $100,000 to $499,999 in qualifying investment.
   1. Investment tax credit or insurance premium tax credit of up to 2 percent.
   2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer tax credit, or both, if applicable.
(3) $500,000 or more in qualifying investment.
   1. Investment tax credit or insurance premium tax credit of up to 2 percent.
2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer tax credit, or both, if applicable.
3. Research activities credit.
   c. 6 to 10 high quality jobs are created or retained.
      (1) Less than $100,000 in qualifying investment.
         1. Investment tax credit or insurance premium tax credit of up to 3 percent.
         2. Reserved.
      (2) $100,000 to $499,999 in qualifying investment.
         1. Investment tax credit or insurance premium tax credit of up to 3 percent.
         2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer tax credit, or both, if applicable.
   (3) $500,000 or more in qualifying investment.
      1. Investment tax credit or insurance premium tax credit of up to 3 percent.
      2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer tax credit, or both, if applicable.
3. Research activities credit.
   d. 11 to 15 high quality jobs are created or retained.
      (1) Less than $100,000 in qualifying investment.
         1. Investment tax credit or insurance premium tax credit of up to 4 percent.
         2. Reserved.
      (2) $100,000 to $499,999 in qualifying investment.
         1. Investment tax credit or insurance premium tax credit of up to 4 percent.
         2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer tax credit, or both, if applicable.
   (3) $500,000 or more in qualifying investment.
      1. Investment tax credit or insurance premium tax credit of up to 4 percent.
      2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer tax credit, or both, if applicable.
3. Research activities credit.
   e. 16 to 30 high quality jobs are created or retained.
      (1) Less than $100,000 in qualifying investment.
         1. Investment tax credit or insurance premium tax credit of up to 5 percent.
         2. Reserved.
      (2) $100,000 to $499,999 in qualifying investment.
         1. Investment tax credit or insurance premium tax credit of up to 5 percent.
         2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer tax credit, or both, if applicable.
   (3) $500,000 or more in qualifying investment.
      1. Investment tax credit or insurance premium tax credit of up to 4 percent.
      2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer tax credit, or both, if applicable.
3. Research activities credit.
   f. 31 to 40 high quality jobs are created or retained.
      (1) $10 million or more in qualifying investment.
         1. Investment tax credit or insurance premium tax credit of up to 6 percent.
         2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer tax credit, or both, if applicable.
   3. Research activities credit.
   4. Value-added property tax exemption.
   2. Reserved.
   g. 41 to 60 high quality jobs are created or retained.
      (1) $10 million or more in qualifying investment.
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1. Investment tax credit or insurance premium tax credit of up to 7 percent.
2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party
developer tax credit, or both, if applicable.
3. Research activities credit.
4. Value-added property tax exemption.
   (2) Reserved.
   h. 61 to 80 high quality jobs are created or retained.
   (1) $10 million or more in qualifying investment.
   1. Investment tax credit or insurance premium tax credit of up to 8 percent.
   2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party
developer tax credit, or both, if applicable.
   3. Research activities credit.
   4. Value-added property tax exemption.
   (2) Reserved.
   i. 81 to 100 high quality jobs are created or retained.
   (1) $10 million or more in qualifying investment.
   1. Investment tax credit or insurance premium tax credit of up to 9 percent.
   2. Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party
developer tax credit, or both, if applicable.
   3. Research activities credit.
   4. Value-added property tax exemption.
   (2) Reserved.

ITEM 5. Rescind subrule 68.5(1).

ITEM 6. Renumber subrules 68.5(2) and 68.5(3) as 68.5(1) and 68.5(2).

ITEM 7. Amend subrule 173.1(1) as follows:

173.1(1) Current programs. Effective July 1, 2014, this chapter shall apply to the following
programs and funding sources as follows:
   b. a. EZ (enterprise zone) program (261—Chapter 59). Effective as of July 1, 2014, the EZ
program was repealed. See 2014 Iowa Acts, House File 2448. The rules adopted in 261—Chapter
59 continue to apply to agreements entered into prior to that date. All amendments to this chapter
made on or after July 1, 2014, shall not apply to agreements entered into under the EZ program prior to
that date.
   c. b. HQJP (high quality jobs program) (261—Chapter 68). This chapter does not apply to the
HQJP. Terms applicable to the HQJP are incorporated into 261—Chapter 68. Chapters referencing this
subrule in 261—Part VII, additional application requirements and procedures, and 261—Part VIII, legal
and compliance, apply to the HQJP as described in 261—subrule 68.1(1).

ITEM 8. Amend subrule 174.2(1) as follows:

174.2(1) Annual updates. The authority will update the qualifying wage thresholds described in this
chapter annually each fiscal year. The thresholds will take effect on July September 1 of each fiscal year
and remain in effect until the end August 31 of the following fiscal year.
ITEM 9. Amend paragraph 187.5(4)"e" as follows:

   e. Extensions. If an eligible business or eligible housing business fails to meet its requirements under the Act, these rules, or the agreement described in rule 261—187.2(15), the authority, in consultation with the city or county, may elect to grant the business a one-year extension period to meet the requirements. Additional extensions may be granted at the board’s discretion.

ITEM 10. Amend rule 261—188.2(15) as follows:

261—188.2(15) Contract compliance. The authority shall provide oversight and contract administration to ensure that funded projects are meeting contract requirements. On-site monitoring will be conducted at the project completion date and On-site or remote monitoring will be conducted at the end of the maintenance period.

ITEM 11. Amend rule 261—188.4(15) as follows:

261—188.4(15) Business’s employment base. “Business’s employment base” means the number of jobs that the business and the authority have established as the job base for a project based on payroll information provided by the business. The number of jobs the business has pledged to create and retain shall be in addition to the business’s employment base.

   188.4(1) The business’s employment base shall be project specific. In most situations, this will include the number of full-time employees working at the facility receiving funding employed at the project location. It may include the business’s full-time employees as identified by the authority who are employed in this state but are not employed at the project location.

   188.4(2) and 188.4(3) No change.

   188.4(4) The business’s employment base is calculated as part of the application process and is determined before an award is made. The following data points will be verified regarding a business’s employment base:

a. The total number of FTEs at the funded facility or at locations identified by the authority as indicated in subrule 188.4(1) (the business’s employment base).

b. The average wage of all FTEs.

c. The qualifying wage used in the award.

d. The benefit value used in the award.

e. The total number of FTEs at the funded facility that are currently at or above the qualifying wage.

f. The average wage of the FTEs identified in paragraph “e.”

g. The total number of FTEs at the funded facility or at locations identified by the authority as indicated in subrule 188.4(1) that are currently at or above the qualifying wage after the benefit value has been added.

h. The average wage of the FTEs identified in paragraph “g.”

   188.4(5) Business’s employment base verification. Payroll documents must be collected to calculate and verify the business’s employment base used in each award. The payroll document must include an ID (name, or employer ID number, or social security number) and the hourly rate of pay for all FTEs. If the FTEs at the facility do not typically work 40 hours/week, documentation must be collected from the business outlining what the business considers a full-time workweek and how the business’s interpretation fits within the norms of its industry standards. This interpretation may or may not be accepted by the authority.

ITEM 12. Amend rule 261—188.5(15), introductory paragraph, as follows:

261—188.5(15) Job counting using base employment analysis. The authority will count jobs to be created or retained as part of a funded project using a base employment analysis. At the time of application, a baseline employment number the business’s employment base will be established using payroll records pursuant to subrule 188.4(4). The baseline data will include details about authority will determine how many jobs at the project location already meet the qualifying wage thresholds (with
and without the value of benefits added to the hourly wage). Changes in these baseline employment numbers as compared to the business’s employment base will be collected and analyzed by the authority as part of the annual reporting process.

**ITEM 13.** Amend subrule 188.5(1) as follows:

**188.5(1)** A base employment analysis will be performed at the following stages of an award:

- a. At the time of application, before the award is made.
- b. Annually during the reporting cycle.
- c. At the project completion date.
- d. At the end of the maintenance period completion date.

**ITEM 14.** Amend subrule 188.5(2) as follows:

**188.5(2)** Payroll documents or lists run from payroll systems will be used to calculate and verify the base employment analysis. If a list run from a payroll system is used, the person who submits the documents must, under penalty of perjury, sign the list to verify that it is true and correct. The following items will be calculated and verified as part of the annual status report:

- a. The total number of FTEs at the funded facility or at other Iowa locations as identified at the time of application as of the date of the report.
- b. The average wage of all FTEs.
- c. The qualifying wage used in the award.
- d. The benefit value used in the award.
- e. The total number of FTEs at the funded facility or at other Iowa locations as identified at the time of application that are currently at or above the qualifying wage.
- f. The average wage of the FTEs identified in paragraph “e.”
- g. The total number of FTEs at the funded facility that are currently at or above the qualifying wage after the benefit value has been added.
- h. The average wage of the FTEs identified in paragraph “g.”

**ITEM 15.** Rescind subrule 188.5(3) and adopt the following new subrule in lieu thereof:

**188.5(3)** Following is an example of the format that the authority will use for job counting and tracking using the base employment method.

<table>
<thead>
<tr>
<th>JOB OBLIGATIONS</th>
<th>Employment Base</th>
<th>Jobs to Be Created</th>
<th>Total Job Obligations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Completion Date:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Project Maintenance Date:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total employment at project location</td>
<td>1</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>Average wage of total employment at project location</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Qualifying wage (per hr)</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of jobs at or above qualifying wage</td>
<td>4</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>Average wage of jobs at or above qualifying wage</td>
<td>5</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ITEM 16. Rescind subrule 188.5(4).

[Filed 1/21/22, effective 3/16/22]

[Published 2/9/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

**ARC 6189C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

Adopted and Filed

Rule making related to tax credits


*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 15.106A and 15.119.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 15.119.

*Purpose and Summary*

2021 Iowa Acts, Senate File 619, amended Iowa Code section 15.119 relating to the tax credit allocations for certain economic development programs. The following programs were affected: the High Quality Jobs Program, the Renewable Chemical Production Tax Credit Program, the Redevelopment Tax Credit Program for Brownfields and Grayfields, and the Workforce Housing Tax Incentives Program. The amendments in this rule making strike references to specific programs and amounts of allocations. The amendments also eliminate current inconsistencies with the Iowa Code as well as avoid inconsistencies resulting from any future changes to the allocations.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as **ARC 6047C**. No public comments were received. No changes from the Notice have been made.
Adoption of Rule Making

This rule making was adopted by the Authority Board on January 21, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

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 IEDA 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 March 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 76.4(3) as follows:

76.4(3) Reallocation of declinations. Any amount of tax credits authorized and awarded during a fiscal year for a program specified in rule 261—76.5(15) Iowa Code section 15.119(2) which is irrevocably declined by the awarded business on or before June 30 of the next fiscal year may be reallocated, authorized, and awarded during the fiscal year in which the declination occurs. Tax credits authorized pursuant to this subrule will not be considered for purposes of subrule 76.4(2).

ITEM 2. Rescind rule 261—76.5(15).

ITEM 3. Renumber rule 261—76.6(15) as 261—76.5(15).

ITEM 4. Amend renumbered rule 261—76.5(15) as follows:

261—76.5(15) Allocating the tax credit cap.

76.5(1) Procedure for allocations. At a scheduled meeting of the board prior to the start of a fiscal year, the board will allocate a portion of the tax credits available under the cap to the applicable programs listed in rule 261—76.5(15). The board is not required to allocate a portion of the cap to every program listed. The board may allocate a portion of the cap to be shared by programs with a common purpose. For example, the business awards made under the enterprise zone program and high quality jobs program may be allocated one amount to jointly serve both programs. Throughout the fiscal year, the board may review the allocation as necessary, but shall review the allocation at least one time during the fiscal year. Based on its review, the board may make adjustments to the allocation as deemed necessary.

76.5(2) Required suballocations. Iowa Code section 15.119 requires the authority to make certain suballocations to the programs subject to the cap. In some cases, there is a minimum required suballocation and in others a maximum suballocation. The authority will make the required
suballocations and count them against the maximum aggregate cap before making any discretionary allocations.

**76.5(3) Allocation to programs subject to the cap.** For the fiscal year beginning July 1, 2013, and for all subsequent fiscal years in which the required suballocations are not changed, the authority will allocate the maximum aggregate tax credit cap as follows:

a. $2 million to the credits for investments in qualifying businesses and community-based seed capital funds, unless the authority determines that the program demand is less than that amount.

b. $8 million to the tax credits for investments in certified innovation funds, unless the authority determines that the program demand is less than that amount.

c. $10 million to the redevelopment tax credit program for brownfields and grayfields, unless the authority determines that the program demand is less than that amount.

d. To the assistive device tax credit program, an amount necessary to meet the demand for that year.

e. To any other programs that may be made subject to the cap but which are not listed in this subrule, any amount that may be required by law or such amount as the board determines prudent given the amount of tax credits available.

f. To the high quality jobs program and the enterprise zone program, an amount equal to the amount necessary to meet the demand for that year, provided that such amount will not exceed the remainder of the maximum aggregate tax credit limit for that year.

**ITEM 5.** Renumber rule 261—76.8(15) as 261—76.6(15).

[Filed 1/21/22, effective 3/16/22]
[Published 2/9/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

**ARC 6190C**

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Adopted and Filed

**Rule making related to separation distance rules**


**Legal Authority for Rule Making**

This rule making is adopted under the authority provided in Iowa Code section 455B.173.

**State or Federal Law Implemented**

This rule making implements, in whole or in part, Iowa Code sections 455B.173, 455B.174 and 455B.183.

**Purpose and Summary**

Collectively, Chapters 9, 40, 43, and 49 regulate certain aspects of both public and private water supply systems. This rule making includes three broad amendments: two substantive changes aimed at easing regulatory burdens and one editorial change to reflect recently amended state law.

First, the amendment to Chapter 9 aligns the rules with 2020 Iowa Acts, House File 2475. This legislation amended Iowa Code section 455B.183(2) to allow local public works departments to retain a
professional engineer in lieu of directly employing an engineer. The Department of Natural Resources (Department) has been enforcing the law since its passage.

Second, amendments to Chapter 43 ease certain aspects of the water main separation requirements. Under the previous rules, the Department had to issue many design- or construction-based variances in order to proceed with permitting; this was burdensome for permittees, consulting engineers, and staff. The amendments incorporate siting and construction alternatives developed from the variances directly into the rules. In more detail, the amendments:

- Separate definitions of the crossing requirements for sanitary sewers and storm sewers.
- Add an option for installation of casing pipe around water mains when there is a crossing conflict involving both sanitary and storm sewers (in lieu of replacing sewers with water main material).
- Add options for horizontal separation and crossing conflicts with storm sewers, including:
  - Constructing water mains of ductile iron piping (DIP) with gaskets impermeable to hydrocarbons.
  - Constructing storm sewers of reinforced concrete piping (RCP) with gaskets impermeable to hydrocarbons.

These changes are similarly protective of the environment while easing regulatory burdens on permittees and consulting engineers.

Third, the amendments to Chapters 40, 43, and 49 add clarity to well separation distances from sources of contamination. Previously, well separation distances varied slightly between programs, as did the naming conventions. Under the final rule amendments, sources of contamination will now be consistently named and the distances will be more uniform. In more detail, the amendments:

- Add a transmission pipeline setback because two other states that border Iowa currently apply this category and because the Department does not have a setback that addresses this scenario. These distances are in line with or are in between the distances set by the two surrounding states with similar regulations.
- Change the term “sanitary landfills” to “solid waste landfills and disposal sites” to match Table A in subrule 43.3(7).
- Change the distance for the preparation or storage area for chemicals to accord with Chapter 44 of the Department of Agriculture and Land Stewardship rules (rule 21—44.53(200)).
- Change the terms “conforming wells” and “nonconforming wells” to “existing wells that conform to this chapter” and “existing wells that do not conform to this chapter,” respectively, to eliminate confusion.
- Change the term “ditches, streams, ponds, or lakes” to “flowing streams or other surface water bodies.” This clarifies that this term applies to water bodies and will match Table A in subrule 43.3(7).
- Add a separate category for liquid propane gas (LPG) storage tanks and assign a setback similar to that for all of the surrounding states. Previously, Iowa used a setback of 100 feet for both liquid propane (LP) and other liquid fuel storage tanks. Other surrounding states have adopted a lesser setback because an LPG spill is not like other gas spills, since propane is volatile.
- Change the language regarding open and closed portions of private sewage disposal systems to match the amendments proposed for Table A in subrule 43.3(7).
- Add the word “yard” in front of “hydrants” because this separation distance applies specifically to private wells near yard hydrants.
- Remove the word “ditches” from the term “ditches, streams, ponds, or lakes” and add a separate setback for roadside ditches and rights-of-way that is similar to that for several surrounding states. This will help reduce confusion with the current setback that includes ditches along with streams, ponds, and lakes.
- Add three new footnotes to Table 49.6(1) in subrule 49.6(1) to clarify the new and changed terms.
Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as ARC 6037C. A virtual public hearing was held on December 9, 2021, at 1 p.m. via video/conference call. 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 Commission on January 19, 2022.

Fiscal Impact

This rule making has no negative fiscal impact to the State of Iowa. 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, pursuant to 561—Chapter 10.

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 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 9.4(3) as follows:

9.4(3) The reviewing engineer shall be licensed as a professional engineer in Iowa and shall be employed or retained by the local public works department.

ITEM 2. Amend rule 567—40.2(455B), definition of “Septic tank,” as follows:

“Septic tank” means a watertight tank which receives sewage structure into which wastewater is discharged for solids separation and digestion.

ITEM 3. Recind subparagraph 43.3(2)“a”(3) and adopt the following new subparagraph in lieu thereof:

(3) Separation of water mains from sanitary and combined sewers.

1. Horizontal separation of water mains from gravity sanitary and combined sewers. Water mains shall be separated from gravity sanitary and combined sewer mains by a horizontal distance of at least ten feet measured edge to edge unless the bottom of the water main is at least 18 inches above the top of the sewer, and either:

- The water main is placed in a separate trench, or
- The water main is located on a bench of undisturbed earth at a minimum horizontal separation of three feet from the sewer.
If it is not possible to obtain a horizontal separation of three feet and a vertical separation of 18 inches between the bottom of the water main and the top of the sewer, a linear separation of at least two feet shall be provided, and one of the following shall be utilized:

- The water main shall be enclosed in watertight casing pipe with an evenly spaced annular gap and watertight end seals, or
- The sewer shall be constructed of water main materials.

The separation distance between the water main and the sewer shall be the maximum feasible in all cases.

2. **Horizontal separation of water mains from sanitary sewer force mains.** Water mains shall be separated from sanitary sewer force mains by a horizontal distance of at least ten feet measured edge to edge unless the sanitary sewer force main is constructed of water main materials and the water main is laid at least four feet horizontally from the sanitary sewer force main. The separation distance between the water main and the sanitary sewer force main shall be the maximum feasible in all cases.

3. **Vertical separation of water mains from sanitary and combined sewer crossovers.** Vertical separation of water mains crossing over any sanitary or combined sewers shall be at least 18 inches when measured from the bottom of the water main to the top of the sewer. If it is not possible to maintain the required vertical separation, one of the following shall be utilized:

- The bottom of the water main shall not be placed closer than six inches above the top of a sewer, or
- The top of the water main shall not be placed closer than 18 inches below the bottom of a sewer.

When a water main crosses below or less than 18 inches above a sanitary or combined sewer, one of the following shall be utilized within ten feet measured edge to edge horizontally, centered on the crossing:

- The water main shall be enclosed in watertight casing pipe with an evenly spaced annular gap and watertight ends, or
- Sewer pipe of water main material shall be installed.

The separation distance shall be the maximum feasible in all cases. Wherever a water main crosses a sanitary or combined sewer, the water main and sanitary or combined sewer pipes must be adequately supported. A low permeability soil shall be used for backfill material within ten feet of the point of crossing along the water main.

4. **Horizontal separation of water mains from sanitary and combined sewer manholes.** No water pipe shall pass through or come in contact with any part of a sanitary or combined sewer manhole. A minimum horizontal separation of three feet shall be maintained.

**ITEM 4.** Adopt the following new subparagraph 43.3(2)“a”(4) as follows:

(4) **Separation of water mains from storm sewers.**

1. **Horizontal separation of water mains from gravity storm sewers.** Water mains shall be separated horizontally from gravity storm sewers by at least ten feet measured edge to edge. If it is not possible to maintain the required horizontal separation of ten feet, a minimum of three feet of separation shall be maintained and one of the following shall be utilized within ten feet measured edge to edge:

   - The water main shall be constructed of ductile iron pipe with gaskets impermeable to hydrocarbons, or
   - The water main shall be enclosed in watertight casing pipe with an evenly spaced annular gap and watertight end seals, or
   - Storm sewer pipe of water main material shall be installed, or
   - Reinforced concrete pipe storm sewers shall be constructed with gaskets manufactured in accordance with ASTM C443.

2. **Vertical separation of water mains from storm sewer crossovers.** Water mains shall be vertically separated from storm sewers by at least 18 inches between the outside edges of the water main and the storm sewer. The separation distance shall be the maximum feasible in all cases. In all cases where a water main crosses a storm sewer, the water main and storm sewer pipes must be adequately supported. A low permeability soil shall be used for backfill material within ten feet of the point of crossing along
the water main. If it is not possible to obtain 18 inches of vertical separation where the water main crosses above a storm sewer, a minimum of 6 inches vertical separation shall be maintained and one of the following shall be utilized within ten feet measured edge to edge horizontally, centered on the crossing:

- The water main shall be constructed of ductile iron pipe with gaskets impermeable to hydrocarbons, or
- The water main shall be enclosed in watertight casing pipe with an evenly spaced annular gap and watertight end seals, or
- Storm sewer pipe of water main material shall be installed, or
- Reinforced concrete pipe storm sewers shall be constructed with gaskets manufactured in accordance with ASTM C443.

ITEM 5. Amend subparagraph 43.3(7)“c”(3) as follows:

(3) Surface water sources. Water samples collected from surface water sources in accordance with 43.3(7)“c”(1) should be collected prior to the design of the surface water treatment facility and shall be conducted and analyzed prior to utilization of the source. The samples shall be collected during June, July, and August. In addition, quarterly monitoring shall be conducted in March, June, September, and December at a location representative of the raw water at its point of withdrawal. Monitoring shall be for turbidity, alkalinity, pH, calcium, chloride, color, copper, hardness, iron, magnesium, manganese, potassium, silica, specific conductance, sodium, sulfate, filterable and nonfilterable solids, carbonate, bicarbonate, algae (qualitative and quantitative), total organic carbon, five-day biochemical oxygen demand, dissolved oxygen, surfactants, nitrogen series (organic, ammonia, nitrite, and nitrate), and phosphate.

### TABLE A: SEPARATION DISTANCES

<table>
<thead>
<tr>
<th>SOURCE OF CONTAMINATION</th>
<th>REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Deep Well1</td>
</tr>
<tr>
<td>WASTEWATER STRUCTURES:</td>
<td></td>
</tr>
<tr>
<td>Point of Discharge to Ground Surface</td>
<td></td>
</tr>
<tr>
<td>Sanitary &amp; industrial discharges</td>
<td>400</td>
</tr>
<tr>
<td>Water treatment plant wastes</td>
<td>50</td>
</tr>
<tr>
<td>Well house floor drains</td>
<td>5</td>
</tr>
<tr>
<td>Sewers &amp; Drains</td>
<td></td>
</tr>
<tr>
<td>Sanitary &amp; storm sewers, drains</td>
<td>0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe</td>
</tr>
<tr>
<td>Sewer force mains</td>
<td>0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1000 feet if sanitary sewer pipe</td>
</tr>
<tr>
<td>Water plant treatment process wastes that are treated onsite</td>
<td>0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe</td>
</tr>
<tr>
<td>Water plant wastes to sanitary sewer</td>
<td>0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe</td>
</tr>
<tr>
<td>Well house floor drains to sewers</td>
<td>0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe</td>
</tr>
<tr>
<td>SOURCE OF CONTAMINATION</td>
<td>REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>Deep Well(^1)</td>
</tr>
<tr>
<td>Well house floor drains to surface</td>
<td>0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe</td>
</tr>
<tr>
<td>Land Disposal of Treated Wastes</td>
<td></td>
</tr>
<tr>
<td>Irrigation of wastewater</td>
<td>200</td>
</tr>
<tr>
<td>Land application of solid wastes(^3)</td>
<td>200</td>
</tr>
<tr>
<td>Other</td>
<td></td>
</tr>
<tr>
<td>Cesspools &amp; earth pit privies</td>
<td>200</td>
</tr>
<tr>
<td>Land disposal systems and onsite treatment systems – open portion of treatment system(^4)</td>
<td>100</td>
</tr>
<tr>
<td>Concrete vaults &amp; septic tanks</td>
<td></td>
</tr>
<tr>
<td>Land disposal systems and onsite treatment systems – closed portion of treatment system(^4)</td>
<td>200</td>
</tr>
<tr>
<td>Lagoons</td>
<td>400</td>
</tr>
<tr>
<td>Mechanical wastewater treatment plants</td>
<td>200</td>
</tr>
<tr>
<td>Soil absorption fields</td>
<td>200</td>
</tr>
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<td>CHEMICALS:</td>
<td></td>
</tr>
<tr>
<td>Chemical application to ground surface</td>
<td>100</td>
</tr>
<tr>
<td>Chemical &amp; mineral storage above ground(^5,6)</td>
<td>100</td>
</tr>
<tr>
<td>Chemical &amp; mineral storage on or under ground</td>
<td>200</td>
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<tr>
<td>Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia)</td>
<td>200</td>
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<tr>
<td>ANIMALS:</td>
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<tr>
<td>Animal pasturage</td>
<td>50</td>
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<td>Animal enclosure</td>
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<td>Earthen silage storage trench or pit</td>
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<td>Animal Wastes</td>
<td></td>
</tr>
<tr>
<td>Land application of liquid or slurry</td>
<td>200</td>
</tr>
<tr>
<td>Land application of solids</td>
<td>200</td>
</tr>
<tr>
<td>Solids stockpile</td>
<td>200</td>
</tr>
<tr>
<td>Storage basin or lagoon</td>
<td>400</td>
</tr>
<tr>
<td>Storage tank</td>
<td>200</td>
</tr>
<tr>
<td>MISCELLANEOUS:</td>
<td></td>
</tr>
<tr>
<td>Basements, pits, sumps</td>
<td>10</td>
</tr>
<tr>
<td>Cemeteries</td>
<td>200</td>
</tr>
<tr>
<td>SOURCE OF CONTAMINATION</td>
<td>REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET</td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>-------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>Deep Well&lt;sup&gt;1&lt;/sup&gt;</td>
</tr>
<tr>
<td>Cisterns</td>
<td>50</td>
</tr>
<tr>
<td>Flowing streams or other surface water bodies</td>
<td>50</td>
</tr>
<tr>
<td>GHEX loop boreholes</td>
<td>200</td>
</tr>
<tr>
<td>Railroads</td>
<td>100</td>
</tr>
<tr>
<td>Private wells</td>
<td>200</td>
</tr>
<tr>
<td>Solid waste landfills and disposal sites&lt;sup&gt;1&lt;/sup&gt;</td>
<td>1000</td>
</tr>
</tbody>
</table>

<sup>1</sup>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.

<sup>2</sup>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.

<sup>3</sup>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.

<sup>4</sup>Private sewage disposal system is defined in 567—subrule 69.1(2). “Onsite treatment system” includes any wastewater treatment system not included in the definition of a private sewage disposal system that is utilizing onsite wastewater treatment technologies to treat domestic waste, such as those specified in 567—Chapter 69 (but excluding waste stabilization ponds). Open portions of treatment systems include subsurface absorption systems, mound systems, intermittent sand filters, constructed wetlands, open bottom media filters, and waste stabilization ponds. Closed portions of treatment systems include septic tanks, aerobic treatment units, fully contained media filters and impervious vault toilets. These separation distances also apply to septic systems that are not considered privately owned.

<sup>5</sup>The minimum separation distance for liquid fuel storage associated with standby power generators shall be 50 feet if secondary containment is provided. Secondary containment shall provide for a minimum of 110 percent of the liquid fuel storage capacity. Double-walled storage tanks shall not be considered as secondary containment. The separation distance for liquefied petroleum gas (LPG) storage shall be 15 feet.

<sup>6</sup>Electrical power transformers mounted on a single utility pole are exempt from the minimum separation distance requirements.

<sup>7</sup>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 6.** Amend subrule 49.6(1) as follows:

49.6(1) Minimum distances. The following minimum lateral distances from all private wells shall apply for the common structures or sources of contamination listed in the following table.
Table 49.6(1) Minimum Lateral Distances, Private Wells

<table>
<thead>
<tr>
<th>Sources</th>
<th>Structure or Source of Contamination</th>
<th>Minimum Lateral Distance (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Shallow Well³</td>
</tr>
<tr>
<td>Public water supply well</td>
<td></td>
<td>400</td>
</tr>
<tr>
<td>Formed manure storage structure, confinement building, feedlot solids settling facility, open feedlot</td>
<td></td>
<td>200</td>
</tr>
<tr>
<td>Public water supply well</td>
<td></td>
<td>400</td>
</tr>
<tr>
<td>Transmission pipelines (including, but not limited to, fertilizer, liquid petroleum, or anhydrous ammonia) if a more restrictive setback is not set by the pipeline owner</td>
<td></td>
<td>200</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sources</th>
<th>Structure or Source of Contamination</th>
<th>Minimum Lateral Distance (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Private Wells</td>
<td></td>
<td>1000</td>
</tr>
<tr>
<td>Earthen manure storage basin, runoff control basins and anaerobic lagoons (see subrule 49.6(2) below)</td>
<td></td>
<td>1000</td>
</tr>
<tr>
<td>Drainage wells</td>
<td></td>
<td>1000</td>
</tr>
<tr>
<td>Domestic wastewater lagoon</td>
<td></td>
<td>400</td>
</tr>
<tr>
<td>Sanitary landfills Solid waste landfills and disposal sites³</td>
<td></td>
<td>1000</td>
</tr>
<tr>
<td>Domestic wastewater lagoon</td>
<td></td>
<td>400</td>
</tr>
<tr>
<td>Preparation or storage area for spray materials, commercial fertilizers or chemicals that may result in groundwater contamination</td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>Drainage wells</td>
<td></td>
<td>1000</td>
</tr>
<tr>
<td>Conforming wells</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td>Nonconforming Existing wells that do not conform to this chapter</td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>Liquid hydrocarbon storage tanks, except for liquid propane gas (LPG)</td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>Soil absorption field, any sewage treatment system with an open discharge, pit privy or septic tank discharge line (not conforming to 567—Chapter 69) Private sewage disposal systems — open portion of treatment system³</td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>Septic tank, concrete vault privy, sewer of tightly joined tile or equivalent material, sewer-connected foundation drain, or sewers under pressure Private sewage disposal systems — closed portion of treatment system³</td>
<td></td>
<td>50</td>
</tr>
<tr>
<td>Flowing streams or other surface water bodies</td>
<td></td>
<td>25</td>
</tr>
<tr>
<td>LPG storage tanks</td>
<td></td>
<td>15</td>
</tr>
<tr>
<td>Roadside ditch and road rights-of-way</td>
<td></td>
<td>15</td>
</tr>
<tr>
<td>Existing wells that conform to this chapter</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td>Sewer of cast iron with leaded or mechanical joints, sewer of plastic pipe with glued or compression joints, independent clear water drains, cisterns, well pits, or pump house floor drains</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td>Hydrants Yard hydrants</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td>Property lines (unless a mutual easement is signed and recorded by both parties)</td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>Liquid hydrocarbon storage tanks</td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>Ditches, streams, ponds, or lakes</td>
<td></td>
<td>25</td>
</tr>
<tr>
<td>Frost pit</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td>Property lines (unless a mutual easement is signed and recorded by both parties)</td>
<td></td>
<td>4</td>
</tr>
</tbody>
</table>

¹“Deep well” and “shallow well” are defined in 567—49.2(455B).
ENVIRONMENTAL PROTECTION COMMISSION[567](cont’d)

7Solid 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.

3Private sewage disposal system is defined in 567—subrule 69.1(2). Open portions of treatment systems include subsurface absorption systems, mound systems, intermittent sand filters, constructed wetlands, open bottom media filters, and waste stabilization ponds. Closed portions of treatment systems include septic tanks, aerobic treatment units, fully contained media filters, and impervious vault toilets. These separation distances also apply to septic systems that are not considered privately owned.

[Filed 1/21/22, effective 3/16/22]
[Published 2/9/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

ARC 6191C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to cleanup of wastewater rules


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455B.173, 455B.197 and 455B.199B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.173, 455B.174, 455B.183, 455B.197, and 455B.199B and 40 CFR parts 122, 124, 127, 130, 136, 153, 300, 441, and 503.

Purpose and Summary

Chapters 60 through 64, collectively, regulate wastewater treatment and disposal. In brief, these amendments align the rules with both state and federal law, clarify regulatory requirements, correct wastewater terms, remove obsolete form references, and provide clarity regarding electronic form submittal.

In more detail, the amendments make the following changes:

Chapter 60, “Scope of Division—Definition—Forms—Rules of Practice”:

• Update definitions, remove obsolete forms, and add language to allow for the electronic submittal of forms.

Chapter 61, “Water Quality Standards”:

• Correct a mistake contained in the Adopted and Filed rule making, effective on November 11, 2020, published in the Iowa Administrative Bulletin as ARC 5226C on October 7, 2020. A portion of a footnote that was stricken in the Notice of Intended Action (ARC 5044C) was inadvertently left out of the Adopted and Filed rule.

Chapter 62, “Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions”:

• Update the date reference for the federal effluent and pretreatment standards in the Code of Federal Regulations (CFR) and add a reference to the new federal dental effluent limitation guidelines.
Chapter 63, “Monitoring, Analytical and Reporting Requirements”:

- Add references to federally approved analytical testing methods (40 CFR Part 136) and clarify requirements for testing methods, alternative test procedures, and method modifications;
- Update the date of adoption by reference of the Supporting Document for Permit Monitoring Frequency Determination to ensure that monitoring frequencies in permits are determined using the most recent water quality standards;
- Update the guidelines for whole effluent toxicity testing by removing outdated language and by referencing current test procedures;
- Add new language regarding electronic reporting and paper submittal of operation records for National Pollution Discharge Elimination System (NPDES) permittees, except for animal feeding operation permittees, to reflect the federal NPDES permit electronic reporting rule;
- Clarify land application monitoring requirements to ensure they are appropriate for each facility;
- Recind the table for preservation techniques, containers, and holding times and replace it with a reference to the federal rule’s current table; and
- Move the monitoring well sampling procedures from Table VI to a new subrule.

Chapter 64, “Wastewater Construction and Operation Permits”:

- Update the CFR citations;
- Simplify and clarify the general permit language regarding fees, suspension and revocation, and public notice to match the requirements in the reissued and new general permits;
- Allow land application operation permits to be effective for longer than five years;
- Update the public notice and public hearing language to comply with 40 CFR Section 124.10, remove obsolete requirements, and allow for electronic communication;
- Update the disadvantaged community eligibility requirements to be consistent with Iowa Code section 455B.199B;
- Adopt the fee language from Iowa Code section 455B.197; and
- Add new language regarding the nutrient reduction exchange to ensure that investments in nonpoint source best management practices qualify for future regulatory incentives.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as ARC 6041C. A virtual public hearing was held on December 8, 2021, at 2 p.m. via video/conference call. No one attended the public hearing.

One comment was received from ISG, Inc., concerning a typo. The typo was in Item 17, which adopts new rule 567—63.16(455). As a result of ISG, Inc.’s comment, the phrase “well hand casing” in subrule 63.16(4) was corrected in this adopted rule making to read “well head casing.”

Adoption of Rule Making

This rule making was adopted by the Commission on January 19, 2022.

Fiscal Impact

After analysis and review of this rule making, no fiscal impact to the State of Iowa is anticipated from this rule making. A copy of the fiscal impact statement is available from the Department of Natural Resources (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, pursuant to 561—Chapter 10.

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 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 567—60.2(455B), definitions of “Act,” “CFR,” “Continuing planning process (CPP),” “Private sewage disposal system,” “Regional administrator” and “Shallow well,” as follows:


“CFR” or “Code of Federal Regulations” means the federal administrative rules adopted by the United States in effect as of January 1, 2015 July 1, 2021. The amendment of the date contained in this definition shall constitute the amendment of all CFR references contained in 567—Chapters 60 to 69, Title IV, unless a date of adoption is set forth in a specific rule.

“Continuing planning process (CPP)” means the continuing planning process, including any revision thereto, required by Sections 208 and 303(e) of the Act (33 U.S.C. §§1288 and 1313(e)) for state water pollution control agencies. The continuing planning process is a time-phased process by which the department, working cooperatively with designated areawide planning agencies:

a. Develops a water quality management decision-making process involving elected officials of state and local units of government and representatives of state and local executive departments that conduct activities related to water quality management.

b. Establishes an intergovernmental process (such as coordinated and cooperative programs with the state conservation commission in aquatic life and recreation matters, and the soil conservation division, department of agriculture and land stewardship in nonpoint pollution control matters) which provides for water quality management decisions to be made on an areawide or local basis and for the incorporation of such decisions into a comprehensive and cohesive statewide program. Through this process, state regulatory programs and activities will be incorporated into the areawide water quality management decision process.

c. Develops a broad-based public participation (such as utilization of such mechanisms as basin advisory committees composed of local elected officials, representatives of areawide planning agencies, the public at large, and conservancy district committees) aimed at both informing and involving the public in the water quality management program.

d. Prepares and implements water quality management plans, which identify water quality goals and established state water quality standards, defines specific programs, priorities and targets for preventing and controlling water pollution in individual approved planning areas and establishes policies which guide decision making over at least a 20-year span of time (in increments of 5 years).

e. Based on the results of the statewide (state and areawide) planning process, develops the state strategy to be updated annually, which sets the state’s major objectives, approach, and priorities for preventing and controlling pollution over a five-year period.
f. Translates the state strategy into the annual state program plan (required under Section 106 of the federal Act), which establishes the program objectives, identifies the resources committed for the state program each year, and provides a mechanism for reporting progress toward achievement of program objectives.

g. Periodically reviews and revises water quality standards as required under Section 303(c) of the federal Act.

“Private sewage disposal system” means a system which provides for the treatment or disposal of domestic sewage from four or fewer dwelling units or the equivalent of less than 16 individuals on a continuing basis, including domestic waste, whether residential or nonresidential, but not including industrial waste of any flow rate except as provided for in 567—68.11(455B). This includes domestic waste, whether residential or nonresidential, but does not include industrial waste of any flow rate.

“Private sewage disposal system” includes, but is not limited to, septic tanks, holding tanks for waste, chemical toilets, impervious vault toilets and portable toilets.

“Regional administrator” means the regional administrator of the United States Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, Kansas 66103 11201 Renner Blvd., Lenexa, Kansas 66219, or the authorized representative of the regional administrator.

“Shallow well” means a well located and constructed in such manner that there is not a continuous 5-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point 25 feet below the normal ground surface (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.

ITEM 2. Adopt the following new definitions of “Individual non-storm water permit” and “Individual storm water permit” in rule 567—60.2(455B):

“Individual non-storm water permit” means a site-specific NPDES or operation permit that is not an individual storm water permit and that authorizes discharges of sewage, industrial waste, or other waste and allowable discharges of storm water associated with industrial activity, as specifically noted in the permit.

“Individual storm water permit” means an individual site-specific NPDES permit that authorizes discharges composed entirely of storm water associated with industrial activity or construction activity and other allowable non-storm water discharges as specifically noted in the permit.

ITEM 3. Amend rule 567—60.3(455B,17A), introductory paragraph, as follows:

567—60.3(455B,17A) Forms Wastewater forms. The following construction permit application forms and operation and NPDES permit forms provided by the department shall be used to apply for departmental approvals and permits and to report on activities related to the department’s wastewater programs of the department. Electronic forms may be accessed on the department’s website or obtained from the appropriate regional field office. Paper forms, when available, may be obtained from the department’s website or by contacting the appropriate regional field office. Properly completed application forms, reporting forms, and all attachments shall be submitted in accordance with the department instructions. Reporting forms shall be submitted to the appropriate field office.

ITEM 4. Rescind and reserve subrules 60.3(2) and 60.3(3).

ITEM 5. Amend paragraph 60.4(2)“a” as follows:

a. General. A person required to obtain or renew a wastewater operation permit or an Iowa NPDES permit pursuant to 567—Chapter 64, 567—Chapter 65, or 567—Chapter 69 must complete the appropriate application form as identified in subrule 60.3(2) 567—60.3(455B,17A).

(1) Complete applications. A permit application is complete and approvable when all necessary questions on the application forms have been completed and the application is signed pursuant to 567—subrule 64.3(8), and when all applicable portions of the application, including the application fee and required attachments, have been submitted. The director may require the submission of an antidegradation alternatives analysis or other additional information deemed necessary to evaluate the
application. The due date for a renewal application is 180 days prior to the expiration date of the current permit, as noted in 567—64.8(455B). For a POTW, permission to submit an application at a later date may be granted by the director. The due date for a new application is 180 days prior to the date the operation is scheduled to begin, unless a shorter period is approved by the director.

(2) and (3) No change.

ITEM 6. Amend paragraph 60.4(2)“(b),” introductory paragraph, as follows:

b. Amendments. A permittee seeking an amendment to its operation permit shall make a written request in the form of a detailed letter to the department which shall include the nature of and the reasons supporting the requested amendment. A variance waiver or amendment to the terms and conditions of a general permit shall not be granted. If a variance waiver or amendment to a general permit is desired, the applicant must apply for an individual permit following the procedures in 567—paragraph 64.3(4) “a.”

ITEM 7. Amend subparagraph 60.4(2)“(b)(3)” as follows:

(3) Monitoring requirements. An amendment request for a change in the minimum monitoring requirements in an existing permit is considered a variance waiver request. A request for a variance waiver shall include a letter and the completed Petition for Waiver or Variance form (542-1258). This form can be obtained from the NPDES section as noted in 60.3(455B) department’s website or by contacting the NPDES section. The requesting permittee must provide monitoring results which are frequent enough to reflect variations in actual wastewater characteristics over a period of time and are consistent in results from sample to sample. The department will evaluate the request based upon whether or not less frequent sample results accurately reflect actual wastewater characteristics and whether operational control can be maintained.

Upon receipt of a request, the department may grant, modify, or deny the request. If the request is denied, the department may notify the permittee of any violation of its permit and may proceed administratively on the violation or may request that the commission refer the matter to the attorney general for legal action.

ITEM 8. Amend subrule 61.3(3), TABLE 1, footnote (j), as follows:

(j) The acute and chronic criteria listed in main table are based on a hardness of 200 mg/l (as CaCO₃ (mg/l)). Numerical criteria (μg/l) for lead are a function of hardness (CaCO₃ (mg/l)) using the following equations:

<table>
<thead>
<tr>
<th>Category</th>
<th>Formula</th>
<th>Concentration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acute</td>
<td>[ (1.46203 \times \text{Hardness}) + 0.145712 ]</td>
<td>( \leq 273 \mu g/l ) (Hardness - 146)</td>
</tr>
<tr>
<td>Chronic</td>
<td>[ (1.46203 \times \text{Hardness}) + 0.145712 ]</td>
<td>( \leq 273 \mu g/l ) (Hardness - 4.505)</td>
</tr>
</tbody>
</table>

ITEM 9. Amend rule 567—62.4(455B), introductory paragraph, as follows:

567—62.4(455B) Federal effluent and pretreatment standards. The federal standards, 40 Code of Federal Regulations (CFR) CFR, revised as of January 1, 2015 2021, are applicable to the following categories:

ITEM 10. Adopt the following new subrule 62.4(41):

62.4(41) Dental office point source category. The following is adopted by reference: 40 CFR Part 441.

ITEM 11. Amend rule 567—63.1(455B) as follows:

567—63.1(455B) Guidelines establishing test procedures for the analysis of pollutants. Only the procedures prescribed in this chapter shall be used to perform the measurements indicated in an application for an operation permit submitted to the department, a report required to be submitted by the terms of an operation permit, and a certification issued by the department pursuant to Section 401 of the Act.

63.1(1) Identification of test procedures, application for alternative test procedures, and method modifications.

b. All parameters for which testing is required by a wastewater discharge permit, permit application, or administrative order, except operational performance testing, must be analyzed using one of the following:

(1) An approved methods method specified in 40 CFR Part Section 136.3 or, under certain circumstances, by other methods that may be more advantageous to use when such other methods have;

(2) An alternative method that has been previously approved by the director pursuant to 63.1(2), pursuant to 40 CFR Section 136.4 or 136.5; or

(3) A method identified by the department, when no approved method is specified for the parameter in 40 CFR Part 136.

Samples collected for operational testing pursuant to 63.3(4) need not be analyzed by approved analytical methods; however, commonly accepted test methods should be used.

c. Applications for alternative test procedures shall follow the requirements of 40 CFR Section 136.4 or 136.5.

d. Method modifications shall follow the requirements of 40 CFR Section 136.6.

63.1(2) Application for alternate test procedures.

a. Any person may apply to the EPA regional administrator through the director for approval of an alternate test procedure.

b. The application for an alternate test procedure may be made by letter and shall:

(1) Provide the name and address of the responsible person or firm holding or applying for the permit (if not the applicant) and the applicable ID number of the existing or pending permit and type of permit for which the alternate test procedure is requested and the discharge serial number, if any.

(2) Identify the pollutant or parameter for which approval of an alternate testing procedure is being requested.

(3) Provide justification for using testing procedures other than those specified in 40 CFR Part 136.3.

63.1(3) 63.1(2) Required containers, preservation techniques and holding times. All samples collected in accordance with self-monitoring requirements as defined in an operation permit shall comply with the container, preservation techniques, and holding time requirements as specified in Table IV, 40 CFR Section 136.3, Table II (Required Containers, Preservation Techniques, and Holding Times). Sample preservation should be performed immediately upon collection, if feasible.

63.1(4) 63.1(3) All laboratories conducting analyses required by this chapter must be certified in accordance with 567—Chapter 83. Routine on-site monitoring for pH, temperature, dissolved oxygen, total residual chlorine, other pollutants that must be analyzed immediately upon sample collection, settleable solids, physical measurements such as flow and cell depth, and operational monitoring tests specified in 63.3(4) are excluded from this requirement. All instrumentation used for conducting any analyses required by this chapter must be properly calibrated according to the manufacturer’s instructions.

ITEM 12. Amend rule 567—63.3(455B) as follows:

567—63.3(455B) Minimum self-monitoring requirements in permits.

63.3(1) Monitoring by organic waste dischargers. The minimum self-monitoring requirements to be incorporated in operation permits for facilities discharging organic wastes shall be the appropriate requirements in Tables I, II, and III and II. Additional monitoring may be specified in the operation permit based on a case-by-case evaluation of the impact of the discharge on the receiving stream, toxic or deleterious effects of wastewaters, industrial contribution to the system, complexity of the treatment process, history of noncompliance or any other factor which requires strict operational control to meet the effluent limitations of the permit, as described in the Supporting Document for Permit Monitoring Frequency Determination, August 2008 March 2022, located on the NPDES Web site department’s website.
63.3(2) Monitoring by inorganic waste dischargers. The self-monitoring requirements to be incorporated in the operation permit for facilities discharging inorganic wastes shall be determined on a case-by-case evaluation of the impact of the discharge on the receiving stream, toxic or deleterious effects of wastewaters, complexity of the treatment process, history of noncompliance or any other factor which requires strict control to meet the effluent limitations of the permit, as described in the Supporting Document for Permit Monitoring Frequency Determination, August 2008 March 2022, located on the NPDES Web site department’s website.

63.3(3) Monitoring of significant industrial users of publicly owned treatment works. Monitoring for significant industrial users as defined in 567—60.2(455B) shall be determined as described in the Supporting Document for Permit Monitoring Frequency Determination, August 2008 March 2022, located on the NPDES Web site department’s website. Results of such monitoring shall be submitted to the department in accordance with the reporting requirements in the operation permit. The monitoring program of a publicly owned treatment works with a pretreatment program approved by the department may be used in lieu of the supporting document.

63.3(4) No change.

63.3(5) Modification of minimum monitoring requirements. Monitoring requirements may be modified or reduced at the discretion of the director when requested by the permittee. Adequate justification must be presented by the permittee that the reduced or modified requirements will accurately reflect actual wastewater characteristics and will not adversely impact the operation of the facility. Requests for modification or reduction of monitoring requirements in an existing permit are considered variance waiver requests and must follow the procedures in 567—paragraph 60.4(2)“b.” All reductions or modifications of monitoring incorporated into an operation or NPDES permit by amendment or upon reissuance of the permit are only effective until the expiration date of that permit.

63.3(6) Impairment monitoring. If a wastewater treatment facility is located in the watershed of an impaired water body that is listed on Iowa’s most recent Section 303(d) list (as described in 40 CFR Section 130.7), additional monitoring for parameters that are contributing to the impairment may be included in the operation or NPDES permit on a case-by-case basis.

ITEM 13. Amend paragraphs 63.4(2)“a” and “b” as follows:

a. The effluent Effluent toxicity tests shall be performed using a 24-hour composite sample of the effluent collected at the location stated in the operation permit. All composite samples shall be delivered to the testing laboratory within a reasonable time (approximately 24 hours) after collection, and all tests must commence within 36 hours following sample collection. The results of all effluent toxicity tests conducted using approved procedures, including any tests performed at a greater frequency than required in the operation permit, shall be submitted to the department, on Form 542-1381 provided by the department, within 30 days of completing the test.

b. All effluent toxicity tests shall be conducted using the test methodologies methods referenced in 40 CFR Part 136 and protocols described in “Standard Operating Procedure: Effluent Toxicity Testing, Iowa Department of Natural Resources,” March 1991. This procedure is adopted as part of this subrule and is filed as part of this subrule with the administrative rules coordinator. This procedure is an essential part of the testing procedures and is available upon request to the department although not printed in this subrule. Laboratories performing the effluent toxicity tests shall also have a quality assurance plan, in the EPA document EPA-821-R-02-012, Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, 5th edition, October 2002. All effluent toxicity tests shall be conducted by a laboratory certified in Iowa.

ITEM 14. Amend rule 567—63.7(455B) as follows:

567—63.7(455B) Submission of records of operation.

63.7(1) Electronic reporting. Except as provided in this rule and subrules 63.3(4) and 63.5(1) 63.5(2), records of operation required by NPDES permits shall be submitted electronically to the appropriate regional field office of the department within 15 days following the close of the reporting period specified in 567—63.8(455B) and in accordance with monitoring requirements derived from this
chapter and incorporated in the operation NPDES permit. Records of operation required by operation permits shall be submitted to the department within 15 days following the close of the reporting period specified in 567—63.8(455B) and in accordance with monitoring requirements derived from this chapter and incorporated in the operation permit.

63.7(2) Temporary or permanent paper submittal of records of operation. Upon satisfaction of the following criteria and written approval from the department, temporary or permanent paper submittal of records of operation may be allowed in lieu of electronic reporting.

a. Written request for paper submittal.

(1) To obtain an approval for temporary or permanent paper submittal of records of operation, a permittee must submit a paper copy of a written request to the NPDES Section, Iowa Department of Natural Resources, 502 East Ninth Street, Des Moines, Iowa 50319. The written request for paper submittal must include the following:

1. Facility name;
2. Individual NPDES permit number or general permit authorization number;
3. Facility address;
4. Owner name and contact information;
5. Name and contact information of the person submitting records of operation (if different than the owner); and
6. Reason for the request, including a justification of why electronic submission is not feasible at this time.

(2) Requests for paper submittal that do not contain all of the above information will not be considered. Electronic (email) requests for paper submittal will not be considered.

b. Temporary paper submittal.

(1) The department will approve or deny a request for temporary paper submittal of records of operation within 60 days of receipt of the request. Paper submittal requests shall be approved or denied at the discretion of the director.

(2) All approvals for temporary paper submittal will expire five years from department approval. After an approval for temporary paper submittal expires, the permittee must submit all records of operation electronically, unless another approval is obtained.

(3) Approved temporary paper submittals are nontransferable.

c. Permanent paper submittal.

(1) The department will approve or deny a request for permanent paper submittal of records of operation within 60 days of receipt of the request. Permanent paper submittal approvals shall only be granted to facilities and entities owned or operated by members of religious communities that choose not to use certain modern technologies (e.g., computers, electricity). Permanent approvals for paper submittal shall not be granted to any other facilities or entities.

(2) Approved permanent paper submittals are nontransferable.

d. Paper copies of records of operation. All permittees who have received temporary or permanent paper submittal approvals must submit paper copies of all records of operation to the department within 15 days following the close of the reporting period specified in 567—63.8(455B) and in accordance with monitoring requirements derived from this chapter and incorporated in the NPDES permit.

63.7(3) Electronic reporting pursuant to NPDES general permits.

a. General Permits 1, 2, 3, 4, and 5. Both electronic and paper reporting options are available to permittees covered under General Permits 1, 2, 3, 4, and 5. Electronic reporting using the options available on the department’s website is strongly encouraged, but paper records of operation will be accepted. Paper submittal approval can be obtained by permittees covered under General Permits 1, 2, 3, 4, and 5 according to the procedures in 63.7(2).

b. Electronic reporting requirements for General Permits 8 and 9. Permittees covered under General Permits 8 and 9 are required to report electronically using the department’s online database, unless a paper submittal approval is obtained according to the procedures in 63.7(2).

63.7(4) Episodic paper submittal of records of operation. In accordance with the following requirements, episodic paper submittal of records of operation may be allowed in lieu of electronic
reporting. The department shall provide notice, individually or through means of mass communication, regarding when episodic paper submittal is allowed, the facilities and entities that qualify for episodic paper submittal, and the likely duration of episodic paper submittal. The department shall determine if and when episodic paper submittal is warranted.

   a. Episodic paper submittal is only allowed under the following circumstances:
      (1) Large scale emergencies involving catastrophic circumstances beyond the control of a permittee, such as forces of nature (e.g., hurricanes, floods, fires, earthquakes) or other national disasters.
      (2) Prolonged electronic reporting system outages (i.e., outages longer than 96 hours).
   b. Permittees are not required to request episodic paper submittal. If the department determines that episodic paper submittal is warranted, a permittee shall submit paper copies of all records of operation to the department within 15 days following the close of the reporting period specified in 567—63.8(455B) and in accordance with monitoring requirements derived from this chapter and incorporated in the NPDES permit.
   c. Episodic paper submittal is not transferable and cannot last more than 60 days.

567—63.8(455B) Frequency of submitting records of operation. Except as provided in subrules 63.3(4) and 63.5(1) 63.5(2), or as specified in an NPDES general permit issued in accordance with 567—64.4(455B), records of operation required by these rules shall be submitted at monthly intervals. The department may vary the interval at which records of operation shall be submitted in certain cases. Variation from the monthly interval shall be made only under such conditions as the department may prescribe in writing to the person concerned.

567—63.10(455B) Records of operation forms. Records of operation forms shall be those provided by the department unless its forms are not applicable and in such case the records of operation shall be submitted on such other forms as are agreeable to the department a permittee has obtained approval from the department to use an alternative reporting form.

567—63.16(455B) Sampling procedures for monitoring wells. The following steps shall be taken prior to monitoring well sampling.

   63.16(1) Measure depth from top of well head casing to water table.
   63.16(2) Calculate quantity of water to be flushed from well using the formula:
   Gallons to be pumped = 0.221 d(squared)h, where:
   d = well diameter in inches
   h = depth in feet of standing water in well prior to pumping
   63.16(3) Pump well.
   63.16(4) Measure depth from well head casing to water table after pumping.
   63.16(5) Wait for well to recharge to or near static water level prior to sampling.
ITEM 18. Amend 567—Chapter 63, Table I, superscript 4, as follows:

4 - Sample types are defined as:

“Grab Sample” means a representative, discrete portion of sewage, industrial waste, other waste, surface water or groundwater taken without regard to flow rate.

“24-Hour Composite” means:

a. For facilities where no significant industrial waste is present, a sample made by collecting a minimum of six grab samples taken four hours apart and combined in proportion to the flow rate at the time each grab sample was collected. (Generally, grab samples should be collected at 8 a.m., 12 a.m., p.m. (noon), 4 p.m., 8 p.m., 12 a.m., a.m. (midnight), and 4 a.m. on weekdays (Monday through Friday) unless local conditions indicate another more appropriate time for sample collection.)

b. For facilities where significant industrial waste is present, a sample made by collecting a minimum of 12 grab samples taken two hours apart and combined in proportion to the flow rate at the time each grab sample was collected. (Generally, grab samples should be collected at 8 a.m., 10 a.m., 12 a.m., p.m. (noon), 2 p.m., 4 p.m., 6 p.m., 8 p.m., 10 p.m., 12 a.m., a.m. (midnight), 2 a.m., 4 a.m., and 6 a.m. on weekdays (Monday through Friday) unless local conditions indicate another more appropriate time for sample collection.)

ITEM 19. Amend 567—Chapter 63, Table II, superscript 9, as follows:

9 - Total nitrogen shall be determined by testing for Total Kjeldahl Nitrogen (TKN) and nitrate + nitrite nitrogen and reporting the sum of the TKN and nitrate + nitrite results (reported as N), (as N) is defined as Total Kjeldahl Nitrogen (as N) plus nitrate (as N) plus nitrite (as N). Nitrate + nitrite can be analyzed together or separately. Total phosphorus shall be reported as P. Analyses must be performed by a laboratory certified in Iowa.

ITEM 20. Rescind 567—Chapter 63, Table III and Table IV.

ITEM 21. Amend paragraphs 64.2(9)“c” to “e” as follows:

c. Variance Waivers from the design standards and siting criteria which provide in the judgment of the department for substantially equivalent or improved effectiveness may be requested when there are unique circumstances not found in most projects. The director may issue variance waivers when circumstances are appropriate. The denial of a variance waiver may be appealed to the commission.

d. When reviewing the variance waiver request the director may consider the unique circumstances of the project, direct or indirect environmental impacts, the durability and reliability of the alternative, and the purpose and intent of the rule or standard in question.

e. Circumstances that would warrant consideration of a variance waiver (which provides for substantially equivalent or improved effectiveness) may include the following:

(1) The utilization of new equipment or new process technology that is not explicitly covered by the current design standards.

(2) The application of established and acceptable technologies in an innovative manner not covered by current standards.

(3) It is reasonably clear that the conditions and circumstances which were considered in the adoption of the rule or standard are not applicable for the project in question and therefore the effective purpose of the rule will not be compromised if a variance waiver is granted.

ITEM 22. Amend paragraphs 64.3(1)“e” and “f” as follows:

e. Water well construction and well services related discharge that does not reach a water of the United States as defined in 40 CFR Part Section 122.2.

f. Discharges from the application of biological pesticides and chemical pesticides where the discharge does not reach a water of the United States as defined in 40 CFR Part Section 122.2.

ITEM 23. Amend subrule 64.3(4) as follows:

64.3(4) Applications.

a. Individual permit. Except as provided in 64.3(4)“b,” applications for operation permits required under 64.3(1) shall be made on forms provided by the department, as noted in 567—subrule
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60.3(2) 567—60.3(455B,17A). The application for an operation permit under 64.3(1) shall be filed pursuant to 567—subrule 60.4(2). Permit applications for a new discharge of storm water associated with construction activity as defined in 567—Chapter 60 under “storm water discharge associated with industrial activity” must be submitted at least 60 days before the date on which construction is to commence. Upon completion of a tentative determination with regard to the permit application as described in 64.5(1)“a,” the director shall issue operation permits for applications filed pursuant to 64.3(1) within 90 days of the receipt of a complete application unless the application is for an NPDES permit or unless a longer period of time is required and the applicant is so notified.

b. General permit. A Notice of Intent (NOI) for coverage under a general permit must be made on the appropriate form forms provided by the department listed in 567—subrule 60.3(2) as noted in 567—60.3(455B,17A) and in accordance with 567—64.6(455B). A Notice of Intent An NOI must be submitted to the department according to the following:

(1) to (8) No change.

ITEM 24. Amend subrule 64.3(7) as follows:

64.3(7) Operation NPDES permits may be granted for any period of time not to exceed five years. Applications All other operation permits may be granted for an appropriate period of time as determined by the director, based on the type of wastewater disposal system being permitted. An application for renewal of an NPDES or operation permit must be submitted to the department 180 days in advance of the date the permit expires. General permits will be issued for a period not to exceed five years. Each permit to be renewed shall be subject to the provisions of all rules of the department in effect at the time of the renewal.

ITEM 25. Amend subrule 64.3(11), introductory paragraph, as follows:

64.3(11) The director may amend, revoke and reissue, or terminate in whole or in part any individual operation permit or coverage under a general permit for cause. Except for general permits, the director may modify in whole or in part any individual operation permit for cause. A variance waiver or modification to the terms and conditions of a general permit shall not be granted. If a variance waiver or modification to a general permit is desired, the applicant must apply for an individual permit following the procedures in 64.3(4)“a.”

ITEM 26. Amend subparagraph 64.3(11)“b”(8) as follows:

(8) Causes listed in 40 CFR Sections 122.62 and 122.64.

ITEM 27. Amend paragraphs 64.4(1)“d” and “e” as follows:

d. Any discharge in compliance with the instruction of an On-Scene Coordinator pursuant to 40 CFR Part 300 (The National Oil and Hazardous Substances Pollution Contingency Plan) or 33 CFR Section 153.10(e) (Pollution by Oil and Hazardous Substances);

e. Any introduction of pollutants from non-point nonpoint source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands, except that this exclusion shall not apply to the following:

(1) Discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23;
(2) Discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24;
(3) Discharges to aquaculture projects as defined in 40 CFR Section 122.25;
(4) Discharges from silvicultural point sources as defined in 40 CFR Section 122.27;

ITEM 28. Amend paragraph 64.4(2)“a” as follows:
a. The director may issue general permits which are consistent with 64.4(2)“b” and the requirements specified in 567—64.6(455B), 567—64.7(455B), subrule 64.8(2), and 567—64.9(455B) for the following activities to regulate one or more categories or subcategories of discharges where the sources within a covered category of discharges are either storm water point sources, point sources other than storm water point sources, or treatment works treating domestic sewage, if the sources within each category or subcategory meet all of the following criteria:
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(1) Storm water point sources requiring an NPDES permit pursuant to Section 402(p) of the federal Clean Water Act and 40 CFR 122.26.
(2) Private sewage disposal system discharges permitted under 567—Chapter 69 where subsoil discharge is not possible as determined by the administrative authority.
(3) Discharges from water well construction and related well services where the discharge will reach a water of the United States as defined in 40 CFR Part 122.2.
(4) For any discharge, except a storm water only discharge, from a mining or processing facility.
(5) Discharges from the application of biological pesticides and chemical pesticides which leave a residue where the discharge will reach a water of the United States as defined in 40 CFR Part 122.2.
(6) Discharges from hydrostatic testing, tank ballasting and water lines.
(7) Discharges from dewatering and residential geothermal systems.
   (1) Involve the same or substantially similar types of operations;
   (2) Discharge the same types of wastes;
   (3) Require the same effluent limitations or operating conditions;
   (4) Require the same or similar monitoring; and
   (5) Are more appropriately controlled under a general permit than under individual permits.

ITEM 29. Amend subrule 64.5(2) as follows:

64.5(a) Public notice for individual NPDES permits.
   a. Prior to the issuance of an NPDES permit, a major NPDES permit amendment, or the denial of a permit application for an NPDES permit, public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the tentative determination to issue or deny an NPDES permit for the proposed discharge. Procedures for the circulation of public notice shall include at least the procedures of subparagraphs (1) to (4).
   (1) The public notice for a draft NPDES permit or major permit amendment shall be circulated by the applicant within the geographical areas of the proposed discharge by posting the public notice in public places of the city nearest the premises of the applicant in which the effluent source is located and by posting the public notice near the entrance to the applicant’s premises and in nearby places. shall be transmitted by the department to the following persons:
      1. The applicant;
      2. Any other federal or state agency which has issued or is required to issue an NPDES permit for the same facility or activity, including EPA;
      3. Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources, state historic preservation officers, and affected states (the term “state” includes Indian tribes treated as states);
      4. Any state agency responsible for the development of an areawide waste treatment management plan or a water quality standards and implementation plan under CWA Section 208(b)(2), 208(b)(4) or 303(e);
      5. The U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service;
      6. Any user identified in the permit application of a privately owned treatment works;
      7. Any unit of local government having jurisdiction over the area where the facility is located; and
      8. Each state agency having any authority under state law with respect to the construction or operation of such facility.
   (2) The public notice for the denial of a permit application shall be sent to the applicant and circulated by the department within the geographical areas of the proposed discharge by publishing the public notice in local newspapers and periodicals or, if appropriate, in a newspaper of general circulation.
   (3) Upon request, the department shall add the name of any person or group may request to the distribution list to receive copies of all public notices concerning the tentative determinations with respect to the permit applications within the state or within a certain geographical area and shall send. The department shall transmit a copy of all public notices to such persons or groups.
(4) The department shall periodically notify the public of the opportunity to receive notices. The director may update the notice distribution list from time to time by requesting written indication of continued interest from those listed. The director may delete from the list the name of any person or group who fails to respond to such a request.

b. In addition to the requirements in paragraph 64.5(2) “a,” prior to the issuance of a major NPDES permit or a major permit amendment to a major NPDES permit, the public notice shall be published by the applicant in local newspapers and periodicals or, if appropriate, in a newspaper of general circulation. Publication of a public notice is not required prior to the issuance of the following: The director may publish all notices of activities described in paragraph “a” of this subrule to the department’s website. If this option is selected for a draft permit, the director must post the draft permit and permit rationale on the website for the duration of the public comment period.

(1) A minor NPDES permit,
(2) A minor permit amendment, or
(3) A major permit amendment to a minor NPDES permit.

Major and minor NPDES permits and major and minor permit amendments are defined in 567—60.2(455B).

c. The department shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the permit application and request a public hearing pursuant to 64.5(6). Written comments may be submitted by paper or electronic means. All pertinent comments submitted during the 30-day comment period shall be retained by the department and considered by the director in the formulation of the director’s final determinations with respect to the permit application. The period for comment may be extended at the discretion of the department. Pertinent and significant comments received during either the original comment period or an extended comment period shall be responded to in a responsiveness summary pursuant to 64.5(8).

d. The contents of the public notice of a draft NPDES permit, a major permit amendment, or the denial of a permit application for an NPDES permit shall include at least the following:

(1) The name, address, and telephone number of the department.
(2) The name and address of each applicant.
(3) A brief description of each applicant’s activities or operations which result in the discharge described in the permit application (e.g., municipal waste treatment plant, corn wet milling plant, or meat packing plant).
(4) The name of the waterway to which each discharge of the applicant is made and a short description of the location of each discharge of the applicant on the waterway indicating whether such discharge is a new or an existing discharge.
(5) A statement of the department’s tentative determination to issue, amend, or deny an NPDES permit for the discharge or discharges described in the permit application.
(6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by paragraph “b,” “c,” of this subrule, procedures for requesting a public hearing and any other means by which interested persons may influence or comment upon those determinations.
(7) The address, telephone number, and email address, and website of places at which interested persons may obtain further information, request a copy of the tentative determination and any associated documents prepared pursuant to 64.5(1), request a copy of the permit rationale described in 64.5(3), and inspect and copy permit forms and related documents.

e. No public notice is required for a minor permit amendment, including but not limited to an amendment to correct typographical errors, include more frequent monitoring requirements, revise interim compliance schedule dates, change the an owner or facility name or address, include a local pretreatment program, or remove a point source outfall that does not result in the discharge of pollutants from other outfalls.
f. No change.

ITEM 30. Amend subrule 64.5(6) as follows:

64.5(6) Public hearings on proposed NPDES permits. The applicant, any affected state, the regional administrator, or any interested agency, person or group of persons may request or petition for a public hearing with respect to an NPDES application. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the director within the 30-day period prescribed in 64.5(2)“h” and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The director shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the director. Instances of doubt should be resolved in favor of holding the hearing. Any hearing held pursuant to this subrule shall be held in the geographical area of the proposed discharge when possible, or other appropriate area in at the discretion of the director, and Web-based hearings may also be held at the discretion of the director. In addition, any hearing held pursuant to this subrule may, as appropriate, consider related groups of permit applications.

ITEM 31. Amend subrule 64.5(7) as follows:

64.5(7) Public notice of public hearings on proposed NPDES permits.

a. Public notice of any hearing held pursuant to 64.5(6) shall be circulated at least as widely as was the notice of the tentative determinations with respect to the permit application. Notice pursuant to this paragraph shall be made at least 30 days in advance of the hearing.

(1) Notice shall be published in at least one newspaper of general circulation within the geographical area of the discharge;

(2) (1) Notice shall be sent transmitted to all persons and government agencies which received a copy of the notice for the permit application; and

(3) (2) Notice shall be mailed transmitted to any person or group upon request; and

(4) Notice pursuant to subparagraphs (1) and (2) of this paragraph shall be made at least 30 days in advance of the hearing.

b. The contents of public notice of any hearing held pursuant to 64.5(6) shall include at least the following:

(1) The name, address, and telephone number of the department;

(2) The name and address of each applicant whose application will be considered at the hearing;

(3) The name of the water body to which each discharge is made and a short description of the location of each discharge to the water body;

(4) A brief reference to the public notice issued for each NPDES application, including the date of issuance;

(5) Information regarding the time and location for the hearing;

(6) The purpose of the hearing;

(7) A concise statement of the issues raised by the person or persons requesting the hearing;

(8) The address, and telephone number of the premises, email address, and website where interested persons may obtain further information, request a copy of the draft NPDES permit prepared pursuant to 64.5(1), request a copy of the permit rationale prepared pursuant to 64.5(3), and inspect and copy permit forms and related documents;

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed; and

(10) The final date for submission of comments (paper or electronic) regarding the tentative determinations with respect to the permit application.

ITEM 32. Amend subrule 64.6(1) as follows:

64.6(1) Contents of a complete Notice of Intent. An applicant proposing to conduct activities covered by a general permit shall file a complete Notice of Intent NOI by submitting to the department materials required in paragraphs “a” to “c” of this subrule except that a Notice of Intent, as applicable. An NOI is
not required for discharges authorized under General Permit No. 6 or No. 7, for certain discharges under General Permit No. 8, or for certain discharges under General Permit No. 9.

a. Notice of Intent (NOI) Application Form. The following Notice of Intent forms must be completed in full. Electronic NOI forms provided by the department must be completed in full on the department’s website. Paper NOI forms, when provided, must be completed in full.

(1) General Permit No. 1 “Storm Water Discharge Associated with Industrial Activity,” Form 542-1415.

(2) General Permit No. 2 “Storm Water Discharge Associated with Industrial Activity for Construction Activities,” Form 542-1415.

(3) General Permit No. 3 “Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants and Construction Sand and Gravel Facilities,” Form 542-1415.

(4) General Permit No. 4 “Discharge from On-Site Wastewater Treatment and Disposal Systems,” Form 542-1541.

(5) General Permit No. 5 “Discharge from Mining and Processing Facilities,” Form 542-4006.

(6) General Permit No. 6, “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides.”

(7) General Permit No. 8 “Discharge from Hydrostatic Testing, Tank Ballasting and Water Lines.”

(8) General Permit No. 9 “Discharge from Dewatering and Residential Geothermal Systems.”

b. General permit fee. The applicable general permit fee according to the schedule in 567—64.16(45B) is payable to the Iowa Department of Natural Resources.

c. Public notification. The following public notification requirements must be completed for the corresponding general permit only apply to General Permits No. 1, No. 2 and No. 3.

(1) Applicants for General Permits No. 1, No. 2 and No. 3. A demonstration must demonstrate that a public notice was published in at least one newspaper with the largest circulation in the area in which the facility is located or the activity will occur.

(2) The newspaper notice shall, at the minimum, contain the following information:

PUBLIC NOTICE OF STORM WATER DISCHARGE

The (applicant name) plans to submit a Notice of Intent to the Iowa Department of Natural Resources to be covered under NPDES General Permit (select the appropriate general permit—No.1 “Storm Water Discharge Associated with Industrial Activity”, or General Permit No.2 “Storm Water Discharge Associated with Industrial Activity for Construction Activities” or General Permit No. 3 “Storm Water Discharge Associated with Industrial Activity for Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants, and Construction Sand and Gravel Facilities”). The storm water discharge will be from (description of industrial activity) located in (¼ section, township, range, county). Storm water will be discharged from (number) point source(s) and will be discharged to the following streams: (stream name(s)).

Comments may be submitted to the Storm Water Discharge Coordinator, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034. The public may review the Notice of Intent from 8 a.m. to 4:30 p.m., Monday through Friday, at the above address after it has been received by the department.

(2) General Permits No. 4, No. 5, No. 6, No. 7, No. 8 and No. 9. There are no public notification requirements for these permits.

ITEM 33. Amend subrule 64.6(2) as follows:

64.6(2) Authorization to discharge under a general permit. Upon the submittal of a complete Notice of Intent NOI in accordance with 64.6(1) and 64.3(4)”b, “the applicant is authorized to discharge after evaluation of the Notice of Intent by the department is complete and the determination has been made that the contents of the Notice of Intent satisfy the requirements of 567—Chapter 64. The discharge authorization date for all storm water discharges associated with industrial activity that are in existence on or before October 1, 1992, shall be October 1, 1992, the department has determined that the contents of the NOI satisfy the requirements of 567—Chapter 64, evaluated the NOI, and determined that the
proposed discharge meets the requirements of the general permit. The applicant will receive notification by the department of coverage under the general permit. If any of the items required for filing a Notice of Intent an NOI specified in 64.6(1) are missing, the department will consider the application incomplete and will notify the applicant of the incomplete items. If the discharge described in the NOI does not meet the requirements of the general permit, the NOI may be denied. The department will notify applicants of denial within 30 days.

Authorization to discharge is automatic only for the general permits that do not require an NOI under 64.3(4), provided the discharge is a covered activity and the permittee complies with all applicable permit requirements.

ITEM 34. Amend subrule 64.6(3) as follows:

64.6(3) General permit suspension or revocation. In addition to the causes for suspension or revocation which are listed in 64.3(11), the director may suspend or revoke coverage under a general permit issued to a facility or a class of facilities for the following reasons and require the applicant to apply for an individual NPDES permit in accordance with 64.3(4) “a”:

a. The discharge would not comply with Iowa’s water quality standards pursuant to 567—Chapter 61, or

b. The department finds that the activities associated with a Notice of Intent an NOI filed with the department do not meet the conditions of the applicable general permit. The department will notify the affected discharger and establish a deadline, not longer than one year, for submitting an individual permit application, or

c. The department finds that water well construction and well service any discharge are covered under a general permit is not managed in a manner consistent with the conditions specified in General Permit No. 6, or the applicable general permit.

d. The department finds that discharges from biological pesticides and chemical pesticides which leave a residue are not managed in a manner consistent with the conditions specified in General Permit No. 7, or

e. The department finds that discharges from hydrostatic testing, tank ballasting or water line testing are not managed in a manner consistent with the conditions specified in General Permit No. 8, or

f. The department finds that discharges from dewatering or residential geothermal systems are not managed in a manner consistent with the conditions specified in General Permit No. 9.

The department will notify the affected discharger and establish a deadline, not longer than one year, for submitting an individual permit application.

ITEM 35. Amend subrule 64.6(4) as follows:

64.6(4) Eligibility for individual NPDES permit holders. A person holding an individual NPDES permit for an activity covered by a general permit may apply for coverage under a general permit upon expiration of the individual permit and by filing a Notice of Intent an NOI according to procedures described in 64.3(4) “b.” and 567—64.6(455B). In addition to these requirements, the permittee must submit a written request, with the NOI, to close or revoke the individual NPDES permit or to amend the individual NPDES permit to remove the general permit-covered activity.

a. Upon receipt of a complete NOI and request for closure, revocation or amendment of an individual NPDES permit, the applicant shall be authorized to discharge under the general permit in accordance with 64.6(2). The applicant will receive notification by the department of coverage under the general permit and of the closure, revocation or amendment of the individual permit.

b. Authorization to discharge under a general permit that does not require an NOI will be automatic in accordance with 64.6(2) and shall commence upon completion of individual NPDES permit closure, revocation, or amendment.

c. Individual NPDES permit amendments under this subrule shall follow the applicable public notice procedures in 567—64.5(455B).

ITEM 36. Amend subrule 64.6(5), introductory paragraph, as follows:

64.6(5) Filing a Notice of Discontinuation. A notice to discontinue the discharge associated with an activity covered by the NPDES a general permit shall be made electronically or in writing to the
department 30 days prior to or after discontinuance of the discharge. For storm water discharge associated with industrial activity for construction activities, the discharge will be considered as discontinued when “final stabilization” has been reached. Final stabilization means that all soil disturbing activities at the site have been completed and that a uniform perennial vegetative cover with a density of 70 percent for the area has been established or equivalent stabilization measures have been employed in accordance with the conditions established in each permit.

ITEM 37. Amend paragraph 64.7(5)“b” as follows:

b. Disadvantaged community analysis (DCA). A regulated entity or affected community must submit a disadvantaged community analysis (DCA) DCA to the director to be considered for disadvantaged status. A DCA may only be submitted when new requirements in a proposed or reissuance of NPDES permit may result in SWESI.

(1) A When new requirements in a proposed or reissued NPDES permit may result in SWESI, a DCA may be submitted by any of the following:

1. A wastewater disposal system owned by a municipal corporation or other public body created by or under Iowa law and having jurisdiction over disposal of sewage, industrial wastes or other wastes, or a designated and approved management agency under Section 208 of the Act (a POTW);

2. A wastewater disposal system for the treatment or disposal of domestic sewage which is not a private sewage disposal system and which is not owned by a city, a sanitary sewer district, or a designated and approved management agency under Section 208 of the Act (33 U.S.C. 1288) (a semipublic system); or

3. Any other owner of a wastewater disposal system that is not a private sewage disposal system and does not discharge industrial wastes. “Private sewage disposal system” and “industrial waste” are defined in rule 567—60.2(455B).

(2) A DCA may be submitted prior to the issuance of an initial NPDES permit if the facility does not discharge industrial wastes and is not a new source or new discharger. “New source” is and “new discharger” are defined in rule 567—60.2(455B). “New discharger” means any building, structure, facility, or installation from which there is or may be a discharge of pollutants; that did not commence the discharge of pollutants at a particular site prior to August 13, 1979, that is not a new source; and that has never received a finally effective NPDES permit for discharges at that site.

(3) A DCA may be submitted by the entities noted in subparagraph 64.7(5)”b”(1) above for consideration of a disadvantaged community loan interest rate under the clean water state revolving fund, independent of the requirements in a proposed or reissued NPDES permit.

ITEM 38. Amend subparagraph 64.7(5)“e”(2) as follows:

(2) If the DCA is submitted by or for an entity other than a municipality, community, or water treatment facility, the DCA must also contain either:

1. For entities with more than ten households or ratepayers, the median household or ratepayer income, as determined by an income survey conducted by the regulated entity based on the Iowa community development block grant income survey guidelines (the survey must be included in the DCA); or

2. No change.

ITEM 39. Amend paragraph 64.7(5)“e” as follows:

e. Disadvantaged community matrix (DCM). The department hereby incorporates by reference “Disadvantaged Community Matrix,” DNR Form 542-1246, effective January 16, 2013. This document may be obtained on the department’s NPDES website.

Upon receipt of a complete DCA, the director shall use the disadvantaged community matrix (DCM) to evaluate the disadvantaged status of the community. The DCM shall be used to evaluate DCAs submitted in accordance with 64.7(5)”b.” Compliance with the applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department shall be considered to result in SWESI, and the regulated entity and affected community shall be considered a disadvantaged community, if the point total derived from the DCM is equal to or greater than 12. The following data sources shall be used to derive the point total in the DCM:
(1) The total annual project costs as stated in the DCA;
(2) The number of households or ratepayers in a community as stated in the DCA;
(3) The bond rating of the community, if available, as stated in the DCA;
(4) The MHI of either:
   1. The community, as found in the most recent American Community Survey or United States Census or as stated in an income survey that is conducted by the regulated entity or community and is based on the Iowa community development block grant income survey guidelines; or
   2. The ratepayer group, as stated in an income survey that is conducted by the regulated entity and is based on the Iowa community development block grant income survey guidelines; and
(5) The unemployment rate of the county where the community is located and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

The ratio of the total annual project costs per household or per ratepayer to MHI shall be calculated in the DCM as follows: The total annual project costs shall be divided by the number of households or ratepayers to obtain the costs per household or per ratepayer, and the costs per household or per ratepayer shall be divided by the MHI to obtain the ratio.

ITEM 40. Amend paragraph 64.7(6)“b” as follows:
   b. Disadvantaged unsewered community analysis (DUCA). To be considered for disadvantaged unsewered community status, an unsewered community may submit a disadvantaged unsewered community analysis (DUCA) to the director prior to the issuance of or amendment to an administrative order with requirements that could result in SWESI and that are based on applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department. An unsewered community must submit a DUCA to the director to be considered for disadvantaged unsewered community status. Only unsewered communities may submit a DUCA under this subrule. For the purposes of this subrule, an unsewered community is defined as a grouping of ten or more residential houses with a density of one house or more per acre and with either no wastewater treatment or inadequate wastewater treatment. An entity defined in rule 567—60.2(455B) as a private sewage disposal system may not submit a DUCA or qualify for a disadvantaged unsewered community compliance agreement under paragraph 64.7(6)“g.”

   1. An unsewered community may submit a DUCA to the director prior to the issuance of or amendment to an administrative order with requirements that could result in SWESI and that are based on applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department.
   2. A DUCA may also be submitted for consideration of a disadvantaged community loan interest rate under the clean water state revolving fund, independent of an administrative order.

ITEM 41. Amend paragraph 64.7(6)“c” as follows:
   c. Contents of a DUCA. A DUCA must contain all of the following:
      1. Proposed total annual project costs as defined in paragraph 64.7(6)“d”;
      2. The number of households in the unsewered community and source of household information;
      3. Total amount of any awarded grant funding; and
      4. An explanation of why the unsewered community believes that compliance with the proposed requirements will result in SWESI.

If no MHI information is available for the unsewered community, the community should conduct a rate survey to determine the MHI. The survey must be conducted in accordance with the Iowa community development block grant income survey guidelines. In addition, the survey must be attached to the DCA.

ITEM 42. Amend paragraph 64.7(6)“e” as follows:
   e. Disadvantaged unsewered community matrix (DUCM). The department hereby incorporates by reference “Disadvantaged Unsewered Community Matrix,” DNR Form 542-1247, effective January 16, 2013. This document may be obtained on the department’s NPDES website.

Upon receipt of a complete DUCA, the director shall use the disadvantaged unsewered community matrix (DUCM) DUCM to evaluate the disadvantaged status of the unsewered community. The DUCM shall be used to evaluate DUCAs submitted in accordance with 64.7(6)“b.” Compliance with
applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department shall be considered to result in SWESI, and the unsewered community shall be considered a disadvantaged unsewered community, if the point total derived from the DUCM is equal to or greater than 10. The following data sources shall be used to derive the point total in the DUCM:

1. The total annual project costs as stated in the DUCA;
2. The number of households in the unsewered community as stated in the DUCA;
3. The MHI of the unsewered community as found in the most recent American Community Survey or United States Census or as stated in an income survey that is conducted by the regulated entity or unsewered community and is based on the Iowa community development block grant income survey guidelines; and
4. The unemployment rate of the county where the unsewered community is located and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

The ratio of the total annual project costs per household to MHI shall be calculated in the DUCM as follows: the total annual project costs shall be divided by the number of households in the unsewered community to obtain the costs per household, and the costs per household shall be divided by the MHI to obtain the ratio.

ITEM 43. Amend subrule 64.8(2) as follows:

64.8(2) Renewal of coverage under a general permit. Coverage under a general permit will be renewed subject to the terms and conditions in paragraphs “a” to “d” and “b.”

a. If a permittee intends to continue an activity covered by a general permit for which an NOI is required beyond the expiration date of the general permit, the permittee must reapply and submit a complete Notice of Intent NOI in accordance with 64.6(1) the requirements specified in the applicable general permit.

b. A complete Notice of Intent for coverage under a reissued or renewed general permit must be submitted to the department within 180 days after the expiration date of a general permit.

c. A person holding a general permit is subject to the terms of the permit until either the permit expires, the authorization under the permit expires, or a Notice of Discontinuation is submitted in accordance with 64.6(5).

1. If the person holding a general permit continues the activity beyond the expiration date of the permit and the permit will be reissued, the conditions of the expired general permit will remain in effect provided the permittee submits a complete Notice of Intent NOI for coverage under a renewed or reissued general permit within 180 days after the expiration date of the expired as required by the applicable general permit.

2. If the person holding a general permit continues the activity for which the general permit has expired beyond the expiration date of the permit and the general permit has not been will not be reissued or renewed, the discharge must be permitted with an individual NPDES permit according to the procedures in 64.3(4) “a.”

d. The Notice of Intent requirements shall not include a public notification when a general permit has been reissued or renewed provided the permittee has already submitted a complete Notice of Intent including the public notification requirements of 64.6(1). Another public notice is required when any information, including facility location, in the original public notice is changed.

ITEM 44. Amend rule 567—64.10(455B) as follows:

567—64.10(455B) Silvicultural activities. The following is adopted by reference: 40 CFR Section 122.27.

ITEM 45. Amend subrule 64.13(1) as follows:

64.13(1) The following is adopted by reference: 40 CFR Section 122.26.

ITEM 46. Amend rule 567—64.14(455B) as follows:

567—64.14(455B) Transfer of title and owner or operator address change.
64.14(1) Permits issued under rule 567—64.2(455B), 567—64.3(455B), or 567—64.6(455B), except 64.6(1) “a.” (5) and (6). If title to any disposal system or part thereof for which a permit has been issued under these rules rule 567—64.2(455B), 567—64.3(455B), or 567—64.6(455B) is transferred, the new owner or owners shall be subject to all terms and conditions of the permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. When a discharge is covered by a general permit, the operator of record shall be subject to all terms and conditions of the permit. No transfer of the authority to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all title transfers and address changes must be reported to the department by mail.

64.14(2) Permits issued under 64.6(1) “a.” (5) and (6). When the operator of a facility permitted under subparagraphs 64.6(1) “a.” (5) and (6) changes, the department must be notified of the transfer within 30 days. When a discharge is covered by the general permit, the operator of record shall be subject to all terms and conditions of the permit. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer. Whenever the address of the operator is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all transfers and address changes must be reported to the department by mail.

Item 47. Amend subrule 64.16(1) as follows:

64.16(1) A person who applies for an individual permit or coverage under a general permit to construct, install, modify or to operate a disposal system shall submit along with the application an application fee or a permit fee or both as specified in 64.16(2). 64.16(3) “b.” Certain individual facilities shall also be required to submit annual fees as specified in 64.16(3) “c.” For authorization under General Permits Nos. 1, 2, 3 and 5, the applicant has the option of paying an annual permit fee or a multiyear permit fee at the time the Notice of Intent NOI for coverage is submitted, as specified in 64.16(3) “a.”

For municipal separate storm sewer system (MS4s) permits and individual storm water only permits, as defined in 567—60.2(455B), a one-time, multiyear permit fee must be submitted at the time of application. A storm water only permit is defined as an NPDES permit that authorizes the discharge of only storm water and any allowale non-storm water as defined in the permit. For all other individual non-storm water NPDES permits and operation permits, as defined in 567—60.2(455B), the applicant must submit an application fee at the time of application and the appropriate annual fee on a yearly basis, except for municipal water treatment facilities. A non-storm water NPDES permit is defined as any individual NPDES permit issued to a municipality, industry, semipublic entity, or animal feeding operation that is not an individual storm water only permit. If a facility needs coverage under more than one NPDES or operation permit, fees for each permit must be submitted appropriately. Fees are nontransferable. Failure to submit the appropriate fee at the time of application renders the application incomplete, and the department shall suspend processing of the application until the fee is received. Failure to submit the appropriate annual fee may result in revocation or suspension of the permit as noted in 64.3(11) “f.” 64.3(11).

Item 48. Amend subrule 64.16(2) as follows:

64.16(2) Payment of fees. Fees shall be paid by check, credit card, electronic payment, or money order made payable to the “Iowa Department of Natural Resources.”

For facilities needing coverage under both a storm water only permit and a non-storm water NPDES permit more than one permit (e.g., general, individual storm water, individual non-storm water), separate payments shall be made according to the fee schedule in 64.16(3).

Item 49. Amend subrule 64.16(3) as follows:

64.16(3) Fee schedule. The following fees have been adopted:
a. For coverage under the NPDES general permits, the following fees apply: General permit fees. No fees shall be assessed for coverage under general permits not listed in this paragraph. The following fees are applicable to the described general permits:

(1) Storm Water Discharges Associated with Industrial Activity, NPDES General Permit No. 1.

Annual Permit Fee. .......................................................... $175 (per year)

or

Five-year Permit Fee ......................................................... $700
Four-year Permit Fee ......................................................... $525
Three-year Permit Fee ......................................................... $350

All fees are to be submitted with the Notice of Intent NOI for coverage under the general permit.
(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.
(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, and Rock Crushing Plants, NPDES General Permit No. 3. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.
(4) Discharge from Private Sewage Disposal Systems, NPDES Permit No. 4. No fees shall be assessed.
(5) Discharge from Mining and Processing Facilities, NPDES General Permit No. 5.

Annual Permit Fee. .......................................................... $125 (per year)

or

Five-year Permit Fee ......................................................... $500
Four-year Permit Fee ......................................................... $400
Three-year Permit Fee ......................................................... $300

New facilities seeking General Permit No. 5 coverage shall submit fees with the Notice of Intent NOI for coverage. Maximum coverage is for five years. Coverage may also be obtained for four years, three years, or one year, as shown in the fee schedule above. Existing facilities shall submit annual fees by August 30 of every year, unless a multiyear fee payment was received in an earlier year. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.

b. Individual NPDES and operation permit fees. The following fees are applicable for the described individual NPDES permit permits:

(1) For individual storm water permits that authorize the discharge of only storm water associated with industrial activity and any allowable non-storm water, a five-year permit fee of $1,250 must accompany the application.

(2) For permits that authorize the discharge of only storm water from municipal separate storm sewer systems (MS4s) and any allowable non-storm water, a five-year permit fee of $1,250 must accompany the application.

(3) For operation and individual non-storm water NPDES and operation permits not subject to subparagraphs (1) and (2), a single application fee of $85 as established in Iowa Code section 455B.197 is due at the time of application. The $1,250 fee in subparagraphs (1) and (2) is not required for individual non-storm water permits that authorize storm water discharges along with other wastewater discharges. The $85 application fee is to be submitted with the application forms (as required by 567—Chapter 60) at the time of a new application, renewal application, or amendment application. Before an approved amendment request submitted by a facility holding a non-storm water NPDES or operation permit can be processed by the department, the application $85 fee must be submitted. Application fees will not be charged to facilities holding non-storm water NPDES permits, except when an amendment request...
is initiated by the director, when the requested amendment will correct an error in the permit, when the amendment is for a disadvantaged community compliance schedule or nutrient reduction strategy, or when there is a transfer of title or change in the address of the owner as noted in 567—64.14(455B).

(4) For every major and minor municipal facility, every semipublic facility, every major and minor industrial facility, every facility that holds an operation permit (no wastewater discharge into surface waters), and every open feedlot animal feeding operation required to hold a non-storm water NPDES permit, an individual non-storm water NPDES and operation permits, the following annual fees, as established in Iowa Code section 455B.197, are due by August 30 of each year:

- **567—64.16(5) Major municipal facility:** $1,275.
- **567—64.16(6) Minor municipal facility:** $210. For a city with a population of 250 or less, the maximum fee shall be $210 regardless of how many individual non-storm water NPDES permits the city holds.
- **567—64.16(8) Semipublic facility:** $340.
- **567—64.16(9) Major industrial facility:** $3,400.
- **567—64.16(10) Minor industrial facility:** $2,175.
- **567—64.16(11) Facilities that hold an operation permit:** $170.
- **567—64.16(12) Animal feeding operations covered by a non-storm water NPDES permit:** $340.

(5) For every municipal water treatment facility with an individual non-storm water NPDES permit, no fee is charged (as established in Iowa Code section 455B.197) fees shall be assessed.

(6) For a new facility covered by an individual non-storm water NPDES or operating permit, an annual prorated fee, as established in Iowa Code section 455B.197, calculated by taking the annual fee amount multiplied by the number of months remaining before the next annual fee due date divided by 12, is due 30 days after the new permit is issued.

- a. No change.
- **b. Recind subrules 64.16(9) to 64.16(11).**
- **c. Renumber subrule 64.16(9) as 64.16(10).**
- **d. Renumber rules 567—64.17(455B) and 567—64.18(455B) as 567—64.18(455B) and 567—64.19(455B).**
- **Item 53. Adopt the following new rule 567—64.17(455B):**

**567—64.17(455B) Nutrient reduction exchange.** The department shall maintain a registry of nonpoint source nutrient reduction practices installed by permittees. Practices listed in the registry may be eligible for future regulatory incentives.

[Filed 1/21/22, effective 3/16/22]
[Published 2/9/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

**ARC 6192C ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Adopted and Filed**

**Rule making related to standards for the land application of sewage sludge**


**Legal Authority for Rule Making**

This rule making is adopted under the authority provided in Iowa Code section 455B.304.


State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 455B.304 and 40 CFR Parts 127 and 503.

Purpose and Summary

Chapter 67 establishes standards for the land application of sewage sludge generated during the treatment of domestic sewage in a treatment works. The purpose of this rule making is to clean up and modify the sludge rules for readability and to align with governing federal law.

Broadly speaking, the amendments to Chapter 67 clarify and refine definitions and other land application requirements. The amendments also update the sewage sludge classifications, terms, land application pathogen reduction methods, and sludge testing methods to be consistent with 40 CFR Part 503 (Standards for the Use or Disposal of Sewage Sludge). Finally, the amendments revise the sewage sludge annual reporting rules to comply with the federal electronic reporting requirements in 40 CFR Part 127 (NPDES [National Pollution Discharge Elimination System] Electronic Reporting).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as ARC 6038C. A virtual public hearing was held on December 9, 2021, at 2 p.m. via video/conference call. 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 Commission on January 19, 2022.

Fiscal Impact

This rule making has no negative fiscal impact to the State of Iowa. Additionally, no negative fiscal impact is expected to the private sector. A copy of the fiscal impact statement is available from the Department of Natural Resources (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, pursuant to 561—Chapter 10.

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 16, 2022.

The following rule-making actions are adopted:
ITEM 1. Amend subrule 67.1(1) as follows:

67.1(1) General. This chapter establishes standards for the land application of sewage sludge generated during the treatment of domestic sewage in a treatment works. This chapter applies to any person who prepares sewage sludge (generator), to any person who applies sewage sludge to the land (applicator) generator, applicator, or both, and to sewage sludge applied to the land. No person shall land apply sewage sludge through any practice for which requirements are established in this chapter except in accordance with such requirements.

a. In areas that are not specifically addressed in this chapter or in 567—Chapter 68, but which are addressed in federal regulations for sewage sludge applied to land at 40 CFR Part 503 as amended through July 1, 2021, the federal regulations shall apply under this rule and are hereby adopted by reference under this chapter.

b. On a case-by-case basis, this department may impose requirements for the land application of sewage sludge in addition to or more stringent than the requirements in this chapter when necessary to protect public health and the environment from any adverse effect of a pollutant in the sewage sludge.

ITEM 2. Amend subrule 67.2(1) as follows:

67.2(1) Sludge generated at an industrial facility, not including sludge generated from separately treated domestic sewage at an industrial facility.

ITEM 3. Amend rule 567—67.4(455B) as follows:

567—67.4(455B) Land application program. All sewage sludge generators wishing to land apply sewage sludge shall establish and maintain in writing a long-range program for land application of sewage sludge. This program shall be developed for a minimum period of five years and shall be updated annually. A copy of this program shall be available at the facility for inspection by the department. At a minimum, this program shall contain the following information in detail for the next calendar year and in general terms for the following four years. The plan shall include, but not be limited to, the following:

67.4(1) An outline of the sewage sludge sampling schedule and procedures which will be followed to ensure that the sewage sludge being applied to land continues to meet the requirements.

67.4(2) A determination of the amount of land required to allow land application to be conducted in accordance with the requirements.

67.4(3) Identification of the land and application methods which will be used for land application of the sewage sludge. Those areas and application methods shall be selected as necessary to ensure that land application can be conducted in accordance with the requirements.

67.4(4) The names of the owners, landowners and operators of the applicators for all land areas to be used for land application, and identification of any legal arrangements made relative to the use of these areas. The programs should also outline any restrictions or special conditions which exist regarding the use of these areas for land application of sewage sludge.

67.4(5) An overall schedule for the land application of sewage sludge. This schedule should indicate the areas being used, the time of year that land application will occur on each area will be conducted, and the proposed estimated application rates for each area.

67.4(6) A determination of the types and capacities of the equipment required for land application of sewage sludge in accordance with the developed application schedule. The program shall also outline how the required application equipment will be made available and who will be responsible for conducting land application operations.

67.4(7) A determination of the volumes and types and capacities of sludge storage and handling facilities required for land application. The program shall also outline whether any additional sludge storage or handling facilities will be provided as required.

67.4(8) A plan to construct or obtain any additional sludge storage, handling or application facilities or equipment which are required by the land application program.
ITEM 4. Adopt the following new definitions of “Applicator,” “Class I sewage sludge,” “Class II sewage sludge,” “Class III sewage sludge” and “Generator” in rule 567—67.5(455B):

“Applicator” or “sewage sludge applicator” is any person who applies sewage sludge to the land.
“Class I sewage sludge” is sewage sludge that meets the criteria under subrule 67.7(1).
“Class II sewage sludge” is sewage sludge that meets the criteria under subrule 67.8(1).
“Class III sewage sludge” is any sewage sludge that cannot meet either Class I sewage sludge criteria or Class II sewage sludge criteria.
“Generator” or “sewage sludge generator” is any person who generates sewage sludge, who derives a material from sewage sludge, or both.

ITEM 5. Amend rule 567—67.5(455B), definition of “Sewage sludge,” as follows:

“Sewage sludge” is solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or the grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

ITEM 6. Amend rule 567—67.6(455B) as follows:

567—67.6(455B) Permit requirements. Prior to any land application of sewage sludge, a permit must be obtained by the sewage sludge generator in accordance with the following requirements:

67.6(1) Any treatment facility proposing to land apply sewage sludge shall apply for a permit for land application of sewage sludge on a properly completed form supplied by the department. Application forms may be obtained from:

Environmental Services Division
Iowa Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
http://www.iowadnr.gov/

Properly completed forms should be submitted in accordance with the instructions for the form.

a. Permit application for land application of sewage sludge from new facilities shall be filed at least 180 days prior to the date operation is scheduled to begin unless a shorter period of time is approved by the department.

b. Existing facilities generating sewage sludge shall file an application for land application of sewage sludge within 90 days of September 21, 1994, or at least 180 days prior to the expiration of any state operation or NPDES permit issued to the facility pursuant to 567—64.3(455B) or 567—64.4(455B), whichever date is later.

c. Sewage sludge disposal operations which are not regulated under 567—Chapter 64 shall apply for a permit for land application of sewage sludge no later than 90 days after September 21, 1994.

67.6(2) 67.6(1) The permit for the land application of sewage sludge for any sewage sludge generating facility produced by a wastewater treatment facility that has been issued a construction permit from the department will be issued concurrently and as part of a state operation permit or NPDES permit. The issuance process and permit terms will be the same as that specified for NPDES permits in 567—Chapter 64.

67.6(2) The department will review, on a case-by-case basis, requests for a permit to land apply sewage sludge or any material derived from sewage sludge if the sewage sludge is produced outside of the state of Iowa or produced by a wastewater treatment plant that has not been issued a construction permit from the department.

ITEM 7. Amend subrule 67.7(1) as follows:

67.7(1) Class I sewage sludge criteria. Class I sludge is sewage sludge that has excellent quality and has been treated in a process equivalent to processes to further reduce pathogens (PFRP). Class I
sewage sludge is sewage sludge that meets the pollutant concentrations in paragraph 67.7(1)“a,” the Class A pathogen reduction requirements in paragraph 67.7(1)“b,” and the vector attraction reduction requirements in paragraph 67.7(1)“c” below.

a. **Pollutant concentrations for Class I sewage sludge.** The concentration of each pollutant in the sewage sludge shall not exceed the concentration for the pollutant in Table 1.

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Monthly Average Concentration (milligrams per kilogram*)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arsenic</td>
<td>41</td>
</tr>
<tr>
<td>Cadmium</td>
<td>39</td>
</tr>
<tr>
<td>Copper</td>
<td>1500</td>
</tr>
<tr>
<td>Lead</td>
<td>300</td>
</tr>
<tr>
<td>Mercury</td>
<td>17</td>
</tr>
<tr>
<td>Nickel</td>
<td>420</td>
</tr>
<tr>
<td>Selenium</td>
<td>100</td>
</tr>
<tr>
<td>Zinc</td>
<td>2800</td>
</tr>
</tbody>
</table>

*Dry weight basis

b. **Class A pathogen requirements for Class I sewage sludge.** One of the monitoring processes in (1) below and also one of the analytical and treatment processes in (2) below shall be met for a sewage sludge to be classified as Class I sludge. The sewage sludge shall comply with subparagraphs 67.7(1)“b ”(1) and (2) below.

(1) **Monitoring processes.** The sewage sludge shall comply with one of the following monitoring processes. Compliance with pathogen density shall not be based on an average value. Each individual sample result shall meet the numerical pathogen standards.

1. The density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or
2. The density of Salmonella sp. bacteria in the sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis).

(2) **Analytical and treatment processes.** The sewage sludge shall comply with one of the following analytical and treatment processes.

1. The density of enteric viruses in the sewage sludge shall be less than one Plaque forming Unit per four grams of total solids (dry weight basis). The temperature of the sewage sludge shall be maintained at a specific value for a period of time using one of the procedures detailed below.

   - When the percent solids of the sewage sludge is 7 percent or higher, the temperature of the sewage sludge shall be 50 degrees Celsius or higher; the time period shall be 20 minutes or longer; and the temperature and time period shall be determined using Equation 1, except when small particles of sewage sludge are heated by either warmed gases or an immiscible liquid.

   - When the percent solids of the sewage sludge is 7 percent or higher and small particles of sewage sludge are heated by either warmed gases or an immiscible liquid, the temperature of the sewage sludge shall be 50 degrees Celsius or higher; the time period shall be 15 seconds or longer; and the temperature and time period shall be determined using Equation 1.

   - When the percent solids of the sewage sludge is less than 7 percent and the time period is at least 15 seconds, but less than 30 minutes, the temperature and time period shall be determined using Equation 1.

**Equation 1:**

\[ D = \frac{131,700,000}{100^{1.1400t}} \]

Where \( D \) = time in days; \( t \) = temperature in degrees Celsius.
• When the percent solids of the sewage sludge is less than 7 percent; the temperature of
the sewage sludge is 50 degrees Celsius or higher; and the time period is 30 minutes or longer, the
temperature and time period shall be determined using Equation 2.

Equation 2:
\[ D = \frac{50,070,000}{10^{0.1400t}} \]
Where \( D \) = time in days; \( t \) = temperature in degrees Celsius.

2. The density of viable helminth ova in the sewage sludge shall be less than one per four grams
of total solids (dry weight basis). The sewage sludge shall meet all of the following requirements:
   • The pH of the sewage sludge shall be raised to above 12 and shall remain above 12 for 72 hours;
   • The temperature of the sewage sludge shall be above 52 degrees Celsius for 12 hours or longer
during the period that the pH of the sewage sludge is above 12; and
   • At the end of the 72-hour period during which the pH of the sewage sludge is above 12, the
   sewage sludge shall be air dried to achieve a percent solids in the sewage sludge greater than 50 percent.

3. Sewage sludge treated in other known processes shall be analyzed prior to pathogen treatment
to determine whether the sewage sludge contains enteric viruses and viable helminth ova. The density
of enteric viruses in the sewage sludge after pathogen treatment shall be less than one plaque-forming
unit per four grams of total solids (dry weight basis). The density of viable helminth ova in the sewage
sludge after pathogen treatment shall be less than one per four grams of total solids (dry weight basis).
Once the process has been demonstrated to achieve the required pathogen reduction, the process must
be operated under the same conditions that were used during the demonstration.

4. Sewage sludge treated by unknown processes or by processes operating at conditions less
stringent than the operating conditions at which the sewage sludge could qualify as Class I under other
alternatives shall be analyzed prior to pathogen treatment to determine whether the sewage sludge
contains enteric viruses and viable helminth ova. The density of enteric viruses in the sewage sludge
shall be less than one plaque-forming unit per four grams of total solids (dry weight basis). The density
of viable helminth ova in the sewage sludge shall be less than one per four grams of total solids (dry
weight basis).

Sewage sludge shall be treated in one of the Processes to Further Reduce Pathogens (PFRP) described in 567—67.11(455B).

Sewage sludge shall be treated in a process that is equivalent to a Process to Further Reduce Pathogens (PFRP), as determined by the department.

c. Vector attraction reduction requirements for Class I sewage sludge. One of the vector attraction
reduction requirements shall be met for a sewage sludge to be classified as Class I sludge. The sewage
sludge shall meet one of the following vector attraction reduction requirements.

1. The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38 percent.

2. Digest a portion of the previously anaerobically digested sewage sludge anaerobically in the
laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees
Celsius. If, at the end of the 40 days, the volatile solids in the sewage sludge at the beginning of that
period is reduced by less than 17 percent, vector attraction reduction is achieved.

3. Digest a portion of the previously aerobically digested sewage sludge that has 2 percent solids
or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius.
If, at the end of the 30 days, the volatile solids in the sewage sludge at the beginning of that period
is reduced by less than 15 percent, vector attraction reduction is achieved.

4. The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process
shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis)
at a temperature of 20 degrees Celsius.

3. Digest a portion of the previously anaerobically digested sewage sludge anaerobically in the
laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees
Celsius. At the end of the 40 days, the volatile solids in the sewage sludge at the beginning of that period
is reduced by less than 17 percent.

4. Digest a portion of the previously aerobically digested sewage sludge that has a percent solids
of 2 percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees
Celsius. At the end of the 30 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 15 percent.

5. Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius.

6. The pH of sewage sludge shall be raised to 12 or higher, measured at 25 degrees Celsius, by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for 2 hours and then at 11.5 or higher for an additional 22 hours.

7. The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75 percent based on the moisture content and total solids prior to mixing with other materials.

8. The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90 percent based on the moisture content and total solids prior to mixing with other materials.

9. Sewage sludge shall be injected below the surface of the land and no significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.

10. Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.

ITEM 8. Amend subrule 67.7(2) as follows:

67.7(2) Management practices for Class I sewage sludge. Class I sewage sludge may be land-applied in conformance with the following rules:

a. Only Class I sewage sludge can be applied to a lawn or a home garden.

b. Sewage sludge shall not be applied to land that is 35 feet or less from an open waterway.

c. Sewage sludge shall be applied to the land at an annual whole sludge application rate that is equal to or less than the agronomic nitrogen uptake rate, unless otherwise specified by the department.

d. An information sheet shall be provided to the person who receives sewage sludge sold or given away in a container for application to the land. The label or information sheet shall contain the following information:

(1) The name and address of the sewage sludge generator.

(2) A statement that application of the sewage sludge to the land is prohibited except in accordance with the instructions on the information sheet.

(3) The annual application rate for the sewage sludge.

ITEM 9. Amend paragraph 67.7(3)"a" as follows:

a. The frequency of monitoring for the pollutants listed in Table 1, the pathogen density requirements, and the vector attraction reduction requirements shall be the frequency stated in Table 2.

### TABLE 2—FREQUENCY OF MONITORING

<table>
<thead>
<tr>
<th>Amount of sewage sludge metric tons per 365-day period dry weight basis</th>
<th>Monitoring Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater than 0 but less than 290 metric tons (or 320 English tons)</td>
<td>once per year</td>
</tr>
<tr>
<td>Equal to or greater than 290 but less than 1,500 metric tons</td>
<td>once per quarter</td>
</tr>
</tbody>
</table>
ITEM 10. Amend paragraph 67.7(4)“b” as follows:

b. Treatment works with a design flow rate of 1 million gallons per day or greater and treatment works that serve 10,000 people or more shall submit the above information to the department [EPA], using EPA’s NPDES eReporting Tool (NeT), by February 19 of each year for the previous calendar year.

ITEM 11. Amend subrule 67.8(1), introductory paragraph, as follows:

67.8(1) Class II sludge criteria. Class II sludge is sewage sludge that has normal quality and has been treated in a process equivalent to Processes to Significantly Reduce Pathogens (PSRP). Class II sewage sludge is sewage sludge that meets the pollutant concentrations in paragraph 67.8(1)“a,” the pathogen reduction standards in paragraph 67.8(1)“b,” and the vector attraction reduction requirements in paragraph 67.8(1)“c” below.

ITEM 12. Amend paragraph 67.8(1)“a,” introductory paragraph, as follows:

a. Pollutant concentrations for Class II sewage sludge. The concentration of any pollutant in the sewage sludge shall not exceed the ceiling concentration for the pollutant in Table 3.

ITEM 13. Amend paragraph 67.8(1)“b,” introductory paragraph, as follows:

b. Pathogen reduction requirements for Class II sewage sludge. One The sewage sludge shall meet one of the following Processes to Significantly Reduce Pathogens requirements (PSRP) shall be met for a sewage sludge to be classified as Class II sludge three alternatives.

ITEM 14. Amend paragraph 67.8(1)“c” as follows:

c. Vector attraction reduction requirements for Class II sewage sludge. One of the vector attraction reduction requirements shall be met for a sewage sludge to be classified as Class II sludge. The sewage sludge shall meet one of the following vector attraction reduction requirements:

(1) The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38 percent.

(2) The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius. Digest a portion of the previously anaerobically digested sewage sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. If, at the end of the 40 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 17 percent, vector attraction reduction is achieved.

(3) Digest a portion of the previously anaerobically digested sewage sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. At the end of the 40 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 17 percent. Digest a portion of the previously aerobically digested sewage sludge that has a percent solids of 2 percent or less aerobically in the laboratory in a bench-scale unit for 30 days, and the mass of volatile solids is reduced by a minimum of 38 percent.

<table>
<thead>
<tr>
<th>Amount of sewage sludge</th>
<th>Monitoring Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>metric tons per 365-day period dry weight basis</td>
<td>(4 times per year)</td>
</tr>
<tr>
<td>(English ton 325 320 to 1,680 1,653 English tons)</td>
<td></td>
</tr>
<tr>
<td>Equal to or greater than 1,500 but less than 15,000 metric tons (English ton 1,680 1,653 to 16,800 16,535 English tons)</td>
<td>once per 60 days (6 times per year)</td>
</tr>
<tr>
<td>Equal to or greater than 15,000 metric tons (or 16,800 16,535 English tons)</td>
<td>once per month (12 times per year)</td>
</tr>
</tbody>
</table>
additional days at 20 degrees Celsius. If, at the end of the 30 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 15 percent, vector attraction reduction is achieved.

(4) Digest a portion of the previously aerobically digested sewage sludge that has a percent solids of 2 percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. At the end of the 30 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 15 percent. The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.

(5) Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius.

(6) The pH of sewage sludge shall be raised to 12 or higher, measured at 25 degrees Celsius, by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for 2 hours and then at 11.5 or higher for an additional 22 hours.

(7) The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75 percent based on the moisture content and total solids prior to mixing with other materials.

(8) The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90 percent based on the moisture content and total solids prior to mixing with other materials.

(9) Sewage sludge shall be injected below the surface of the land and no significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.

(10) Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.

ITEM 15. Amend subrule 67.8(2), introductory paragraph, as follows:

67.8(2) Management practices for Class II sewage sludge. Class II sewage sludge may be land applied in conformance with the following:

ITEM 16. Amend paragraph 67.8(2)“l” as follows:

l. Food crops with harvested parts that touch the sewage sludge/soil mixture and that are totally above the land surface shall not be harvested for 36 months after application of sewage sludge.

ITEM 17. Amend paragraph 67.8(3)“a” as follows:
a. The frequency of monitoring for the pollutants listed in Table 3, the pathogen density requirements, and the vector attraction reduction requirements shall be at the frequency stated in Table 5.

### TABLE 5—FREQUENCY OF MONITORING

<table>
<thead>
<tr>
<th>Amount of sewage sludge</th>
<th>Monitoring Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>metric tons</strong> per 365-day period dry weight basis</td>
<td></td>
</tr>
<tr>
<td>Greater than (\geq 0) but less than 290 metric tons (or (\geq 225) English tons)</td>
<td>once per year</td>
</tr>
<tr>
<td>Equal to or greater than 290 but less than 1,500 metric tons</td>
<td>once per quarter</td>
</tr>
</tbody>
</table>
ENIRONMENTAL PROTECTION COMMISSION[567](cont’d)

<table>
<thead>
<tr>
<th>Amount of sewage sludge metric tons per 365-day period dry weight basis</th>
<th>Monitoring Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>(English ton 325 320 to 1,680 1,653 English tons)</td>
<td>(4 times per year)</td>
</tr>
<tr>
<td>Equal to or greater than 1,500 but less than 15,000 metric tons (English ton 1,680 1,653 to 16,800 16,535 English tons)</td>
<td>once per 60 days (6 times per year)</td>
</tr>
<tr>
<td>Equal to or greater than 15,000 metric tons (or 16,800 16,535 English ton tons)</td>
<td>once per month (12 times per year)</td>
</tr>
</tbody>
</table>

ITEM 18. Amend paragraph 67.8(4)“b” as follows:

b. Treatment works with a design flow rate of 1 million gallons per day or greater and treatment works that serve 10,000 people or more shall submit the above information to the Department of EPA, using EPA’s NPDES eReporting Tool (NeT), by February 19 of each year for the previous calendar year. In addition, a supplemental sewage sludge report that includes the land application information listed in subparagraphs 67.8(4)“a”(6) to (9) shall be submitted to the department by the same due date.

ITEM 19. Amend rule 567—67.10(455B) as follows:

567—67.10(455B) Sampling and analytical methods.

67.10(1) No change.


ENVIRONMENTAL PROTECTION COMMISSION[567](cont’d)


ITEM 20. Rescind paragraph 67.11(2)“h.”

[Filed 1/21/22, effective 3/16/22]
[Published 2/9/22]
EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

ARC 6193C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to public water supply systems and wastewater treatment systems operator certification


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.222.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.212, 455B.213, 455B.222 and 455B.223.

Purpose and Summary

Chapter 81 provides for the certification of public water supply and wastewater treatment system operators. The chapter sets forth certification grades, eligibility requirements, and examination and continuing education requirements, among other performance standards. These amendments add a new classification grade that will benefit very small communities. These amendments also simplify and refine the rules by clarifying definitions, better specifying certain operator requirements, and removing references to an obsolete classification grade.

More specifically, these amendments do the following:

- Items 1 and 2 add a new definition for “advanced aerated lagoon system,” revise some existing definitions for clarity, and add a “W” and remove “IIL” from the definition of “grade.”
Item 3 amends the Wastewater Treatment Plant Classifications table to add a new Grade W for onsite treatment systems, add a new advanced aerated lagoon system treatment type, and remove obsolete Grade IIL. These amendments will ensure that the operator certification grade for smaller facilities and for facilities designed with new technologies can be properly determined using this table.

Item 4 amends the Water Distribution System Classification table to clarify the certified operator requirements for transient noncommunity water systems not classified as Grade A. These requirements were previously implied in Chapter 81, but were not clearly specified.

Item 5 amends the Operator Education and Experience Qualifications table to add eligibility requirements for the new Grade W and remove the reference to obsolete Grade 2 Lagoon Classification (IIL).

Items 6 and 7 similarly remove references to obsolete Grade IIL.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as ARC 6039C. A virtual public hearing was held on December 8, 2021, at 1 p.m. via video/conference call. 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 Commission on January 19, 2022.

Fiscal Impact

No fiscal impact is expected from this rule making to either the State of Iowa or to the private sector. A copy of the fiscal impact statement is available from the Department of Natural Resource (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, pursuant to 561—Chapter 10.

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 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Adopt the following new definition of “Advanced aerated lagoon system” in rule 567—81.1(455B):

“Advanced aerated lagoon system” means an aerated lagoon system that has been augmented by adding other treatment processes. Examples include, but are not limited to, covered lagoon systems
with enhanced aeration and mixing, the addition of fixed film processes to the lagoon process, or the utilization of algal-based treatment processes.

ITEM 2. Amend rule 567—81.1(455B), definitions of “Activated sludge,” “Aeration,” “Fixed film biological treatment” and “Grade,” as follows:

“Activated sludge system” means a biological wastewater treatment process in which a mixture of wastewater and sludge floc, produced in a raw or settled wastewater by the growth of microorganisms, is agitated and aerated in the presence of a sufficient concentration of dissolved oxygen, followed by sedimentation. Examples include, but are not limited to, conventional activated sludge systems, extended aeration activated sludge systems, oxidation ditches, and sequencing batch reactors.

“Aeration” means the process of initiating contact between air and water. This definition includes Examples include, but is not limited to, spraying the water in the air, bubbling air through the water, or forcing the air into the water by pressure.

“Fixed film biological treatment” means a treatment process in which wastewater is passed over a media onto which are attached biological organisms capable of oxidizing the organic matter, normally followed by sedimentation. This definition includes Examples include, but is not limited to, trickling filters, rotating biological contactors, packed towers and activated filters.

“Grade” means one of seven certification levels, designated as A, W, I, II, III, III, or IV.

ITEM 3. Amend rule 567—81.3(455B) as follows:

567—81.3(455B) Wastewater treatment plant grades.

81.3(1) Classifications. The wastewater treatment plant classifications are listed in the following table:

<table>
<thead>
<tr>
<th>Wastewater Treatment Plant Classifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Treatment Type</td>
</tr>
<tr>
<td>1. Primary Treatment Onsite Treatment System</td>
</tr>
<tr>
<td>2. Waste Stabilization Lagoon System</td>
</tr>
<tr>
<td>3. Aerated Lagoon System</td>
</tr>
<tr>
<td>4. Advanced Aerated Lagoon System</td>
</tr>
<tr>
<td>5. Fixed Film Biological Treatment System</td>
</tr>
<tr>
<td>6. Activated Sludge System</td>
</tr>
</tbody>
</table>

81.3(2) Unknown design BOD₅ loading BOD₅ loading. When the design BOD₅ loading is unknown, the plant BOD₅ loading shall be determined by using the average pounds of BOD₅ of the 24-hour composite influent samples taken in the last 12 months. If no 24-hour composite influent samples were taken, then grab samples shall be used.

81.3(3) IL and III wastewater operator requirements. A Grade I, II, III, or IV wastewater treatment certificate will satisfy the certification requirements for a Grade IL plant. A Grade II, III, or IV wastewater treatment certificate will satisfy the certification requirements for a Grade III plant.

81.3(4) Grade W onsite wastewater classification. Any wastewater treatment plant that discharges to a water of the state and that utilizes onsite wastewater treatment technologies, such as those specified
in 567—Chapter 69, but excluding waste stabilization ponds, shall be classified as an onsite treatment system (Grade W).

ITEM 4. Amend subrule 81.5(1) as follows:

**81.5(1) Classifications.** The water distribution plant classifications are listed in the following table:

<table>
<thead>
<tr>
<th>System Type</th>
<th>Grade**</th>
<th>Average Daily Pumpage in MGD</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>0-0.1</td>
</tr>
<tr>
<td>All municipal water systems</td>
<td>I</td>
<td>II</td>
</tr>
<tr>
<td>Community water systems not classified as a Grade A water system</td>
<td>I</td>
<td>II</td>
</tr>
<tr>
<td>Nontransient noncommunity water systems not classified as a Grade A water system</td>
<td>I</td>
<td>II</td>
</tr>
<tr>
<td>Transient noncommunity water systems not classified as a Grade A water system</td>
<td>I</td>
<td>II</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Miles of Pipe</th>
<th></th>
<th>0-100</th>
<th>&gt;100-1,000</th>
<th>&gt;1,000-2,500</th>
<th>&gt;2,500</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural water districts</td>
<td>II</td>
<td>II</td>
<td>III</td>
<td>IV</td>
<td></td>
</tr>
</tbody>
</table>

*Note: A public water system with a well, storage, and a distribution system shall be classified as a water distribution system if no treatment is provided.

**For Grade A water system classification, see subrule 81.6(1).

ITEM 5. Amend subrule 81.7(1) 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 subrules 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. 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).

Operator Education and Experience Qualifications
ITEM 6. Amend subparagraph 81.7(3)"b"(2) as follows:

(2) Thirty semester hours or 45 quarter hours or 45 CEUs of post-high school education may be substituted for one year of experience up to a maximum of one-half the experience requirement for Grades II, III, III and IV.

ITEM 7. Amend subrule 81.16(1) as follows:

81.16(1) Affidavit allowance. The owner of a plant or distribution system that is required to have a Grade A, I, II, or III, certified operator may sign an affidavit with a certified operator of the required classification and grade.

[Filed 1/21/22, effective 3/16/22]

[Published 2/9/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

ARC 6195C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to incentive fund for mental health and disability services regions


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 225C.6.
State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 225C.7A.

Purpose and Summary

2021 Iowa Acts, Senate File 619, amended Iowa Code section 225C.7A to implement the incentive fund for mental health and disability services (MHDS) regions. This legislation created a fund for the purpose of providing financial incentives for outcomes met from services provided by the MHDS regions. These amendments implement the process for a region to apply for funds, establish the criteria for eligibility for the incentive fund, set time frames for review and approval of applications and establish the reporting and financial review requirements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 3, 2021, as ARC 6009C. This rule making was also adopted and filed emergency and published in the Iowa Administrative Bulletin as ARC 6008C on the same date. No public comments were received. One change from the Notice has been made. A reference to 2021 Iowa Acts, Senate File 619, has been removed from the implementation sentence of rule 441—25.22(225C) since the amendments in the Senate File have been codified in the 2022 Iowa Code.

Adoption of Rule Making

This rule making was adopted by the MHDS Commission on January 20, 2022.

Fiscal Impact

2021 Iowa Acts, Senate File 619, appropriated $3 million from the General Fund to the incentive fund for SFY22. The amount of incentive fund expenditures is not yet known. Any additional expenditures in year 1 or year 2 will be funded by the MHDS regions.

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).

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 16, 2022, at which time the Adopted and Filed Emergency rule making is hereby rescinded.

The following rule-making actions are adopted:

ITEM 1. Adopt the following new definition of “Region incentive fund” in rule 441—25.11(331): “Region incentive fund” means the same as defined in Iowa Code section 225C.7A.
ITEM 2. Adopt the following new rule 441—25.22(225C):

441—25.22(225C) Incentive fund application, approval, and reporting.

25.22(1) Application for regional incentive funds. A mental health and disability services region must submit an application on forms specified by the department with required supporting documentation. An application to receive regional incentive funds must meet the following requirements:

a. The mental health and disability services region shall submit the application with supporting documentation electronically to the department by 4:30 p.m. on November 15, 2021, for state fiscal year 2022 funding.

b. The mental health and disability services region shall submit the application with supporting documentation electronically to the department by 4:30 p.m. on November 15, 2022, for state fiscal year 2023 funding.

c. The application shall be complete and signed by the chairperson of the mental health and disability services region governing board and regional chief executive officer.

d. Application supporting documentation shall include evidence to demonstrate compliance with subrule 25.22(2).

25.22(2) Applicant conditions. To receive funding in state fiscal years 2022 and 2023, the mental health and disability services region must meet the following conditions:

a. The mental health and disability services region must be in compliance with the regional service system management plan as defined in Iowa Code section 331.393.

b. Applicants for state fiscal year 2022 funding must have an ending balance in the region’s combined services fund equal to or less than 40 percent of the actual expenditures in state fiscal year 2020.

c. Applicants for state fiscal year 2023 funding must have an ending balance in the region’s combined services fund equal to or less than 20 percent of the actual expenditures in state fiscal year 2021.

d. The mental health and disability services region must need incentive funds for one or more of the following circumstances:

(1) Operating in a deficit and a reduction in available funding for core services as the result of the reduction and elimination of the levy.

(2) Support of non-core services to maintain individuals in a community setting or reduce the risk that individuals needing services and supports would be placed in more restrictive, higher-cost settings.

25.22(3) Incentive fund application review and approval. The department shall make its final decisions for incentive funds on or before December 15 of the fiscal year of application.

a. A written notice regarding acceptance or rejection of an application and the total amount obligated shall be furnished to the mental health and disability services region.

b. The department shall distribute incentive funds payable to the mental health and disability services regions for the amounts due on or before January 1.

25.22(4) Incentive fund reporting. Mental health and disability services regions shall submit to the department a report on forms specified by the department twice each calendar year subsequent to an award distribution. Reports shall be submitted by February 15 and August 15.

25.22(5) Incentive fund review. The department shall analyze year-end financial records and annual independent audits of the mental health and disability services region for all years subsequent to an incentive fund award. If the department determines a mental health and disability services region’s actual need for incentive funds was less than the amount of incentive funds granted, the mental health and disability services region shall refund the difference between the amount of assistance granted and the actual need.

a. A written notice outlining the department’s findings and moneys identified for repayment shall be furnished to the regional administrative entity.
HUMAN SERVICES DEPARTMENT[441](cont’d)

b. The mental health and disability services region shall submit the refund within 30 days of receiving notice from the department. Refunds shall be credited to the incentive fund. This rule is intended to implement Iowa Code section 225C.7A.

[Filed 1/21/22, effective 3/16/22]
[Published 2/9/22]
EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

ARC 6186C

MANAGEMENT DEPARTMENT[541]

Adopted and Filed
Rule making related to calculating net general fund revenues


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 8.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 619, section 1.

Purpose and Summary

This amendment rescinds the procedures to calculate net General Fund revenues. 2021 Iowa Acts, Senate File 619, was signed into law on June 6, 2021. Section 1 of the legislation struck 2018 Iowa Acts, chapter 1161, section 133, and replaced the section with language stating the division of the Act takes effect on January 1, 2023, thereby eliminating the need for the rule.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 15, 2021, as ARC 6088C. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on January 19, 2022.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 541—1.3(8).
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 16, 2022.

The following rule-making action is adopted:
Rescind and reserve 541—Chapter 15.

[Filed 1/19/22, effective 3/16/22]
[Published 2/9/22]
EDITORS NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

ARC 6194C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Rule making related to Class I dock permits


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455A.5(6), 461A.4(1)”b” and 462A.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 461A.4 and 461A.18.

Purpose and Summary

Chapter 16 contains rules governing docks and boat hoists, including the issuance of Class I dock permits. This rule making amends subrules 16.4(3) and 16.17(1), which designate procedures for issuing Class I dock permits. The amendments change the existing term of the Class I permit from five years to a perpetual term. The permit will be valid until the property is sold or transferred or until the dock no longer meets the criteria for a Class I permit.

Currently, the Department of Natural Resources (Department), on behalf of the Commission, manages 7,683 dock permits in its dock program. Of these docks, 4,854 are Class I permits. Eliminating routine Class I permit reapplications simplifies the process for Class I permittees and significantly reduces the amount of staff time spent assisting Class I dock permittees. This allows staff to work on other Department priorities.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 3, 2021, as ARC 6028C. A virtual public hearing was held on November 30, 2021, at
10 a.m. via conference call. 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 Commission on January 19, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa because it requires no additional revenues or staffing to implement. 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

This rule is subject to the waiver provisions of 571—Chapter 11. 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 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 16.4(3) as follows:

16.4(3) Procedures for issuance of Class I dock permits. The owner of a standard dock eligible for a Class I permit under the criteria in 16.4(1) or a dock in an area specified in 16.4(2) shall apply for a Class I dock permit on an application form supplied by the department. The applicant shall certify that the dock meets the criteria for a Class I permit. The department shall approve the application based on the applicant’s certification and shall assign a permit number, which may be a series of numbers or letters, or a combination of numbers and letters. The applicant shall be responsible for obtaining stickers with the permit numbers and letters, for attaching them to the end of the dock facing opposite from the shoreline, and for displaying the 911 address as provided in 16.3(5). Class I dock permits authorized by this rule may be issued for terms up to five years and shall be issued without administrative fee and remain valid until the property is sold or transferred. In the event the property is sold or transferred, the new owner may request to transfer the Class I dock permit as provided in 16.17(1). A Class I dock permit shall be valid only while dock and hoists comply with the criteria for a Class I permit.

ITEM 2. Amend subrule 16.17(1) as follows:

16.17(1) Duration and transferability of dock permits; administrative fee refunds. Each With the exception of Class I dock permits, each dock permit shall be issued for a term of five years unless a shorter term is needed due to specified circumstances. The administrative fee paid with an application is nonrefundable unless the application is withdrawn before the department incurs administrative expense
in investigating the application. A dock permit is automatically transferable to a new owner of the shoreline property upon request of the new owner.

[Filed 1/21/22, effective 3/16/22]
[Published 2/9/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

ARC 6174C

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to collaborative pharmacy practice

The Board of Pharmacy hereby amends Chapter 39, “Expanded Practice Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in 2021 Iowa Acts, Senate File 296.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 296.

Purpose and Summary

This amendment updates a Board rule relating to collaborative pharmacy practice agreements between pharmacists and Iowa-licensed prescribers who have independent prescribing authority. The rule making identifies the minimum required elements of such agreements.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 3, 2021, as ARC 6012C. A public hearing was held on November 24, 2021, at 10:30 a.m. in the Health Professions Board Room, 400 S.W. 8th Street, Suite H, Des Moines, Iowa, as well as via Zoom. Four individuals attended the public hearing, but none provided public comments.

The Board received three written comments. The comments recommended that the Board specifically identify physician assistants as individuals authorized to enter into collaborative pharmacy practice agreements with pharmacists; recognize a hospital’s pharmacy and therapeutics committee in establishing such agreements; and remove the requirement that each pharmacist review the contents of a collaborative practice agreement, because the associated recordkeeping would be onerous for pharmacies.

The Board declined the recommendation relating to physician assistants because those practitioners do not have independent prescribing authority to delegate the activity to a pharmacist. The Board agreed with the suggestion to recognize a hospital’s pharmacy and therapeutics committee in establishing collaborative practice agreements and revised the rule making accordingly. While the Board recognizes the challenges of documenting pharmacist review of such agreements, the Board believes it imperative that pharmacists review such agreements before engaging in the authorized practice and that attestation to such review need not be terribly complicated; as such, paragraph 39.13(2)“e” was revised to remove the requirement that the documentation be maintained by the pharmacy department, allowing the documentation to be maintained by a human resources department instead.

Adoption of Rule Making

This rule making was adopted by the Board on January 11, 2022.
Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on March 16, 2022.

The following rule-making action is adopted:

Rescind rule 657—39.13(155A) and adopt the following new rule in lieu thereof:

657—39.13(155A) Collaborative pharmacy practice.

39.13(1) Definitions. For the purpose of this rule, the following definitions shall apply:

“Collaborative pharmacy practice” means a practice of pharmacy whereby one or more pharmacists provides patient care and drug therapy management services not otherwise permitted to be performed by a pharmacist to patients under a collaborative pharmacy practice agreement with one or more practitioners which defines the nature, scope, conditions, and limitations of the patient care and drug therapy management services to be provided by the pharmacist(s) in order to ensure that a patient achieves the desired outcomes.

“Practitioner” means a physician, dentist, podiatric physician, veterinarian, optometrist, or advanced registered nurse practitioner who holds an active license to practice in Iowa.

39.13(2) Collaborative practice agreement.

a. Pursuant to these rules, a pharmacist or pharmacy may engage in collaborative pharmacy practice under a collaborative pharmacy practice agreement with one or more practitioners, or as established by a health system pharmacy and therapeutics committee, to provide patient care and drug therapy management services to one or more patients.

b. A collaborative pharmacy practice agreement shall include:

1. The identification of the parties to the agreement, including the name(s) or category of the pharmacist(s), including registered pharmacist-intern(s) under the supervision of a pharmacist, who are authorized to perform delegated activities under the agreement and the name(s) or category of the practitioner(s) who are delegating activities under the agreement;

2. The establishment of the delegating practitioner’s scope of practice authorized in the agreement and a description of the permitted activities and decisions to be performed by the pharmacist(s);

3. The protocol, formulary, or clinical guidelines that describe or limit the pharmacist’s authority to perform the patient care or drug therapy management services and, as applicable, the drug name, class or category provided under drug therapy management;
PHARMACY BOARD[657](cont’d)

(4) A description of the process to monitor compliance with the agreement and clinical outcomes of patients;
(5) The effective date;
(6) A provision addressing termination of the agreement; and
(7) The signatures of the parties to the agreement and dates of signing, unless established by a health system pharmacy and therapeutics committee.

c. Parties to the collaborative pharmacy practice agreement shall review and revise such agreement as appropriate, but no less than every two years.
d. Any collaborative pharmacy practice agreement shall be maintained by the pharmacist(s) or pharmacy and be available upon request or inspection.
e. Prior to engaging in patient care or drug therapy management services under a collaborative pharmacy practice agreement, including when the agreement is updated, each pharmacist practicing under the agreement shall attest that the pharmacist has read and understands the agreement. Documentation of pharmacist attestation shall be maintained for at least two years from the attestation date and be available upon request or inspection.

[Filed 1/18/22, effective 3/16/22]
[Published 2/9/22]
EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

ARC 6187C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to chiropractic physician preceptors

The Board of Chiropractic hereby amends Chapter 42, “Colleges for Chiropractic Physicians,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 151.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 151.

Purpose and Summary

These adopted amendments change the outdated preceptor approval process by redirecting authority back to the chiropractic schools, which can independently search the Board’s website to confirm licensure and disciplinary action of a preceptor.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 3, 2021, as ARC 6011C. A public hearing was held on November 23, 2021, at 9 a.m. in the Fifth Floor 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 on January 12, 2022.
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

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on March 16, 2022.

The following rule-making action is adopted:

Amend subrule 42.5(1) as follows:

42.5(1) The board shall approve a chiropractic physician shall be approved to be a chiropractic physician preceptor if the chiropractic physician meets the following criteria are met:
a. The chiropractic physician holds a current Iowa chiropractic license and has continuously held licensure in the United States for the previous five years prior to preceptorship;
b. The chiropractic physician is currently fully credentialed by the sponsoring chiropractic college and approved by the board; and
c. The chiropractic physician has not had any formal disciplinary action or has not, within the past three years, been a party to a malpractice settlement or judgment which the board has determined to be disqualifying.

[Filed 1/19/22, effective 3/16/22]
[Published 2/9/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

ARC 6163C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to the Iowa care for yourself program

The Public Health Department hereby amends Chapter 8, “Iowa Care for Yourself (IA CFY) Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 135.11(1) and 135.39.
State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 135.

Purpose and Summary

These amendments include changes to clarify statements, match medical definitions, and allow for cervical cancer services to be provided by the IA CFY program to an expanded population of persons 21 to 39 years of age who do not have access to other programs providing these services. The IA CFY program is also now able to provide breast cancer services to asymptomatic persons under 40 years of age who are identified as at high risk for breast cancer.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as ARC 6050C. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on January 12, 2022.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s waiver provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on March 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—8.1(135) as follows:

641—8.1(135) Definitions. For purposes of this chapter, the following definitions apply:

“Abnormal screen” means a suspicion of breast or cervical cancer or laboratory values of total cholesterol or blood glucose and average blood pressure reading in the range defined by the CDC according to National Heart, Lung and Blood Institute guidelines.

1. A suspicion of breast cancer includes clinical breast examination findings of: palpable breast mass, breast dimpling, nipple retraction, bloody nipple discharge, palpable lymph nodes around clavicle or axilla, nipple erythema and scaliness, a mammography result of breast imaging reporting and data
systems (BI-RADS) category 4 (suspicious abnormality suggesting need for biopsy) or category 5 (highly suggestive of malignancy) (ICD-10 R92.0, R92.1, R92.2, R92.8), breast biopsy result of ductal cancer in situ (ICD-10 D05.10, D05.11, D05.12), lobular cancer in situ (ICD-10 D05.00, D05.01, D05.02) or breast or lymph node (or other) biopsy result of breast cancer.

2. Suspicion of cervical cancer is a Pap test result of atypical squamous cells cannot exclude high-grade squamous intraepithelial lesions (ASC-H) (ICD-10 R87.611 or R87.622 or R87.621), atypical glandular cells (AGC) (ICD-10 R87.619 or R87.629), low-grade squamous intraepithelial lesions (LSIL) (ICD-10 R87.612 or R87.622), or high-grade squamous intraepithelial lesions (HSIL) (ICD-10 R87.613 or R87.623), leukoplakia of the cervix (ICD-10 N88.0), or cervical biopsy result of cervical intraepithelial neoplasia II (ICD-10 N.87.1) or III (ICD-10 D06.0, D06.1, D06.7 or D06.9), or cancer in situ (ICD-10 D06.0, D06.1, D06.7 or D06.9).

3. Abnormal value means laboratory values of total cholesterol or blood glucose (HbA1c if diagnosed diabetic) and average blood pressure reading in the range defined by the CDC according to National Heart, Lung and Blood Institute guidelines.

“ACR” or “American College of Radiology” means one of the Food and Drug Administration-recognized accreditation bodies for minimum quality standards for personnel, equipment, and record keeping in facilities that provide breast imaging.

“Advanced registered nurse practitioner” means an individual licensed to practice under 655—Chapter 7.

“Alert value” means laboratory values of total cholesterol, blood glucose or average blood pressure reading in the range defined by the CDC according to National Heart, Lung and Blood Institute guidelines.

“BCCPTA” or “Breast and Cervical Cancer Prevention and Treatment Act of 2000” means a federal law that provides each state with the option of extending Medicaid eligibility to individuals who were diagnosed with breast or cervical cancer through the National Breast and Cervical Cancer Early Detection Program.

“BCCT option of Medicaid” or “breast and cervical cancer treatment option of Medicaid” means the optional program of medical aid designed for individuals who are unable to afford regular medical service and are diagnosed with breast or cervical precancer or cancer through the National Breast and Cervical Cancer Early Detection Program or through funds from family planning centers, community health centers, or nonprofit organizations. The individuals who receive screening or services meet eligibility requirements established by the Iowa Care for Yourself program. The BCCT option of Medicaid is financed by federal and state payment sources and is authorized by Title XIX of the Social Security Act.

“Benign” means a noncancerous condition that does not spread to other parts of the body.

“Biopsy” means the removal of a sample or an entire abnormality for microscopic examination to diagnose a problem. Examples of a sampling would be a core biopsy or incisional biopsy; an example of entire removal would be an excisional biopsy.

“BI-RADS” or “breast imaging reporting and data systems” means a standardized reporting system for mammography, breast ultrasound and breast magnetic resonance imaging (MRI) reports.

“Blood glucose” means a simple sugar found in the blood that is an important energy source in living organisms and is a component of many carbohydrates.

“Blood pressure” means the force of blood against the circulatory system. The systolic blood pressure is the force caused when the heart contracts and pushes out the blood. The diastolic blood pressure is when the heart relaxes and fills with blood.

“BMI” or “body-mass index” means an index for relating weight to height a person’s weight in kilograms divided by the square of the person’s height in meters. BMI provides a reliable indicator of body fatness for most people and is used to screen for weight categories that may lead to health problems.

“Breast ultrasound” means an imaging technique commonly used to screen for tumors and other breast abnormalities. The breast ultrasound uses high-energy sound waves to produce a detailed image of the inside of the breast.
“Cancer” means a group of diseases involving abnormal cell growth with the potential to invade or spread to other parts of the body.
“Carcinoma in situ” means a group of abnormal cells found only in the place where they first formed in the body.
“Cardiologist” means a physician licensed to practice under Iowa Code chapter 148 who specializes in the study or treatment of the heart and its action and diseases.
“Cardiovascular disease” means a broad term used to describe a range of diseases that affect the heart and, in some cases, blood vessels.
“Cardiovascular disease risk factors” means identifiable factors that make some people more susceptible than others to cardiovascular disease. Cardiovascular disease risk factors include:
1. Obesity.
2. Physical inactivity.
3. High blood pressure.
4. High blood cholesterol.
5. Diabetes.
6. Tobacco use.
Risk factors that cannot be changed are age, gender and family history. The more cardiovascular disease risk factors a person has increases the person’s chance of developing cardiovascular disease.
“Case management” means the IA CFY program component that involves establishing, brokering, and sustaining a system of available clinical and essential support services for all individuals enrolled in the program.
“CBE” or “clinical breast examination” means complete examination of an individual’s breast and axilla with palpation by a health care provider trained to recognize many different types of abnormalities and warning signs.
“CDC” means the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services, a federal agency that conducts and supports health promotion, prevention and preparedness activities in the U.S. United States, with the goal of improving overall public health.
“Cholesterol” means a waxy, fat-like substance made in the liver and other cells and found in certain foods, such as foods from animals, for example, dairy products, eggs and meat. Types of cholesterol are as follows:
1. Low density lipoprotein or LDL, also called “bad” cholesterol. LDL can cause buildup of plaque on the walls of arteries. The more LDL there is in the blood, the greater which narrows the arteries and increases the risk of cardiovascular disease.
2. High density lipoprotein or HDL, also called “good” cholesterol. HDL helps the body get rid of bad cholesterol in the blood. If levels of HDL are low, risk of cardiovascular disease increases.
3. Very low density lipoprotein or VLDL. VLDL is similar to LDL cholesterol in that it contains mostly fat and not much protein. It differs in that VLDL carries triglycerides, whereas LDL carries mainly cholesterol.
4. Total cholesterol means the sum of the very low, low and high density lipoproteins.
“CLIA” or “Clinical Laboratory Improvement Acts of 1988” means the federal regulatory standards that apply to all clinical laboratory testing performed on humans in the U.S. United States. These standards establish minimum quality standards for personnel and quality assurance methods that monitor patient test management and assess quality control, proficiency testing, and personnel handling of laboratory and pathology specimens.
“CLIA-waived tests” means simple laboratory examinations and procedures that are cleared by the federal government for home use, that employ methodologies that are so simple and accurate that erroneous results would be negligible, or that pose no reasonable risk of harm to the patient if the test is performed incorrectly.
“CMS” or “Centers for Medicare and Medicaid Services” is a federal agency within the United States Department of Health and Human Services that administers health care programs, including Medicare, Medicaid, the children’s health insurance program (CHIP) and health insurance exchanges, in partnership with state governments.
"Colposcopy" means a medical procedure that allows close examination of the surface of the cervix with a high-powered microscope.

"Community referral" means to direct individuals elsewhere to obtain needed information, mutual support or community resources through help lines or other methods.

"Community resource" means a source of information, service or expertise that is available within the community, including respite care services, health and mental health services and other social services.

"Cooperative agreement" means a signed contract between the department and another party, for example, a health care facility, which allows the department’s IA CFY program to pay the health care facility for providing services to IA CFY program participants.

"CPT" or “current procedural terminology” means a listing of descriptive terms and identifying codes for uniform language to report medical services and procedures performed by qualified health care professionals and allows clinicians, statisticians, politicians, health insurance programs, health planners and others to speak a common language.

"Creditable coverage" means any insurance that pays for medical bills incurred for the screening, diagnosis, or treatment of breast and cervical cancer. Creditable coverage as described by the Health Insurance Portability and Accountability Act of 1996 includes, but is not limited to, group health plans or health insurance coverage consisting of medical care under any hospital or medical service policy, health maintenance organization, Medicare Part A or B, Medicaid, armed forces insurance, or state health risk pool. An individual who has creditable coverage shall not be eligible for coverage under the breast and cervical cancer treatment option of Medicaid.

"Creditable coverage circumstances" means those instances in which an individual has creditable coverage but is not actually covered for treatment of breast or cervical cancer.

1. When there is a preexisting-condition exclusion or when the annual or lifetime limit on benefits has been exhausted, an individual is not considered to have creditable coverage for this treatment.

2. If an individual has limited coverage, such as a high deductible, limited drug coverage, or a limited number of outpatient visits, the individual is still considered to have creditable coverage and is not eligible for coverage under the breast and cervical cancer treatment option of Medicaid.

3. If an individual has a policy with a limited scope of coverage, such as only dental, vision, or long-term care, or has a policy that covers only a specific disease or illness, the individual is not considered to have creditable coverage unless the policy provides coverage for breast and cervical cancer treatment.

4. For the purposes of this program, eligibility for Indian Health Services or tribal health care is not considered creditable coverage (according to P.L. 107-121, the Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2001).

"Cytology" means the branch of biology that studies the structure and function of a cell.

"Cytopathology" means the branch of pathology that studies and diagnoses disease on the cellular level.

"Cytotechnologist" means a laboratory professional who studies cells and cellular abnormalities.

"Department" means the Iowa department of public health.

"DHS" or "department of human services" means the Iowa department of human services, a state agency that provides a wide range of services, including health care coverage for low-income uninsured individuals diagnosed with breast or cervical cancer or precancer and requiring treatment.

"Diagnostic mammography" means a radiological examination performed for clinical indications, such as breast mass(es), other breast signs or symptoms (spontaneous nipple discharge, skin changes), or special cases, such as a history of breast cancer with breast conservation or augmented breasts.

"Facility" means a place where health care is provided, including hospitals, clinics, outpatient care centers, laboratories, and specialized care centers that have completed enrollment paperwork with the IA CFY program.

"Family planning clinic" means a Title X family planning program site dedicated to the provision of family planning and related preventive health services to low-income and underserved populations.
“FDA” or “Food and Drug Administration” means the federal governmental body which certifies that a breast imaging facility meets minimum quality standards for personnel, equipment, and record keeping.

“Follow-up” means the IA CFY program component that involves a system for seeking information about or reviewing an abnormal condition, re-screening, or recall for annual visits to ensure provision of timely and adequate services for participants who have abnormal screening results.

“Gynecologist” means a physician licensed to practice under Iowa Code chapter 148 who specializes in treating diseases of the female reproductive organs in women and providing well-woman health care that focuses primarily on the reproductive organs.

“HbA1c” or “glycosylated hemoglobin” means a clinical laboratory test for the purposes of diagnosing diabetes or determining control of diabetes over the past two to three months.

“Health care provider” means any physician, pharmacist, advanced registered nurse practitioner, or physician assistant who is authorized to practice by the state; who is performing within the scope of the practice as defined by state law; and who provides care to IA CFY program-enrolled individuals.

“IA BCCEDP” or “Iowa breast and cervical cancer early detection program” means a comprehensive breast and cervical cancer screening program established and funded under Title XV of the federal Public Health Service Act and administered by the Iowa department of public health, with the delegated responsibility of implementation and evaluation from the CDC, Division of Cancer Prevention and Control.

“IA CFY program” or “Iowa care for yourself program” means an integrated comprehensive breast and cervical cancer screening program and cardiovascular risk factor screening and intervention program administered by the Iowa department of public health.

“IA WISEWOMAN” or “Iowa well-integrated screening and evaluation for women across the nation” means a cardiovascular-related risk factor screening and intervention program to provide standard preventive screening services, including blood pressure measurements, cholesterol testing, blood glucose testing, and lifestyle interventions that target poor nutrition, physical inactivity, and tobacco use. The program is authorized by the federal government and administered by the CDC to help reduce deaths and disability from cardiovascular disease and stroke.

“ICD-10” or “International Classification of Disease, 10th edition” means a standardized classification of diseases, injuries, and reasons of death, by cause and anatomic localization, which is systematically put into a number of up to seven digits and which allows clinicians, statisticians, politicians, health planners and others to speak a common language, both in the United States and internationally.

“Infrastructure” means the basic framework of sufficient staff and adequate support systems to plan, implement, and evaluate the components of the IA CFY program.

“In need of treatment” means that a medical or surgical intervention is required because of an abnormal finding of breast or cervical cancer or precancer that was determined as a result of a screening or diagnostic procedure for breast or cervical cancer/precancer.

“Intervention” means services that promote a cardiovascular-healthy diet and physical activity and that are based on screening results, which include blood pressure, cholesterol, blood glucose, weight, height, personal medical history, family medical history, and health behavior and readiness-to-change assessments.

“MAB” or “medical advisory board” means a body that may be utilized by the IA CFY program to offer knowledge and experience as related to the fields of expertise of the members of the board. Duties of the MAB may include, but are not limited to, the following:

1. Reviewing and making recommendations for clinical service expansion.
2. Reviewing program-developed clinical protocols.
3. Providing recommendations related to other clinical and participant-related issues.
4. Providing input related to quality assurance issues.
5. Reviewing program screening and diagnostic data.

“MDEs” or “minimum data elements” means a set of standardized data elements used to collect patient-level screening records demographic and clinical information on individuals served through the
with NBCCEDP in order funds. The MDEs are reported to the CDC to evaluate whether programs are meeting clinical standards and programmatic priorities.

“Medicaid” means a health care program that assists low-income families or individuals in paying for doctor visits, hospital stays, long-term medical care, custodial care costs and more; the program is financed by federal and state payment sources and authorized by Title XIX of the Social Security Act and administered by the Iowa department of human services.

“Medicare” means the program of federal payment source for health benefits, especially for the aged, which is authorized by Title XVIII of the Social Security Act. Medicare is administered by CMS.

“MRI” or “magnetic resonance imaging” means a medical imaging technique used in radiology to form pictures of the anatomy and the physiological processes of the body. MRI scanners use strong magnetic fields, magnetic field gradients, and radio waves to generate images of the organs in the body.

“NBCCEDP” or “National Breast and Cervical Cancer Early Detection Program” means a program established with the passage of the Breast and Cervical Cancer Mortality Prevention Act of 1990 (Public Law 101-354). The law authorizes the CDC to establish a program of grants to states, tribes, and territories for increasing the early detection of breast and cervical cancer, particularly among low-income, uninsured, and underserved individuals.

“Nonprofit organization” means a group organized for purposes other than generating profit and in which no part of the organization’s income is distributed to its members, directors, or officers, except under limited circumstances.

“Oncologist” means a physician licensed to practice under Iowa Code chapter 148 who is a specialist in treating or studying the physical, chemical, and biologic properties and features of neoplasms, including causation, pathogenesis, and treatment.

“Outreach” means the IA CFY program component that involves recruiting targeted populations or individuals who never or rarely utilize preventive health services.

“Pap test” or “Papanicolaou screening test” means the Papanicolaou screening test that collects a procedure to collect cells from the cervix for examination under a microscope. The Pap test can detect abnormal cells or precancerous cells before cancer develops.

“Pathologist” means a physician licensed to practice under Iowa Code chapter 148 who is a specialist in identifying who interprets and diagnoses the changes caused by diseases by studying cells and tissues under a microscope in tissues and body fluids.

“Patient navigation” means an IA CFY program component that assists individuals in overcoming health care system barriers and facilitates timely access to quality screening and diagnostics as well as initiation of breast or cervical cancer treatment services.

“Pharmacist” means an individual licensed to practice under Iowa Code chapter 155A who is able to receive or process prescription drug orders in accordance with the pharmacy laws.

“Physician” means an individual licensed to practice medicine and surgery or osteopathic medicine and surgery under Iowa Code chapter 148.

“Physician assistant” means an individual who has successfully completed an approved program and passed an examination approved by the board or is otherwise found by the board to be qualified to perform medical services under the supervision of a physician and is licensed to practice under Iowa Code chapter 148C.

“Precancerous” means a condition or lesion involving abnormal cells that are associated with an increased risk of developing into cancer.

“Program and fiscal management” means the IA CFY program component that includes planning, organizing, directing, coordinating, managing, budgeting for, and evaluating program activities.

“Quitline Iowa” means a toll-free, statewide smoking cessation telephone counseling hotline through which trained counselors provide assistance in making an individualized tobacco use quit plan and provide ongoing support through optional follow-up calls.

“Radiologist” means a physician licensed to practice under Iowa Code chapter 148 who specializes in the branch of medicine that diagnoses injuries and diseases using medical imaging procedures such as X-rays, sound waves, or other types of energy.
"Rarely or never been screened" means, as defined for the NBCCEDP, that an individual has not had cervical cancer screening within the last five years 3,469 days (9.5 years) or has never been screened for cervical cancer.

"Recruitment" means the IA CFY program component that involves enrolling targeted populations or individuals finding new individuals to enroll in the IA CFY program for preventive breast and cervical health services.

"Referral" means the IA CFY program component that involves directing individuals with abnormal/alert screening results or barriers to services to appropriate resources for follow-up action.

"Screening mammography" means the use of X-ray of the breasts of asymptomatic individuals in an attempt to detect abnormal lesions of the breast when they are small, nonpalpable, and confined to the breast.

"Service delivery" means providing, either directly or through contractual arrangements, comprehensive breast and cervical cancer screening and cardiovascular disease and stroke risk factor screening, diagnosis, and treatment services through tracking of screening intervals, timeliness of diagnosis, and timeliness of treatment of individuals.

"Surgeon" means a physician licensed to practice under Iowa Code chapter 148 who treats disease, injury, or deformity by physical operation or manipulation.

"Surveillance" means the IA CFY program component that involves the systematic collection, analysis, and interpretation of health data.

"TBS" or "the Bethesda system" means a system for reporting cervical or vaginal cytologic diagnoses, used for reporting Pap test results.

"Triglycerides" means a type of fat that is carried in the blood by very low density lipoproteins. Excess calories, alcohol, or sugar in the body are converted into triglycerides and stored in fat cells throughout the body.

ITEM 2. Amend paragraph 8.2(2)"a" as follows:
   a. The IA CFY program shall cover breast and cervical cancer screening and diagnostic services including, but not limited to, the following when those services are provided by a participating health care provider who whose facility has a cooperative agreement with the Iowa department of public health’s IA CFY program. Payment shall be based on Medicare Part B participating-provider rates as released annually at the beginning of each calendar year.
   (1) to (10) No change.

ITEM 3. Amend paragraph 8.2(2)"f" as follows:
   f. A health care provider that whose facility has a cooperative agreement with the IA CFY program shall be subject to the following:
   (1) to (7) No change.

ITEM 4. Adopt the following new paragraph 8.3(1)"f":
   f. If the applicant is 21 through 39 years of age and asymptomatic for breast cancer, the applicant may receive an office visit for a cervical cancer screening according to IA CFY protocol. If the applicant is determined to be at high risk for developing breast cancer using a risk assessment model that relies on family history, the applicant may receive breast services, including a mammogram and an MRI, in accordance with IA CFY protocols. EXCEPTION: This categorized group is not eligible for cardiovascular services under this program.

ITEM 5. Amend paragraph 8.3(3)"c" as follows:
   c. Individuals who have creditable coverage, Medicaid, or Medicare Part B are eligible for patient navigation if declaring a barrier to services.

ITEM 6. Amend subrule 8.3(5) as follows:
8.3(5) Ineligible. The IA CFY program does not provide coverage for: men.
   a. Men.
   b. Individuals 39 years of age and younger unless they have symptoms of breast cancer.
ITEM 7. Adopt the following new paragraph 8.5(1)“e”:
   e. Fifth priority shall be given to individuals 21 through 39 years of age.

ITEM 8. Amend paragraph 8.7(1)“a” as follows:
   a. The individual was enrolled in the IA CFY program when diagnosed; has had at least one of
the screening services (Pap test, screening mammogram, CBE or MRI) or diagnostic procedures paid
for by the IA CFY program or with funds from family planning centers, community health centers, or
nonprofit organizations; and must be in need of treatment for breast or cervical cancer or precancerous
conditions; or

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

ARC 6164C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to radiation machines and radioactive materials

The Public Health Department hereby amends Chapter 38, “General Provisions for Radiation
Machines and Radioactive Materials,” and Chapter 41, “Safety Requirements for the Use of Radiation

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 136C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 136C.

Purpose and Summary

The amendments to Chapter 38 strike the fee related to the State of Iowa as a mammography
accrediting body (AB) and providing services for mammography interpretation fees and accreditation
fees. The State of Iowa relinquished the role of AB effective January 1, 2021. The fees have been
removed to reflect the current fee collections by the Bureau of Radiological Health.

The amendments to Chapter 41 align with the current changes in technology of X-ray machines
for mammography and stereotactic breast biopsy and reflect the requirements of the quality control
programs outlined by the unit manufacturers. Additional amendments align the Department’s rules with
the Food and Drug Administration (FDA) on certain requirements outlined in the Mammography Quality
Standards Act (MQSA).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on
November 17, 2021, as ARC 6051C. No public comments were received. No changes from the Notice
have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on January 12, 2022.
Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s waiver provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on March 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph 38.8(1)“b” as follows:

b. Each registrant shall, where appropriate, pay the following special inspections/interpretation fee at the written request of the department:

1. $1,575 for the first unit and, if the facility has additional units at the address of the first unit, a fee of $375 for each additional unit; or
2. $1,575 per portable unit for each site where the unit is off-loaded and used and where the processing and patient films are stored; or
3. Dollar amount to be determined and justified by the department on a case-by-case basis for facilities which do not meet the above criteria; or
4. $675 for the second facility follow-up visit to review or determine the corrective action taken to address noncompliances; or
5. $1,575 for each stereotactic breast biopsy unit.

ITEM 2. Amend subrule 41.6(1) as follows:

41.6(1) Definitions. In addition to the definitions provided in 641—38.2(136C), 641—40.2(136C), and 641—41.1(136C), the following definitions shall be applicable to this rule.

“Accreditation body” means an entity that has been approved by FDA to accredit mammography facilities.

“Acquisition workstation” or “AWS” means the soft copy display workstation used in conjunction with the mammography unit.
“Action limits” or “action levels” means the minimum and maximum values of a quality assurance measurement that can be interpreted as representing acceptable performance with respect to the parameter being tested. Values less than the minimum or greater than the maximum action limit or level indicate that corrective action must be taken by the facility. Action limits or levels are also sometimes called control limits or levels.

“Adverse event” means an undesirable experience associated with mammography activities. Adverse events include but are not limited to:

1. Poor image quality;
2. Failure to send mammography reports within 30 days to the referring physician or in a timely manner to the self-referred patient; and
3. Use of personnel who do not meet the applicable requirements of this chapter.

“Air kerma” means kerma in a given mass of air. The unit used to measure the quantity of air kerma is the Gray (Gy). For X-rays with energies less than 300 kiloelectronvolts (keV), 1 Gray of absorbed dose is delivered by 114 roentgens (R) of exposure.

“Annually” means within 10 to 14 months of previous occurrence.

“Artifact” means a substance or structure not naturally present in living tissue but of which an authentic image appears in a radiograph.

“Automatic exposure control systems” means automatic exposure control systems, often referred to as phototimers, which are designed to automatically determine and provide the exposure needed to produce an adequate density image by sampling the X-ray intensity after passage through the patient and image receptor.

“Average glandular dose” means the energy deposited per unit mass of glandular tissue averaged over all the glandular tissue in the breast, calculated from values of entrance exposure in air, the X-ray beam quality (half-value layer), and compressed breast thickness. For a 50 percent-50 percent adipose and glandular 4.2 centimeter breast, the average glandular dose shall not exceed 300 millirad (3 mGy). See also: “Dose.”

“Breast implant” means a prosthetic device implanted in the breast.

“Calendar quarter” means any one of the following time periods during a given year: January 1 through March 31, April 1 through June 30, July 1 through September 30, or October 1 through December 31.

“Category I” means medical education activities that have been designated as Category I by the Accreditation Council for Continuing Medical Education (ACCME), the American Osteopathic Association (AOA), a state medical society, or an equivalent organization.

“Certificate” means the certificate described in 41.6(2)(a)“(2).

“Certification” means the process of approval of a facility by the FDA or this agency to provide mammography services.

“Clinical image” means a mammogram.

“Compression device” means a firm plastic paddle used to help hold the breast stationary and eliminate blurring due to motion, to help separate structures within the breast, and to decrease the thickness of breast tissue, minimizing the amount of radiation used and the amount of scattered radiation reaching the film.

“Computed radiography mammography” means a type of digital mammography in which the digital image receptor must be removed from the X-ray unit for the image to be read and processed by a separate image receptor reader.

“Consumer” means an individual who chooses to comment or complain in reference to a mammography examination, including the patient or representative of the patient (e.g., family member or referring physician).

“Contact hour” means an hour of training received through direct instruction.

“Continuing education unit” or “continuing education credit” means one contact hour of training.

“Craniocaudal view” means one of two routine views for mammography. The detector system is placed caudal to (below) the breast and the vertical X-ray beam is directed from cranial to caudal (downward) through the breast.
“Dedicated mammography equipment” means X-ray systems designed specifically for breast imaging, providing optimum imaging geometry, a device for breast compression and low dose exposure that can generate reproducible images of high quality.

“Digital breast tomosynthesis” or “DBT” means mammography that uses reconstructions to create three-dimensional images of the breasts.

“Direct detector technology” means a digital mammogram captured using a material which converts the X-ray energies directly to an electric signal.

“Direct instruction” means:
1. Face-to-face interaction between instructor(s) and student(s), as when the instructor provides a lecture, conducts demonstrations, or reviews student performance; or
2. The administration and correction of student examinations by an instructor(s) with subsequent feedback to the student(s).

“Direct supervision” means that:
1. During joint interpretation of mammograms, the supervising interpreting physician reviews, discusses, and confirms the diagnosis of the physician being supervised and signs the resulting report before it is entered into the patient’s records; or
2. During the performance of a mammography examination or survey of the facility’s equipment and quality assurance program, the supervisor is present to observe and correct, as needed, the performance of the individual being supervised who is performing the examination or conducting the survey.

“Dose” means the amount of energy deposited per unit mass of tissue due to X-radiation. The newer unit of absorbed dose is the Gray: 1 Gray = 1 Joule of energy deposited per kilogram of tissue. The older unit of absorbed dose is the rad: 1 rad = 0.01 Gray, 1 centiGray, or 10 milliGray.

“EQUIP” means Enhancing Quality Using the Inspection Program and uses inspection questions related to the image quality regulations of MQSA to emphasize the significance of continuous clinical image quality.

“Exposure” means the amount of X-radiation, quantitated by measuring the amount of ionization in air caused by the radiation. The units of exposure are Coulombs of charge ionized per kilogram of air. The older unit of exposure is the Roentgen: 1 Roentgen = 2.58 × 10E-4 Coulombs of charge per kilogram of air.

“Facility” means a hospital, outpatient department, clinic, radiology practice, mobile unit, office of a physician, or other facility that conducts mammography activities, including the following: operation of a mammogram, initial interpretation of the mammogram, and maintaining viewing conditions for that interpretation. This term does not include a facility of the Department of Veterans Affairs.

“FDA” means the Food and Drug Administration.

“First allowable time” means the earliest time a resident physician is eligible to take the diagnostic radiology boards from an FDA-designated certifying body. The “first allowable time” may vary with the certifying body.

“Full field digital mammography” or “FFDM” means radiographic imaging of the breast using a digital image receptor with minimum dimensions of 18×23 cm to allow imaging the average size breast in a single exposure.

“Grid” means a set of thin lead strips spaced close to one another, interspaced by carbon fiber for mammographic grids. The grid is placed between the breast and the screen-film image receptor to reduce scattered radiation reaching the image receptor.

“Image noise.” See “Radiographic noise.”

“Image receptor support device” means, for mammography X-ray systems, that part of the system designed to support the image receptor during a mammographic examination and to provide a primary protective barrier.

“Inspection” means to assess and determine compliance with regulations.

“Interpreting physician” means a licensed radiologist who interprets mammograms and who meets the requirements set forth in 416(3)”a.”
“Kerma” means the sum of the initial energies of all the charged particles liberated by uncharged ionizing particles in a material of given mass.

“Laterality” means the designation of either the right or left breast.

“Lead interpreting physician” means the interpreting physician assigned the general responsibility for ensuring that a facility’s quality assurance program meets all of the requirements of this chapter. The administrative title and other supervisory responsibilities of the individual, if any, are left to the discretion of the facility.

“Mammogram” means a radiographic image produced through mammography.

“Mammographic modality” means a technology for radiography of the breast. Examples are screen-film mammography, xeromammography, and full field digital mammography and digital breast tomosynthesis.

“Mammography” means radiography of the breast but, for the purposes of 641—41.6(136C), does not include:
1. Radiography of the breast performed during invasive interventions for localization or biopsy procedures; or
2. Radiography of the breast performed with an investigational mammography device as part of a scientific study conducted in accordance with FDA investigational device exemption regulations; or
3. Radiography of the breast performed as part of either a breast localization procedure or a post-stereotactic clip placement localization procedure.

“Mammography equipment evaluation” means an on-site assessment of the mammography unit or image processor performance review workstation by a medical physicist for the purpose of making a preliminary determination as to whether the equipment meets all of the applicable standards.

“Mammography medical outcomes audit” means a systematic collection of mammography results and the comparison of those results with outcomes data.

“Mammography unit(s)” means an assemblage of components for the production of X-rays for use during mammography including, at a minimum: an X-ray generator, an X-ray control, a tube housing assembly, a beam limiting device, and the supporting structures for these components.

“Mean optical density” means the average of the optical densities measured using phantom thicknesses of 2, 4, and 6 centimeters with values of kilovolt peak (kVp) clinically appropriate for those thicknesses.

“Medical physicist” means a person trained in evaluating the performance of mammography equipment and facility quality assurance programs and who meets the qualifications for a medical physicist set forth in 41.6(3)”c.”

“Mediolateral view” means one of the routine views for mammography in addition to the craniocaudal view. The detector system is placed lateral to the breast and the horizontal X-ray beam is directed from medial to lateral aspect through the breast.


“Multi-reading” means two or more physicians, at least one of whom is an interpreting physician, interpreting the same mammogram. A radiologist may count the current mammographic examination and one prior mammographic examination, provided the radiologist was not the interpreter of the prior mammographic examination. A separate tally shall be kept for the prior examinations.

“Oblique mediolateral view” means one of the standard two views of the breast. The detector system (cassette holder assembly) is angled 30-60 degrees from horizontal so that the cassette assembly detector system is parallel to the pectoral muscle and the corner of the cassette holder detector system fits comfortably into the axilla. The X-ray beam is directed from the supero-medial to the infero-lateral aspect of the breast.

“Patient” means any individual who undergoes a mammography evaluation in a facility, regardless of whether the person is referred by a physician or is self-referred.

“Phantom” means an artificial test object used to simulate radiographic characteristics of compressed breast tissue and containing components that radiographically model aspects of breast disease and cancer.

“Phantom image” means a radiographic image of a phantom.
“Physical science” means physics, chemistry, radiation science (including medical physics and health physics), and engineering.

“Positive mammogram” means a mammogram that has an overall assessment of findings that are either “suspicious” or “highly suggestive of malignancy.”

“Provisional certification” means the six-month certification time period in which a facility has to complete the accreditation/certification process.

“Qualified instructor” means individuals whose training and experience adequately prepare them to carry out specified training assignments. Interpreting physicians, radiologic technologists, or medical physicists who meet the requirements of 41.6(3) would be considered qualified instructors in their respective areas of mammography. Radiological technologists who meet the requirements of 41.6(3) and have passed a state-approved mammography examination such as the examination given by the American Registry of Radiography Technologists would be considered qualified instructors in their respective areas of mammography. The examination would include, but not necessarily be limited to: breast anatomy and physiology, positioning and compression, quality assurance/quality control techniques, and imaging of patients with breast implants. Other examples of individuals who may be qualified instructors for the purpose of providing training to meet the regulations of this chapter include, but are not limited to, instructors in a post-high school training institution and manufacturers’ representatives.

“Quality control technologist” means an individual meeting the requirements of 41.6(5)”a”(4) who is responsible for those quality assurance responsibilities not assigned to the lead interpreting physician or to the medical physicist.

“Radiographic equipment” means X-ray equipment used for the production of static X-ray images.

“Radiologic technologist” means an individual specifically trained in the use of radiographic equipment and in the positioning of patients for radiographic examinations and who meets the requirements set forth in 41.6(3)”b.”

“Radiologist continuing experience” means the number of mammograms interpreted by a radiologist in the past 24-month period. For the purpose of counting, a radiologist may count the current mammographic examination and one prior mammographic examination, provided the radiologist was not the interpreter of the prior mammographic examination. A separate tally shall be kept for the prior examinations.

“Reinstatement” means the process of recertification of a facility that has lost or voluntarily given up previous accreditation/certification.

“Review workstation” or “RWS” means soft copy display device intended for use in mammography interpretations.

“Screen-film mammography” means mammography performed with high-detailed intensifying screen(s) in close contact with the film.

“Screening mammography” means X-ray breast examination of asymptomatic individuals in an attempt to detect breast cancer when it is small, nonpalpable, and confined to the breast.

“Serious adverse event” means an adverse event that may significantly compromise clinical outcomes or an adverse event for which a facility fails to take appropriate corrective action in a timely manner.

“Serious complaint” means a report of a serious adverse event.

“Standard breast” means a 4.2 centimeter (cm) thick compressed breast consisting of 50 percent glandular and 50 percent adipose tissue.

“Supplier” means the individual in control of a mammography facility whose basic responsibility is the overall quality of all mammograms conducted in that particular facility.

“Survey” means an on-site physics consultation and evaluation of a facility quality assurance program performed by a medical physicist.

“Time cycle” means the film development time.

“Traceable to a national standard” means an instrument is calibrated at either the National Institute of Standards and Technology (NIST) or at a calibration laboratory that participates in a proficiency program with NIST at least once every two years and the results of the proficiency test conducted within
24 months of calibration show agreement within \( \pm 3 \) percent of the national standard in the mammography energy range.

“Written report” means interpreting physician’s technical narrative of a mammography evaluation.

“Written statement” means interpreting physician’s description of a mammography examination written in lay terms.

ITEM 4. Amend paragraph 41.6(2)“b,” introductory paragraph, as follows:

b. Each facility wishing to perform mammography shall apply for agency approval authorization by providing or verifying the following information for each mammography machine:

ITEM 5. Amend paragraphs 41.6(2)“f” to “i” as follows:

f. The authorization of facilities is included in the accreditation process for facilities accredited by the state of Iowa. Determination of the quality of the mammograms produced by facilities accredited by the state of Iowa will be made. To make the determination, each facility will: An application for authorization shall be submitted to the department and processed for agency approval. A mammography authorization is effective for three years.

(1) Provide at the time of initial accreditation, new unit installation, or reaccreditation (at least every three years) thereafter, two original (not copies) mammography examinations which meet the following criteria for the clinical image review process by the agency:

1. One mammography examination, including craniocaudal and mediolateral oblique views of each breast, of a patient with predominantly fatty breast tissue,

2. One mammography examination, including craniocaudal and mediolateral oblique views of each breast, of a patient with predominantly glandular breast tissue, and

3. Each mammography examination must have been interpreted as a “negative” or “benign” examination.

(2) Provide randomly, at the request of agency mammography inspectors, two mammography examinations (mammograms) which meet the criteria in 41.6(2)“f”(1).

(3) Provide at the time of initial accreditation, new unit installation, or reaccreditation (at least every three years) thereafter, a phantom image taken with the unit being accredited within six months of the submission date for review by the agency.

(4) Be billed the fee for the quality review process as set forth in 641—subparagraph 38.8(1)“b”(2).

(5) Be provided with a written explanation of the results of the quality review process which will accompany the returned mammograms referred to in 41.6(2)“f”(3).

g. Facilities accredited by an approved accrediting body other than the state of Iowa must be authorized by the agency. Quality determination for these facilities will be made by the agency through a phantom image provided at the time of initial authorization, new unit authorization, or reauthorization (at least every three years) thereafter, taken with the unit being accredited within six months of the submission date. A phantom image taken with the authorized unit(s) shall be reviewed at the time of annual inspection by the agency.

h. No change.

i. Soft copy review workstation Review workstation (RWS) requirements.

(1) Soft copy review workstations RWS used for final interpretation of mammogram images must be a configuration of two monitors that meet one of the following criteria:

1. Have 5 megapixel resolution; or

2. Be approved by the United States Food and Drug Administration 510K process and be intended for digital mammography use.

(2) The workstation must have a quality control program substantially the same as that outlined by the image receptor mammography unit manufacturer’s quality control manual or that outlined by the image receptor, that outlined by the RWS monitor manufacturer’s designated soft copy review workstation quality control manual or the quality control program outlined by an FDA-approved accrediting body.
ITEM 6. Amend subrule 41.6(3) as follows:

41.6(3) Mammography personnel. The following requirements apply to all personnel involved in any aspect of mammography, including the production, processing, and interpretation of mammograms and related quality assurance activities:

a. Interpreting physicians. All radiologists interpreting mammograms shall meet the following qualifications:

1. Initial qualifications. Unless the exemption in 41.6(3)“a”(3)“1” applies, before beginning to interpret mammograms independently, the interpreting radiologist shall:
   1. Be certified in an appropriate specialty area by a body determined by FDA to have procedures and requirements adequate to ensure that physicians certified by the body are competent to interpret radiological procedures, including mammography; or
   2. Have had at least three months of documented formal training in the interpretation of mammograms and in topics related to mammography. The training shall include instruction in radiation physics, including radiation physics specific to mammography, radiation effects, and radiation protection. The mammographic interpretation component shall be under the direct supervision of a radiologist who meets the requirements of 41.6(3)“a”; and
2. Continuing experience and education. All interpreting physicians shall maintain their qualifications by meeting the following requirements:
   1. Following the second anniversary date of the end of the calendar quarter in which the requirements of 41.6(3)“a”(1) were completed, the interpreting physician shall have read or multi-read at least 960 mammographic examinations during the prior 24 months immediately preceding the date of the facility’s annual MQSA inspection, during the 24-month period ending on the last day of the previous calendar quarter preceding the inspection, or during any 24-month period between the two. The facility will choose one of these dates to determine the 24-month period.
   2. Following the third anniversary date of the end of the calendar quarter in which the requirements of 41.6(3)“a”(1) were completed, the interpreting physician shall have taught or completed at least 15 Category 1 continuing education units in mammography during the prior 36 months immediately preceding the date of the facility’s annual MQSA inspection, during the 36-month period ending on the last day of the previous calendar quarter preceding the inspection, or during any 36-month period between the two. The facility will choose one of these dates to determine the 36-month period.

b. Radiologic technologists. All mammographic examinations shall be performed by general radiographers who meet the following general requirements, mammography requirements, and continuing education and experience requirements:

1. General requirements. Be permitted to operate as a general radiographer in Iowa; and
2. Mammography requirements. Have qualified as a radiologic technologist under 41.6(3)“b” before April 28, 1999, or have completed at least 40 contact hours of documented training specific to mammography under the supervision of a qualified instructor after successful completion of at least a
two-year formal radiography training program. The hours of documented training shall include, but not necessarily be limited to:

1. Training in breast anatomy and physiology, positioning and compression, quality assurance/quality control techniques, and imaging of patients with breast implants;

2. The performance of a minimum of 25 examinations under the direct supervision of an individual qualified under 41.6(3)’b’; and

3. Before a radiologic technologist may begin independently performing mammographic examinations using a mammographic modality other than one of those for which the technologist received training under 41.6(3)’b’(2)’3,’ the technologist shall have at least 8 eight hours of continuing education units in the new modality. The 8 eight hours may not be derived from the supervised examination of patients; and

3. Continuing education requirements.

1. Following the third anniversary date of the end of the calendar quarter in which the requirements of 41.6(3)’b’(1) and (2) were completed, the radiologic technologist shall have taught or completed at least 15 continuing education units in mammography during the prior 36 months immediately preceding the date of the facility’s annual MQSA inspection, during the 36-month period ending on the last day of the previous calendar quarter preceding the inspection, or during any 36-month period between the two. The facility will choose one of these dates to determine the 36-month period.

2. Units earned through teaching a specific course can be counted only once towards the 15 required in 41.6(3)’b’(3)’1’ even if the course is taught multiple times during the previous 36 months.

3. Requalification. A radiologic technologist who fails to meet the continuing education requirements of 41.6(3)’b’(3)’1’ shall obtain a sufficient number of continuing education units in mammography to bring the total up to at least 15 in the previous 36 months. The continuing education for requalification cannot be obtained by performing supervised mammography examinations. The technologist may not resume performing unsupervised mammography examinations until the continuing education requirements are completed.

4. Continuing qualifications must be met and an Iowa permit to practice radiography must be in effect whenever mammogram procedures are performed by the radiologic technologist.

5. Only 50 percent of the total required mammography continuing education hours may be obtained through presenting, or acting as a trainer for, a continuing education or training program.

4. Continuing experience requirements.

1. Following the second anniversary date on which the requirements of 41.6(3)’b’(1) and (2) were completed, the radiologic technologist shall have performed a minimum of 200 mammography examinations during the prior 24 months immediately preceding the date of the facility’s annual inspection, during the 24-month period ending on the last day of the previous calendar quarter preceding the inspection, or during any 24-month period between the two. The facility will choose one of these dates to determine the 24-month period.

2. Requalification. Radiologic technologists who fail to meet the continuing experience requirements of this subrule shall perform a minimum of 25 mammography examinations under the direct supervision of a qualified radiologic technologist before resuming the performance of unsupervised mammography examinations.

3. Continuing qualifications must be met and an Iowa permit to practice radiography must be in effect whenever mammogram procedures are performed by the radiologic technologist.

5. Consecutive or back-to-back requalification of mammography personnel, due to failure to meet continuing education or experience requirements, will be allowed once without proof of extenuating circumstances. This agency will determine the validity of such proof and render a decision after review of all pertinent information. Those individuals who are denied requalification will be allowed to resubmit for requalification following a 90-day waiting period.

a. Medical physicists. All medical physicists conducting surveys of the facility quality assurance program under 41.6(3)’c’(2) shall meet the following:

1. Initial qualifications.
1. Be Iowa approved; and  
2. Have a master’s degree or higher in a physical science from an accredited institution, with no less than 20 semester hours or 30 quarter hours of college undergraduate or graduate level physics; and  
3. Have 20 contact hours of documented specialized training in conducting surveys of mammography facilities; and  
4. Have at least eight hours of training in surveying units of a new modality other than the one for which the physicist received training to qualify under 41.6(3)“e”(1)“3” before independently performing the new mammographic modality; and  

4.5 Have experience conducting surveys in at least one mammography facility and have a total of at least 10 mammography units. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement. After April 28, 1999, experience conducting surveys must be acquired under the direct supervision of a medical physicist who meets all the requirements of this subrule; or  
(2) Alternative initial qualifications.  
1. Have qualified as a medical physicist under FDA interim regulations and have retained that qualification by maintenance of the active status of any licensure, approval, or certification required under the interim regulations; and  
2. Prior to April 28, 1999, have:  
   • A bachelor’s degree or higher in a physical science from an accredited institution with no less than 10 semester hours or equivalent of college undergraduate or graduate level physics.  
   • Forty contact hours of documented specialized training in conducting surveys of mammography facilities.  
   • Experience conducting surveys in at least one mammography facility and have a total of at least 20 mammography units. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement. The training and experience requirements must be met after fulfilling the degree requirement.  
   • At least eight hours of training in surveying units of the new mammographic modality before independently performing mammographic surveys of a new mammographic modality other than the one for which the physicist received training to qualify under this subrule. At least eight hours of training in surveying units of a new modality other than the one for which the physicist received training to qualify under 41.6(3)“e”(1)“3” before independently performing the new mammographic modality.  

(3) and (4) No change.  

4.10.7 No change.  

f. Mammographic image identification. Each mammographic image shall have the following information indicated on it in a permanent, legible, and unambiguous manner and placed so as not to obscure anatomic structures:  
(1) to (5) No change.  

(6) Cassette/screen identification.  

4.10.8.7Mammography unit identification, if there is more than one unit in the facility.  

4.10.8 Amend subrule 41.6(5) as follows:  

41.6(5) Quality assurance program.  

a. The facility shall ensure that the facility has an equipment quality assurance program specific to mammography and covering all components of the system to ensure consistently high-quality images with minimum patient exposure. Responsibility for the quality assurance program and for each of its elements shall be assigned to individuals who are qualified for their assignments and who shall be allowed adequate time to perform these duties.  
(1) Lead interpreting physician. The facility shall identify a lead interpreting physician who shall have the general responsibility of ensuring that the quality assurance program, EQUIP included, meets all requirements of these rules. No other individual shall be assigned or shall retain responsibility for quality
assurance tasks unless the lead interpreting physician has determined that the individual’s qualifications for, and performance of, the assignment are adequate.

(2) and (3) No change.

(4) Quality control technologist. Responsibility for all individual tasks within the quality assurance program not assigned to the lead interpreting physician or the medical physicist shall be assigned to a quality control technologist(s). The tasks to be performed by the quality control technologist or by other personnel qualified to perform the tasks. When other personnel are utilized for these tasks, the quality control technologist shall ensure that the tasks are completed in such a way as to meet the requirements of 41.6(5)“e” through “j.”

b. to d. No change.

e. Performance monitoring. The supplier facility shall routinely ensure that the performance of the mammography system is monitored. The parameters to be monitored for film-screen mammography shall include but not be limited to: all testing as outlined in the manufacturer’s mammography unit’s quality control manual and the RWS quality control requirements of 41.6(2)“i”(2).

1. Processor performance (through daily sensitometric-densitometric means).
2. Half-value layer.
3. Output reproducibility and linearity.
4. Automatic exposure control reproducibility and linearity.
5. Adequacy of film storage (both before use and after exposure if processing does not occur immediately).
6. Availability and use of technique charts that shall include an indication of the kV-target-filter combination to be used with each image receptor.
7. Darkroom integrity, to be performed at least semiannually or when conditions have changed, shall include an inspection for light leaks, a fog test, and a safe light test.
8. Image quality. The minimum image quality achieved at a mammography facility shall be the ability to observe the image of at least four 0.75-mm fibriles, three 0.32-mm speck groups, and three 0.75-mm masses from an FDA-approved phantom (or equivalent) on the standard mammographic film used at the facility. No mammograms shall be performed if this minimum is not met.

f. Frequency of monitoring. Availability and use of technique charts that shall include an indication of the kV-target-filter combination to be used with each image receptor.

1. Processor performance shall be accomplished daily before processing patient films.
2. Image quality shall be monitored at least weekly with a phantom and every time the unit is altered including the replacement of parts.
3. All other parameters shall be proportional to the expected variability of each parameter, but at least annually.

f. Evaluation of monitoring results. Full field digital FFDM and DBT mammography units must comply with the quality control test requirements outlined by the performance criteria in the appropriate manufacturer’s quality control manual.

1. Standards of image quality giving acceptable ranges of values for each of the parameters tested shall be established to aid in the evaluation. The standards of image quality related to dose shall include a requirement that the mean glandular dose for one craniocaudal view of a 4.2 cm compressed breast (50 percent adipose/50 percent glandular) or equivalent phantom shall not exceed 100 millirad for film-screen units with no grids, 300 millirad for film-screen units with grids, or 300 millirad for full field digital units.

2. The monitoring results shall be compared routinely by the facility staff to the standards of image quality in 41.6(5)“k.” If the results fall outside the acceptable range, the test shall be repeated. For film-screen mammography, if the results continue to be unacceptable, the source of the problem shall be identified and corrected before further examinations are conducted. For full field digital mammography, if 41.6(5)“j.” If any test results fall outside the performance criteria range listed for the unit, specific actions as directed in the appropriate quality control manual shall be followed.

h. Retake analysis program—film-screen and full field digital.

1. A program shall be established as a further aid in detecting and correcting problems affecting image quality or exposure.
(2) All retakes shall be logged including date, technologist's name and reason for retake. A retake analysis shall be performed every 250 patients or quarterly, whichever comes first. If more than 250 mammograms are performed in one week, weekly analysis is acceptable.

(3) If the total repeat or reject rate changes from the previously determined rate by more than 2.0 percent of the total films included in the analysis, the reason(s) for the change shall be determined. Any corrective actions shall be recorded and the results of these corrective actions shall be assessed.

h. Medical outcomes audit. Each facility shall establish a system for reviewing outcome data from all mammography performed, including follow-up on the disposition of positive mammograms and correlation of surgical biopsy results with the interpreting physician’s findings. This program shall be designed to ensure the reliability, clarity, and accuracy of the interpretation of mammograms.

1. to (3) No change.

i. Quality assurance records. The lead interpreting physician, quality control technologist, and medical physicist shall ensure that records concerning employee qualifications to meet assigned quality assurance tasks, mammography technique and procedures, quality control (including monitoring data, problems detected by analysis of that data, corrective actions, and the effectiveness of the corrective actions), safety, and protection are properly maintained and updated. These quality control records shall be kept for each test specified in these rules until the next annual inspection has been completed and the facility is in compliance with the quality assurance requirements or until the test has been performed two additional times at the required frequency, whichever is longer.

j. Quality assurance—equipment.

1. Daily, weekly, biweekly, monthly, quarterly, semiannual and annual quality control tests. Film processors used to develop mammograms shall be adjusted and maintained to meet the technical development specifications for the mammography film in use. A processor performance test shall be performed on each day that clinical films are processed before any clinical films are processed that day. The test shall include an assessment of base plus fog density, mid-density, and density difference, using the mammography film used clinically at the facility. Facilities shall perform quality control tests as required by the manufacturer’s mammography unit’s quality control manual, the RWS quality control requirements of 41.6(2)”i”(2) or the quality control program outlined by an FDA-approved accrediting body.

2. The base plus fog density shall be below plus 0.03 of the established operating level.

3. The mid-density shall be within plus or minus 0.15 of the established operating level.

4. The density difference shall be within plus or minus 0.15 of the established operating level.

j. Weekly quality control tests. Facilities with screen-film systems shall perform an image quality evaluation test, using an FDA-approved phantom, at least weekly.

1. The optical density of the film at the center of an image of a standard FDA-accepted phantom shall be at least 1.20 when exposed under a typical clinical condition.

2. The optical density of the film at the center of the phantom image shall not change by more than plus or minus 0.20 from the established operating level.

3. The phantom image shall achieve at least the minimum score established by the accreditation body and accepted by the FDA.

4. The density difference between the background of the phantom and an added test object used to assess image contrast shall be measured and shall not vary by more than plus or minus 0.05 from the established operating level.

(3) Quarterly quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least quarterly:

1. Fixer retention in film. The residual fixer shall be no more than 5 micrograms per square centimeter.

(4) Semiannual quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least semiannually:

1. Darkroom fog. The optical density attributable to darkroom fog shall not exceed 0.05 when a mammography film of the type used in the facility, which has a mid-density of no less than 1.2 OD, is exposed to typical darkroom conditions for two minutes while such film is placed on the countertop.
emulsion side up. If the darkroom has a safelight for mammography film, it shall be on during this
test.
2. Screen-film contact. Testing for screen-film contact shall be conducted using 40 mesh copper
screen. All cassettes used in the facility for mammography shall be tested.
3. Compression device performance. The maximum compression force for the initial power drive
shall be between 25 pounds (111 newtons) and 45 pounds (200 newtons).
4. Annual quality control tests. Facilities with screen-film systems shall perform the following
quality control tests at least annually:
1. Automatic exposure control (AEC) performance.
   1. The AEC shall be capable of maintaining film optical density (OD) within plus or minus 0.15
      of the mean optical density when thickness of a homogenous material is varied over a range of 2 to 6
      centimeters and the kVp is varied appropriately for such thicknesses over the kVp range used clinically
      in the facility.
   2. The optical density of the film in the center of the phantom image shall not be less than 1.20.
   3. kVp accuracy and reproducibility.
   4. The kVp shall be accurate within plus or minus 5 percent of the indicated or selected kVp at the
      lowest clinical kVp that can be measured by a kVp test device, the most commonly used clinical kVp,
      and the highest available clinical kVp.
   5. At the most commonly used clinical settings of kVp, the coefficient of variation of
      reproducibility of the kVp shall be equal to or less than 0.02.
5. Focal spot condition. Facilities shall evaluate focal spot condition only by determining the
   system resolution.
   1. Each X-ray system used for mammography, in combination with the mammography screen-film
      combination used in the facility, shall provide a minimum resolution of 11 cycles/millimeters (mm)
      (line-pairs/mm) when a high contrast resolution bar test pattern is oriented with the bars perpendicular
to the anode-cathode axis, and a minimum resolution of 13 line-pairs/mm when the bars are parallel to
      that axis.
   2. The bar pattern shall be placed 4.5 centimeters above the breast support surface, centered with
      respect to the chest wall edge of the image receptor, and with the edge of the pattern within 1 centimeter
      of the chest wall edge of the image receptor.
   3. When more than one target material is provided, the measurement above shall be made using
      the appropriate focal spot for each target material.
   4. When more than one SID is provided, the test shall be performed at the SID most commonly
      used clinically.
   5. Test kVp shall be set at the value used clinically by the facility for a standard breast and shall
      be performed in the AEC mode, if available. If necessary, a suitable absorber may be placed in the beam
      to increase exposure times. The screen-film cassette combination used by the facility shall be used to
      test for this requirement and shall be placed in the normal location used for clinical procedures.
   6. Focal spot dimensions. Measured values of the focal spot length (dimension parallel to the
      anode-cathode axis) and width (dimension perpendicular to the anode-cathode axis) shall be within
tolerance limits specified in Table 1.
4. Beam quality and half-value layer (HVL). The HVL shall meet the specification of 41.1(4) and 41.1(6) for the minimum HVL. These values, extrapolated to the mammographic range, are shown in Table 2. Values not shown in Table 2 may be determined by linear interpolation or extrapolation.

<table>
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<tr>
<th>Focal-Spot Tolerance Limit Nominal Focal Spot Size (mm)</th>
<th>Maximum Measured Dimensions (mm)</th>
<th>Length (mm)</th>
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5. Breast entrance air kerma and AEC reproducibility. The coefficient of variation for both air kerma and mAs shall not exceed 0.05.

6. Dosimetry. The average glandular dose delivered during a single cranio-caudal view of an FDA-accepted phantom simulating a standard breast shall not exceed 0.3 rad (3.0 milligray (mGy)) per exposure. The dose shall be determined with technique factors and conditions used clinically for a standard breast.

7. X-ray field/light field/image receptor/compression paddle alignment.
   - All systems shall have beam-limiting devices that allow the entire chest wall edge of the X-ray field to extend to the chest wall edge of the image receptor and provide means to ensure that the X-ray field does not extend beyond any edge of the image receptor by more than 2 percent of the SID.
   - The chest wall edge of the compression paddle shall not extend beyond the chest wall edge of the image receptor by more than 1 percent of the SID when tested with the compression paddle placed above the breast support surface at a distance equivalent to standard breast thickness. The shadow of the vertical edge of the compression paddle shall not be visible on the image.

8. Uniformity of screen speed. Uniformity of screen speed of all the cassettes in the facility shall be tested and the difference between the maximum and minimum optical densities shall not exceed 0.30. Screen artifacts shall also be evaluated during this test.

9. System artifacts. System artifacts shall be evaluated with a high-grade, defect-free sheet of homogeneous material large enough to cover the mammography cassette and shall be performed for all cassette sizes used in the facility using a grid appropriate for the cassette size being tested. System artifacts shall also be evaluated for all available focal spot sizes and target filter combinations used clinically.

10. Radiation output.
    - The system shall be capable of producing a minimum output of 800 milliRoentgen (mR) per second (7.0 mGy air kerma per second) when operating at 28 kVp in the standard (moly/moly) mammography mode at any SID where the system is designed to operate and when measured by a
detector with its center located 4.5 centimeters above the breast support surface with the compression paddle in place between the source and the detector.

11. Decompression. If the system is equipped with a provision for automatic decompression after completion of an exposure or interruption of power to the system, the system shall be tested to confirm that it provides:

- An override capability to allow maintenance of compression;
- A continuous display of the override status; and
- A manual emergency compression release that can be activated in the event of power or automatic release failure.

(6) Quality control tests—other modalities. For systems with image receptor modalities other than screen film, the quality assurance program shall be substantially the same as the quality assurance program recommended by the image receptor manufacturer, except that the maximum allowable dose shall not exceed the maximum allowable dose for screen film systems in 41.6(5)“k”(5)”6.”

(7) Use of test results.

1. After completion of the tests specified in 41.6(5)“k,” the facility shall compare the test results to the corresponding specified action limits; or, for non-screen-film modalities, to the manufacturer’s recommended action limits; or, for post-move, preexamination testing of mobile units, to the limits established in the test method used by the facility.

2. If the test results fall outside the action limits, the source of the problem shall be identified, and corrective actions shall be taken before any further examinations are performed or any films are processed using the component of the mammography system that failed the test, if the failed test was that described in 41.6(5)”k.”

3. Full field digital unit corrective actions shall be made as prescribed in the appropriate manufacturer’s quality control manual or in accordance with the appropriate FDA-approved alternative requirements.

(8) Surveys.

1. At least once a year annually, each facility shall undergo a survey by a medical physicist or by an individual under the direct supervision of a medical physicist. At a minimum, this survey shall include the performance of tests to ensure that the facility meets the quality assurance requirements of the annual tests described in 41.6(5)“k”(5) and (6), the weekly phantom image quality test described in 41.6(5)“k”(2) and the quarterly retake analysis results described in 41.6(5)”h.” The survey shall include testing as required by the manufacturer’s mammography unit’s quality control manual, the RWS quality control manual or the quality control program outlined by the accrediting body.

2. The results of all tests conducted by the facility in accordance with 41.6(5)“k”(1) through (7) for film-screen units, as well as written documentation of any corrective actions taken and their results, shall be evaluated for adequacy by the medical physicist performing the survey. Surveys of full field digital mammography units shall be conducted as described in the appropriate manufacturer’s quality control manual. The results of the tests, any corrective actions taken and their results shall be evaluated for adequacy by the medical physicist performing the survey.

3. The medical physicist shall prepare a survey report that includes a summary of this review and recommendations for necessary improvements.

4. The survey report shall be sent to the facility within 30 days of the date of the survey.

5. The survey report shall be dated and signed by the medical physicist performing or supervising the survey. If the survey was performed entirely or in part by another individual under the direct supervision of the medical physicist, that individual and the part of the survey that individual performed shall also be identified in the survey report.

(9) Mammography equipment evaluations. Additional evaluations of mammography units or image processors or any other applicable mammography system ancillary parts shall be conducted at new installations, at disassembly, at reassembly, at the same or a new location, or when major components are changed or repaired. These evaluations shall be used to determine whether the new or changed
equipment meets the requirements of applicable standards in 41.6(5) and 41.6(6). All problems shall be corrected before the new or changed equipment is put into service for examinations or film processing. The mammography equipment evaluation shall be performed by a medical physicist or by an individual under the direct supervision of an Iowa-approved medical physicist.

(10) Facility cleanliness.

1. The facility shall establish and implement adequate protocols for maintaining darkroom, screen, and viewbox cleanliness.

2. The facility shall document that all cleaning procedures are performed at the frequencies specified in the protocols.

(11) Calibration of air kerma measuring instruments. Instruments used by medical physicists in their annual survey to measure the air kerma or air kerma rate from a mammography unit shall be calibrated at least once every two years and each time the instrument is repaired. The instrument calibration must be traceable to a national standard and calibrated with an accuracy of plus or minus 6 percent (95 percent confidence level) in the mammography energy range.

(12) Infection control. Facilities shall establish and comply with a system specifying procedures to be followed by the facility for cleaning and disinfecting mammography equipment after contact with blood or other potentially infectious materials. This system shall specify the methods for documenting facility compliance with the infection control procedures established and shall:

1. Comply with all applicable federal, state, and local regulations pertaining to infection control; and

2. Comply with the manufacturer’s recommended procedures for the cleaning and disinfecting of the mammography equipment used in the facility; or

3. If adequate manufacturer’s recommendations are not available, comply with generally accepted guidance on infection control, until such recommendations become available.

Mammography procedures and techniques for mammography of patients with breast implants.

(1) and (2) No change.

(3) Consumer complaint mechanism. Each facility shall:

(1) to (4) No change.

(4) Clinical image quality. Clinical images produced by any certified facility must continue to comply with the standards for clinical image quality established by that facility’s accreditation body.

(5) Additional mammography review and patient notification.

(1) and (2) No change.

ITEM 9. Amend subrule 41.6(6) as follows:

41.6(6) Equipment standards. The equipment used to perform mammography shall meet the following standards:

a. and b. No change.

c. Image receptor systems:

1. Have image receptor systems and individual components which are appropriate for mammography and used according to the manufacturer’s recommendations.

1. Systems using screen-film image receptors shall provide, at a minimum, for operation for image receptors of 18 × 24 centimeters and 24 × 30 centimeters.

2. Systems using screen-film image receptors shall be equipped with moving grids matched to all image receptor sizes provided.

2. (2) Systems used for magnification procedures shall be capable of operation with the grid removed from between the source and image receptor.

d. to f. No change.

g. Film/screen contact: Shall check film/screen contact when cassettes are first placed into use and semiannually thereafter.

h. Focal spot: The focal spot size, magnification factor and source to image receptor distance (SID) shall be appropriate for mammography and in the ranges shown below:
(1) When more than one focal spot is provided, the system shall indicate, prior to exposure, which focal spot is selected.

(2) When more than one target material is provided, the system shall indicate, prior to exposure, the preselected target material.

(3) When the target material or focal spot, or both, is selected by a system algorithm that is based on the exposure or on a test exposure, the system shall display, after the exposure, the target material or focal spot, or both, actually used during the exposure.

\[ i \text{ or } h \]

Compression devices: Shall have compression devices parallel to the imaging plane and able to immobilize and compress the breast with a force of at least 25 pounds per square inch and shall be capable of maintaining this compression for at least three seconds. Effective October 28, 2002, each system shall provide:

(1) An initial power-driven compression activated by hands-free controls operable from both sides of the patient; and

(2) Fine adjustment compression controls operable from both sides of the patient.

(3) Systems shall be equipped with different sized compression paddles that match the sizes of all full field image receptors provided for the system. Compression paddles for special purposes, including those smaller than the full size of the image receptor (for “spot compression”), may be provided. Such compression paddles for special purposes are not subject to 41.6(6) ‘i’(5) 41.6(6) “h” (6) and (7).

(4) Except as provided in 41.6(6) ‘i’(5) 41.6(6) “h,” the compression paddle shall be flat and parallel to the breast support table and shall not deflect from parallel by more than 1.0 cm at any point on the surface of the compression paddle when compression is applied.

(5) Equipment intended by the manufacturer’s design not to be flat and parallel to the breast support table during compression shall meet the manufacturer’s design specifications and maintenance requirements.

(6) The chest wall edge of the compression paddle shall be straight and parallel to the edge of the image receptor. Equipment intended by the manufacturer’s design not to be straight and parallel to the edge of the image receptor shall meet the manufacturer’s design specifications and maintenance requirements.

(7) The chest wall edge of the compression paddle may be bent upward to allow for patient comfort but shall not appear on the image.

\[ j \]

Grids: Shall have the capability for using antiscatter grids.

\[ k \]

AEC: Shall have automatic exposure control such that:

(1) Each screen-film system shall provide an AEC mode that is operable in all combinations of equipment configuration provided, e.g., grid, non-grid, magnification, non-magnification, and various target filter combinations.

(2) The positioning or selection of the detector shall permit flexibility in the placement of the detector under the target tissue.

- The size and available positions of the detector shall be clearly indicated at the X-ray input surface of the breast compression paddle.

- The selected position of the detector shall be clearly indicated.

(3) The system shall provide means for the operator to vary the selected optical density from the normal (zero) setting.

\[ k \]

Control panel: Shall have a control panel that:

(1) to (5) No change.

\[ m \]

mAs: Shall indicate, or provide a means of determining, the mAs resulting from each exposure made with automatic exposure control.
n. Viewboxes: Shall have a viewbox that is checked periodically to ensure optimal conditions. When the mammogram is placed on the viewbox, the area surrounding the film must be masked to exclude extraneous light which may reduce image contrast.

o. X-ray film: Shall use X-ray film that has been designated by the film manufacturer as appropriate for mammography and that is matched to the screen’s spectral output as specified by the manufacturer.

p. Intensifying screens: Shall use intensifying screens that have been designated by the screen manufacturer as appropriate for mammography.

q. Chemicals: Shall use chemical solutions for processing mammography films that are capable of developing the films in a manner equivalent to the minimum requirements specified by the film manufacturer.

r. Hot lights: Shall make special lights for film illumination, i.e., hot lights, capable of producing light levels greater than that provided by the viewbox, available to the interpreting physicians.

s. Masking devices: Shall ensure that film masking devices that can limit the illuminated area to a region equal to or smaller than the exposed portion of the film are available to all interpreting physicians interpreting for the facility.

t. Mobile units and vans—film-screen.

1. A phantom image shall be produced, processed, and evaluated after each relocation and prior to examinations being conducted.

2. If processing is not available, a check of the radiation output shall be made and compared to a preset standard for quality. Equipment shall be recalibrated as necessary to maintain quality of phantom image.

u. m. Mobile units and vans—full-field digital. Appropriate manufacturer’s quality control manual procedures and criteria shall be met.

ITEM 10. Amend paragraph 41.6(7)“e” as follows:

e. Records of all inspections, inspection reports, and consultations medical physicist surveys shall be maintained for at least seven years.

<table>
<thead>
<tr>
<th>Mo/Mo Target Filter X Ray Voltage (kVp)</th>
<th>W/A1 Target Filter Combination</th>
</tr>
</thead>
<tbody>
<tr>
<td>117 123 128 131 135 140 144 148 150</td>
<td>149 151 152 153 154 155 156 157</td>
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</tbody>
</table>
To convert from entrance exposure in air in Roentgen to mean glandular breast dose in millirads, multiply the entrance exposure by the factor shown in the table for the appropriate kVp and beam quality (HVL) combination. For example, a measured entrance exposure of 0.50 Roentgen from a Mo/Mo Target Filter system at 30 kVp with a measured HVL of 0.36 mm aluminum yields an average glandular dose of (0.50 R) × (174 mrad/R) = 87 mrad or 0.87 mGy.


**ITEM 11.** Amend rule 641—41.6(136C), Appendix II, as follows:

Glandular Dose (in mrad) for 1 Roentgen Entrance Exposure

- **4.5 cm** 4.2 cm Breast Thickness—50% Adipose/50% Glandular Breast Tissue*

**ITEM 12.** Adopt the following **new** definitions of “Phantom” and “Stereotactic training phantom” in subrule 41.7(1):

“Phantom” means an artificial test object used to simulate radiographic characteristics of compressed breast tissue and containing components that radiographically model aspects of breast disease and cancer.

“Stereotactic training phantom” means a training or practice tool or medium used for stereotactically guided breast biopsy procedures.

**ITEM 13.** Amend subrule 41.7(3) as follows:

**41.7(3) Physicians.** Physicians must be qualified according to the setting and their role in performing stereotactically guided breast biopsies as outlined below.

a. Requirements for a radiologist in a collaborative setting are as follows:

1. No change.

2. Maintenance of proficiency and CME requirements.

   1. **Perform at least 12 stereotactically guided breast biopsies per year.** Following the first anniversary in which the requirements of this subrule were met, completion of a total of 12 breast biopsy procedures must be met for each calendar year with at least 6 being stereotactic breast biopsies. The remaining 6 can be any combination of the following, and demonstration of the chosen combination needs to be clearly documented:

   - Stereotactic breast biopsy procedures.
   - Stereotactic biopsy of a stereotactic training phantom with documentation of steps taken or a written report.
   - Stereotactic breast biopsy case review, which must be documented to include a review of pre-biopsy mammographic examination, scout and stereotactic positioning, biopsy needle pre-fire and post-fire positioning and targeting, specimen radiograph images, post-biopsy images and review of post-biopsy pathology results.
   - Mammographic-guided, stereotactic-guided, or both, wire localization procedures.
Ultrasound-guided breast biopsy procedures.
- MRI-guided breast biopsy procedures.

If experience is not maintained, the physician must requalify by performing 3 three procedures under direct supervision of a qualified training physician or an agency-approved manufacturer applications specialist before resuming unsupervised procedures.

2. Obtain Following the first anniversary in which the requirements of this subrule were met, obtain at least three hours of Category 1 CME or three hours of training approved by the agency in stereotactically-guided or stereotactic-guided breast biopsy every 36 months immediately preceding the date of the facility’s annual stereotactic biopsy inspection, or during the 36-month period ending on the last day of the calendar quarter preceding the inspection. If education is not maintained, the physician must requalify by obtaining additional CME credits to reach 3 CME credits in the prior 36 months before resuming unsupervised procedures. These CMEs cannot be obtained by the performance of supervised procedures.

3. Continuing qualifications must be met and a A current state of Iowa medical license must be in effect whenever procedures are performed independently by the physician.

b. Requirements for a physician other than a qualified radiologist in a collaborative setting are as follows:

(1) No change.
(2) Maintenance of proficiency and CME requirements.

1. Perform or participate in at least 12 stereotactically-guided breast biopsies per year. Following the first anniversary in which the requirements of this subrule were met, completion of a total of 12 breast biopsy procedures must be met for each calendar year with at least 6 being stereotactic breast biopsies. The remaining 6 can be any combination of the following and demonstration of the chosen combination needs to be clearly documented:

- Stereotactic breast biopsy procedures.
- Stereotactic biopsy of a stereotactic training phantom with documentation of steps taken or a written report.
- Stereotactic breast biopsy case review, which must be documented to include a review of pre-biopsy mammographic examination, scout and stereotactic positioning, biopsy needle pre-fire and post-fire positioning and targeting, specimen radiograph images, post-biopsy images and review of post-biopsy pathology results.

- Mammographic-guided, stereotactically-guided, or both, wire localization procedures.
- Ultrasound-guided breast biopsy procedures.
- MRI-guided breast biopsy procedures.

If experience is not maintained, the physician must requalify by performing 3 three procedures under direct supervision of a qualified training physician or an agency-approved manufacturer applications specialist before resuming unsupervised procedures.

2. Obtain Following the first anniversary in which the requirements of this subrule were met, obtain at least three hours of Category 1 CME or three hours of training approved by the agency in stereotactically-guided breast biopsy every 36 months immediately preceding the date of the facility’s annual stereotactic biopsy inspection, or during the 36-month period ending on the last day of the calendar quarter preceding the inspection. If education is not maintained, the physician must requalify by obtaining additional CME credits to reach 3 CME credits in the prior 36 months before resuming unsupervised procedures. These CMEs cannot be obtained by the performance of supervised procedures.

3. Continuing qualifications must be met and a A current state of Iowa medical license must be in effect whenever unsupervised procedures are performed by the physician.

c. Requirements for a radiologist performing stereotactically guided breast biopsy independently are as follows:

(1) No change.
(2) Maintenance of proficiency and CME requirements.
1. Perform at least 12 stereotactically-guided breast biopsies per year. Following the first anniversary in which the requirements of this subrule were met, completion of a total of 12 breast biopsy procedures must be met for each calendar year with at least 6 being stereotactic breast biopsies. The remaining 6 can be any combination of the following and demonstration of the chosen combination needs to be clearly documented:
   - Stereotactic breast biopsy procedures.
   - Stereotactic biopsy of a stereotactic training phantom with documentation of steps taken or a written report.
   - Stereotactic breast biopsy case review, which must be documented to include a review of pre-biopsy mammographic examination, scout and stereotactic positioning, biopsy needle pre-fire and post-fire positioning and targeting, specimen radiograph images, post-biopsy images and review of post-biopsy pathology results.
   - Mammographic-guided, stereotactic-guided, or both, wire localization procedures.
   - Ultrasound-guided breast biopsy procedures.
   - MRI-guided breast biopsy procedures.

If experience is not maintained, the physician must requalify by performing 3 three procedures under direct supervision of a qualified training physician or an agency-approved manufacturer applications specialist before resuming unsupervised procedures.

2. Obtain. Following the first anniversary in which the requirements of this subrule were met, obtain at least three hours of Category 1 CME or three hours of training approved by the agency in stereotactically-guided breast biopsy every 36 months immediately preceding the date of the facility’s annual stereotactic biopsy inspection, or during the 36-month period ending on the last day of the calendar quarter preceding the inspection which includes post-biopsy management of the patient. If education is not maintained, the physician must requalify by obtaining additional CME credits to reach 3 CME credits in the prior 36 months before resuming unsupervised procedures. These CMEs cannot be obtained by the performance of supervised procedures.

3. Continuing qualifications must be met and a current state of Iowa medical license must be in effect whenever unsupervised procedures are performed by the physician.
   
   a. Requirements for a physician other than a qualified radiologist (under 41.7(3)“c”) performing stereotactically guided breast biopsy independently are as follows:
      
      (1) No change.
      
      (2) Maintenance of proficiency and CME requirements.
      
      1. Continue to evaluate at least 480 mammograms every 24 months in consultation with a physician who is qualified according to 41.6(3) “a.”
      
      2. Perform at least 12 stereotactically-guided breast biopsies per year. Following the first anniversary in which the requirements of this subrule were met, completion of a total of 12 breast biopsy procedures must be met for each calendar year with at least 6 being stereotactic breast biopsies. The remaining 6 can be any combination of the following and demonstration of the chosen combination needs to be clearly documented:
         - Stereotactic breast biopsy procedures.
         - Stereotactic biopsy of a stereotactic training phantom with documentation of steps taken or a written report.
         - Stereotactic breast biopsy case review, which must be documented to include a review of pre-biopsy mammographic examination, scout and stereotactic positioning, biopsy needle pre-fire and post-fire positioning and targeting, specimen radiograph images, post-biopsy images and review of post-biopsy pathology results.
         - Mammographic-guided, stereotactic-guided, or both, wire localization procedures.
         - Ultrasound-guided breast biopsy procedures.
         - MRI-guided breast biopsy procedures.

If experience is not maintained, the physician must requalify by performing 3 three procedures under direct supervision of a qualified training physician or an agency-approved manufacturer applications specialist before resuming unsupervised procedures.
3. Obtain Following the first anniversary in which the requirements of this subrule were met, obtain at least three hours of Category 1 CME or three hours of training approved by the agency in stereotactically guided breast biopsy every 36 months immediately preceding the date of the facility’s annual stereotactic biopsy inspection, or during the 36-month period ending on the last day of the calendar quarter preceding the inspection. If education is not maintained, the physician must requalify by obtaining additional CME credits to reach 3 CME credits in the prior 36 months before resuming unsupervised procedures. The CME credits for requalification cannot be obtained by performing procedures.

4. Continuing qualifications must be met and a current state of Iowa medical license must be in effect whenever unsupervised procedures are performed by the physician.

ITEM 14. Amend subrule 41.7(5) as follows:

41.7(5) Radiologic technologist.

a. Must be qualified according to 41.6(3)“b.”

b. Must meet the following initial requirements:

(1) Five hands-on stereotactically guided breast biopsy procedures on patients under the supervision of a physician or technologist qualified under rule 641—41.7(136C).

(2) Three contact hours of continuing education in stereotactically guided breast biopsy. The required continuing education cannot be obtained through the performance of supervised stereotactically guided breast biopsy procedures.

c. Maintenance of proficiency and continuing education and experience requirements.

(1) Following the first anniversary in which the requirements of this subrule were met, have performed at least 12 stereotactically guided breast biopsies per year or completion of a total of 12 breast biopsy procedures must be met for each calendar year with at least 6 being stereotactic breast biopsies. The remaining 6 can be any combination of the following and demonstration of the chosen combination needs to be clearly documented:

1. Stereotactic breast biopsy procedures.

2. Stereotactic biopsy of a stereotactic training phantom with documentation of steps taken or a written report.

3. Stereotactic breast biopsy case review, must be documented to include a review of pre-biopsy mammographic examination, scout and stereotactic images, biopsy needle pre-fire and post-fire images, specimen radiograph images, post-biopsy images and review of post-biopsy pathology results.

4. Mammographic-guided, stereotactic-guided, or both, wire localization procedures.

5. Ultrasound-guided breast biopsy procedures.

6. MRI-guided breast biopsy procedures.

If experience is not maintained, the radiologic technologist must requalify by performing at least three stereotactically guided breast biopsies under the supervision of a physician or radiologic technologist qualified under 41.7(3) or 41.7(5).

(2) Following the third anniversary in which the requirements of this subrule were met, have obtain at least three hours of continuing education in stereotactically guided breast biopsy system physics during the previous 36 months immediately preceding the date of the facility’s annual stereotactic biopsy inspection, or during the 36-month period ending on the last day of the calendar quarter preceding the inspection, or requalify by obtaining additional CME credits to reach 3 CME credits in the prior 36 months. The CMEs cannot be obtained by the performance of supervised procedures.

(3) If a stereotactic radiologic technologist performs only stereotactic procedures, the radiologic technologist must perform at least 100 stereotactic procedures during the prior 24 months, immediately preceding the date of the facility’s annual stereotactic biopsy inspection, during the 24-month period ending on the last day of the previous calendar quarter, or any 24-month period between the two. In this case, all requirements for radiologic technologists must be met with the exception of 41.6(3)“b”(4)“I.”

(4) Only 50 percent of the total required stereotactic continuing education hours may be obtained through presenting or acting as a trainer for a continuing education or training program.
(5) An Iowa permit to practice radiography must be in effect whenever stereotactic procedures are performed by the radiologic technologist.

ITEM 15. Amend subparagraph 41.7(7)“d”(1) as follows:

(1) Conducting equipment performance monitoring functions, initially and then at least annually, to include:
   1. Evaluation of biopsy unit assembly. Any failed items must be corrected within 30 days of the survey unless the medical physicist deems that the failure poses a serious injury risk to the patient, at which time the failure needs to be corrected before further procedures are performed.
   2. Collimation.
      • Digital — X-ray field must not extend beyond the image receptor by more than 5 mm on any side.
      • Film-screen — On all sides other than the chest wall side, the X-ray field must be within the image receptor. The chest wall side must not extend beyond the image receptor by more than 2 percent.
      • Any failures must be corrected within 30 days of the survey.
   3. Evaluation of focal spot.
      • Digital — Focal spot must not degrade from initial measurement. If reduction in lp/mm is found, focal spot must be corrected within 30 days of survey.
      • Film-screen — Film-screen must show 13 lp/mm parallel to the anode-cathode axis and 11 lp/mm perpendicular to the anode-cathode axis. Failure to meet the performance criteria must be corrected within 30 days of survey.
   4. kVp accuracy/reproducibility. kVp accuracy/reproducibility must be accurate to within +/- 5% of nominal kVp setting. Failures must be corrected before further procedures are performed.
   5. Half-value layer measurement. HVL shall be greater than kVp/100 (in units of mmAl). Failures must be corrected before further procedures are performed.
   6. Exposure reproducibility. Exposure must be reproducible to within +/- 15% of mean exposure. Failures must be corrected before further procedures are performed.
   7. Breast entrance exposure, average glandular dose. Average glandular dose must be less than 300 millirad (3 milliGray) per exposure of a 50 percent glandular/50 percent adipose 4.5 4.2 centimeter breast. Failures must be corrected before further procedures are performed.
   8. Image quality evaluation.
      • Digital — Phantom image must meet the criteria of 5 fibers, 4 speck groups and 3 masses for the ACR accreditation phantom or 3 fibers, 3 speck groups and 2.5 masses for the mini phantom unless otherwise stated by the phantom manufacturer.
      • Film-screen — Phantom image must meet the criteria of 4 fibers, 3 speck groups and 3 masses for the ACR phantom or 2 fibers, 2 speck groups and 2 masses for the mini phantom unless otherwise stated by the phantom manufacturer. The background density must be within +/- .20 of the established aim, and the density differences must be within +/- .05 of the established aim.
      • Failures must be corrected before further procedures are performed.
   9. Artifact evaluation. Any significant black or white artifacts seen in the image detector field must be corrected within 30 days of the survey.
   10. Digital field uniformity. For units with region of interest (ROI) capability, the SNR in each corner must be within +/- 15% of the SNR in the center. Failures must be corrected within 30 days of the survey.
   11. Localization simulation (gelatin phantom) test. Localization accuracy must be within 1 mm of target, and the test must include a portion of the test “lesion” in the sample chamber. Failures must be corrected before further procedures are performed.

ITEM 16. Amend subrule 41.7(9) as follows:

41.7(9) Safety standards.

a. Proper safety precautions shall be maintained and shall include, but not be limited to, adequate shielding for patients, personnel and facilities. The equipment shall be operated only from a shielded position.
PUBLIC HEALTH DEPARTMENT[641](cont’d)

b. Equipment operators shall wear personnel monitors to monitor their radiation exposure.

e. Annual inspections shall be conducted by an inspector from the agency to ensure compliance with these rules. Identified hazards shall be promptly corrected.

d. Equipment shall be shockproof and grounded to protect against electrical hazards.

e. Records of all inspections, inspection reports and consultations, medical physicist surveys shall be maintained for at least seven years.

[Filed 1/12/22, effective 3/16/22]
[Published 2/9/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

ARC 6165C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to medical residency program liability costs


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 135.176 and 2021 Iowa Acts, House File 891.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.176 and 2021 Iowa Acts, House File 891.

Purpose and Summary

2021 Iowa Acts, House File 891, division XVII, designated an additional activity that can be funded from the Medical Residency Training State Matching Grants Program for the time period beginning July 1, 2021, and ending June 30, 2026. Sponsors that are not covered under Iowa Code chapter 669 may apply to the program to fund the payment by the sponsor of medical residency program liability costs subject to provision by the sponsor of dollar-for-dollar matching funds used for the payment of such costs. The amendments to Chapter 108 implement these changes to Iowa Code section 135.176.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 22, 2021, as ARC 5927C. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on January 12, 2022.

Fiscal Impact

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

Jobs Impact

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

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s waiver provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on March 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—108.1(135) as follows:

641—108.1(135) Scope and purpose. The medical residency training state matching grants program is established to provide greater access to health care by increasing the number of practicing physicians in Iowa through the expansion of residency positions in Iowa. The department shall provide funding to sponsors of accredited graduate medical education residency programs for the establishment, expansion, or support of medical residency training programs that will increase the number of residents trained. For the period beginning July 1, 2021, and ending June 30, 2026, the department shall provide funding to sponsors of accredited medical education residency programs for the support of medical residency training program liability costs. Funding for the program may be provided through the health care workforce shortage fund, medical residency training account, and is specifically dedicated to the medical residency training state matching grants program as established in Iowa Code section 135.176. These rules shall be implemented only to the extent funding is available.

ITEM 2. Amend rule 641—108.3(135) as follows:

641—108.3(135) Eligibility criteria—establishment or expansion. To be eligible for a matching grant for the establishment or expansion of medical residency training programs, a sponsor shall satisfy the following requirements and qualifications:

108.3(1) to 108.3(5) No change.

ITEM 3. Renumber rules 641—108.4(135) and 641—108.5(135) as 641—108.5(135) and 641—108.6(135).

ITEM 4. Adopt the following new rule 641—108.4(135):

641—108.4(135) Eligibility criteria—support. To be eligible for a matching grant for the support of medical residency training program liability costs, a sponsor shall satisfy the following requirements and qualifications:

108.4(1) A sponsor shall be financially and organizationally responsible for a residency training program that is accredited by the ACGME or by the AOA.

108.4(2) A sponsor shall not be subject to Iowa Code chapter 669.

108.4(3) A sponsor shall demonstrate through documented financial information that funds have been budgeted and will be expended by the sponsor in the amount required to provide dollar-for-dollar matching funds for the cost of the medical residency program liability.

108.4(4) A sponsor shall demonstrate that the funding of the medical residency program liability costs falls within the period of July 1, 2021, and June 30, 2026.
ITEM 5. Amend renumbered rules 641—108.5(135) and 641—108.6(135) as follows:

641—108.5(135) Amount of grant.

108.5(1) The department shall award funds based upon the funds budgeted as demonstrated in the request, as identified in subrule 108.3(2) or 108.4(3).

108.5(2) Grant award per activity.

a. The total amount of a grant awarded to a sponsor proposing the establishment of a new or alternative campus accredited medical residency training program shall be limited to no more than 100 percent of the amount of funds the sponsor has budgeted as demonstrated through a line-item budget for each residency sponsored for the purpose of the residency program.

b. The total amount of a grant awarded to a sponsor proposing the provision of a new residency position within an existing accredited medical residency or fellowship training program, or a sponsor funding residency positions which are in excess of the federal residency cap, shall be limited to no more than 25 percent of the amount of funds the sponsor has budgeted as demonstrated through a line-item budget for each residency position sponsored for the purpose of the residency program.

c. The total amount of a grant awarded to a sponsor proposing to fund medical residency program liability costs shall be limited to no more than 50 percent of the total cost the sponsor has budgeted as demonstrated through a line-item budget for the medical residency program liability costs.

108.5(3) A sponsor shall receive funds based on budgeted expenses that include but are not limited to:

a. Stipends and fringe benefits for residents and fellows;

b. The portion of teaching physician salaries and fringe benefits associated with teaching and supervision of residents and fellows;

c. Other direct costs that can be attributed to medical education (e.g., clerical salaries, telephone, office supplies).

108.5(4) An individual sponsor that establishes a new or alternative campus accredited medical residency training program shall not receive more than 50 percent of the state matching funds available each year to support the program. An individual sponsor proposing the provision of new residency position within an existing accredited medical residency or fellowship training program, or a sponsor funding residency positions which are in excess of the federal residency cap, or the funding of the payment by the sponsor of medical residency program liability costs subject to provision by the sponsor of dollar-for-dollar matching funds used for payment of such costs shall not receive more than 25 percent of the state matching funds available each year to support the program.

641—108.6(135) Application and review process.

108.6(1) and 108.6(2) No change.

108.6(3) Each request for proposal issued by the department will identify one or more of the following purposes for use of the funding:

a. The establishment of new or alternative campus accredited medical residency training programs;

b. The provision of new residency positions within existing accredited medical residency or fellowship training programs; or

c. The funding of residency positions which are in excess of the federal residency cap; or

d. The funding of the payment by the sponsor of medical residency program liability costs subject to provision by the sponsor of dollar-for-dollar matching funds used for the payment of such costs for the period beginning July 1, 2021, and ending June 30, 2026. The funding shall not apply to medical residency programs to which Iowa Code chapter 669 applies.
PUBLIC HEALTH DEPARTMENT[641](cont’d)

108.6(4) No change.

[Filed 1/12/22, effective 3/16/22]
[Published 2/9/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

ARC 6166C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to prescription drug donation repository program


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 135M.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 135M.

Purpose and Summary

These amendments update outdated citations within Chapter 109 and address an unintentional issue that occurred from some new wording in different legislation that was not intended to apply to the program covered by Chapter 108. The Department provided a waiver in 2019 to address the situation. The amendment to the definition of “centralized repository” in Item 1 is a permanent solution that will remove the need for the waiver. Other amendments remove references to repealed Iowa Code chapters and a rescinded rule and update an Iowa Code citation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as ARC 6053C. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on January 12, 2022.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s waiver provisions contained in 641—Chapter 178.
Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on March 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 641—109.1(135M), definitions of “Centralized repository” and “Physician,” as follows:

“Centralized repository” means a distributor an entity approved by the contractor and licensed pursuant to 657 IAC Chapter 17 applicable regulations of the Iowa board of pharmacy that accepts donated drugs, conducts a safety inspection of the drugs, and ships the donated drugs to a local repository to be dispensed in compliance with this chapter and federal and state laws, rules and regulations.

“Physician” means an individual licensed under Iowa Code chapter 148, 150, or 150A.

ITEM 2. Amend subrule 109.5(3) as follows:

109.5(3) Repositories shall destroy donated noncontrolled substances that are not suitable for dispensing and make a record of such destruction according to board of pharmacy rule 657—8.8(124,155A) 657—subrule 8.7(5). The destruction record shall be made in the same manner as prescribed for the record of return or destruction of a controlled substance in subrule 109.5(4).

ITEM 3. Amend subrule 109.14(1) as follows:

109.14(1) The department may receive prescription drugs and supplies directly from the prescription drug donation repository contractor and dispense prescription drugs and supplies through licensed personnel during or in preparation for a disaster emergency proclaimed by the governor pursuant to Iowa Code section 29C.6 or during or in preparation for a public health disaster as defined in 2009 Iowa Code Supplement section 135.140, subsection 6 135.140(6).

[Filed 1/12/22, effective 3/16/22]
[Published 2/9/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

ARC 6169C

RACING AND GAMING COMMISSION[491]

Adopted and Filed

Rule making related to gambling games and horse racing


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 99D.7, 99E.3 and 99F.4.
State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 99D.7, 99E.3 and 99F.4.

Purpose and Summary

Item 1 corrects an outdated cross-reference to the Iowa Code.
Item 2 updates subrule 5.4(10), submission of gambling games taxes and fees, to be consistent with 2021 Iowa Acts, Senate File 619.
Item 3 updates subrule 5.4(12), problem gambling, to reflect current standards.
Item 4 clarifies standards for network security risk assessments and moves the risk assessment requirement timing for some licensees.
Item 5 clarifies which entities and vendors are included in the vendor license requirement.
Item 6 clarifies license eligibility for trainers and assistant trainers.
Item 7 updates the definition of “interstate simulcasting” to be consistent with 2021 Iowa Acts, House File 513.
Item 8 updates subparagraph 8.4(1)“d”(3) to be consistent with 2021 Iowa Acts, House File 513.
Item 9 updates subrule 8.5(3) to be consistent with 2021 Iowa Acts, House File 513.
Item 10 updates paragraph 8.5(4)“b” to be consistent with 2021 Iowa Acts, House File 513.
Item 11 creates consistency between advance deposit wagering operators and advance deposit sports wagering operators.
Item 12 clarifies allowed coupled entries.
Item 13 clarifies allowable eligibility for claims.
Item 14 replaces subrule 11.5(3) relating to approval of variations to and bonus features or progressive wagers associated with gambling games to remove a provision with regard to 2021 Iowa Acts, Senate File 619.
Item 15 implements requirements for linking table game progressives.
Item 16 modifies who needs to maintain a reserve in sports wagering.
Item 17 clarifies when certain written reports relating to sports wagering are required.
Item 18 clarifies sports wagering ticket payout hours.
Item 19 clarifies signage requirements for designated sports wagering areas.
Item 20 clarifies certain advance deposit sports wagering account operation requirements.
Item 21 clarifies standards for advance deposit sports wagering system integrity and security risk assessments and moves the risk assessment requirement timing for some licensees.
Item 22 clarifies fantasy sports contest service provider reporting requirements.
Item 23 clarifies standards for fantasy sports wagering system integrity and security risk assessments and moves risk assessment requirement timing for some licensees.
Item 24 updates language in paragraph 14.10(2)“c” regarding financial reserves.
Item 25 clarifies certain account operation requirements in paragraph 14.13(1)“e.”
Item 26 clarifies certain account operation requirements in paragraph 14.13(1)“f.”

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 17, 2021, as ARC 6056C. A public hearing was held on December 7, 2021, at 9 a.m. at the Commission Office, Suite 100, 1300 Des Moines Street, Des Moines, Iowa. No one attended the public hearing. Three stakeholders contacted the Commission with regard to Items 16 and 26. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on January 13, 2022.
RACING AND GAMING COMMISSION[491](cont’d)

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 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 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph 5.4(8)“b”(4) as follows:

(4) Iowa resources, goods and services are utilized. Resources, goods, and services shall be considered to be made in Iowa, be provided by Iowans, or emanate from Iowa if one or more of the following apply:

1. to 6. No change.
7. Services beyond selling are provided by employees who are based in Iowa.

A facility shall be considered to have utilized a substantial amount of Iowa resources, goods, services and entertainment in compliance with Iowa Code sections 99D.9 and 99F.7(4) 99F.7(5) if the facility demonstrates to the satisfaction of the commission that preference was given to the extent allowed by law and other competitive factors.

ITEM 2. Amend subrule 5.4(10) as follows:

5.4(10) Taxes and fees.

a. No change.

b. Submission of gambling game taxes and fees.

(1) and (2) No change.

(3) Pursuant to Iowa Code section 99F.1(1), taxes from promotional play receipts that are received within the same gaming week but after the date when the limit set forth in the definition of “adjusted gross receipts” is exceeded, as determined by the administrator, will be credited to each facility in the next available gaming week within the same fiscal year.

c. Calculation of promotional play receipts. For the purpose of calculating the amount of taxes received from promotional play receipts during a fiscal year, the commission will consider promotional play receipts as taxed in proportion to total adjusted gross receipts for each gaming day.

d. Submission of sports wagering net receipts taxes.

(1) A tax is imposed on the sports wagering net receipts received each fiscal year from sports wagering. “Sports wagering net receipts” means the gross receipts less winnings paid to wagerers on sports wagering on a cash accounting basis. Voided and canceled transactions are not considered receipts for the purpose of this calculation. Any offering used to directly purchase a wager shall be considered receipts for the purpose of this calculation.
ITEM 3. Amend paragraph 5.4(12)“b” as follows:

b. The policies and procedures shall be developed in cooperation with the gambling treatment program and shall include without limitation the following:

(1) and (2) No change.

(3) Policies designed to prevent serving alcohol to intoxicated casino patrons on the gaming floor or wagering area;

(4) Steps for removing problem gamblers from the casino and gaming floor or wagering area;

(5) Procedures for preventing reentry of problem gamblers;

(6) Procedures to prominently display problem gambling materials produced by the Iowa gambling treatment program throughout the facility with at least one display located in a high-traffic area of patrons; and

(7) Procedures for a licensee’s website to include a link to the commission’s website for individuals to self-exclude themselves pursuant to Iowa Code sections 99F.4(22) and 99D.7(23).

ITEM 4. Amend paragraph 5.4(21)“a” as follows:

a. The licensee shall biennially submit the results of an independent network security risk assessment to the administrator for review, subject to the following requirements:

(1) No change.

(2) The network security risk assessment shall be conducted completed no later than 90 days after the start of the licensee’s fiscal year March 31 in each year an assessment is required.

(3) Results from the network security risk assessment shall be submitted to the administrator no later than 90 days after the assessment is conducted completed. Results shall include a remediation plan to address any risks identified during the risk assessment.

(4) The risk assessment shall be conducted in accordance with current and accepted industry standard review requirements for risk assessments.

(5) The risk assessment shall include a review of licensee controls. Review of controls shall include but not be limited to a comparison of licensee controls to industry standard and best practice controls, and an audit of the licensee processes for compliance with those controls.

(6) For licensees issued a license to conduct sports wagering pursuant to Iowa Code section 99F.7A, a risk assessment required by this subrule shall include any on-premises sports wagering authorized by the commission at that licensee’s place of business. A supplemental risk assessment for the sports wagering operations may be accepted in lieu of inclusion with the assessment of the licensee’s overall operations, at the discretion of the administrator, and providing that the supplemental assessment independently complies with the requirements in subparagraphs 5.4(21)“a”(1) to (5).

ITEM 5. Amend subrule 6.14(1) as follows:

6.14(1) A vendor’s license is required of any entity not licensed as a manufacturer or distributor that conducts operations on site at a facility or a vendor that provides geolocation security services to any licensee.

ITEM 6. Amend paragraph 6.23(2)“b” as follows:

b. An applicant must be qualified, as determined by the commission representative, by reason of experience, background, and knowledge of racing. A trainer’s license from another jurisdiction may be accepted as evidence of experience and qualifications. Evidence of qualifications may require passing one, and, if an applicant has previously never been licensed as a trainer or assistant trainer, shall require, four or more of the following:

(1) A Passing a written examination.

(2) An Passing an interview or oral examination.

(3) A Passing a demonstration of practical skills in a “barn test” (horse racing only).

(4) A minimum of two written statements from licensed trainers during the concurrent race meet attesting to the applicant’s character and qualifications.
(5) Proof the applicant has held a racing participant license of another type for a minimum of two years prior to application.

ITEM 7. Amend rule 491—8.1(99D), definition of “Interstate simulcasting,” as follows: “Interstate simulcasting” means the telecast of live audio and visual signals of pari-mutuel racing sent to or received from a state outside the state of Iowa to an authorized racing or gaming facility for the purpose of wagering. For the purposes of this definition, “interstate” also includes foreign jurisdictions.

ITEM 8. Amend subparagraph 8.4(1)”d”(3) as follows:
(3) Once simulcast authority has been granted by the commission or commission representative, it shall be the affirmative responsibility of the facility granted simulcast authority to obtain all necessary permission from other states jurisdictions and tracks to simulcast the pari-mutuel races. In addition, the burden of adhering to state and federal laws concerning simulcasting rests on the facility at all times.

ITEM 9. Amend subrule 8.5(3) as follows:

8.5(3) Host state participation in merged pools.
   a. With the prior approval of the commission representative, a facility licensed to conduct pari-mutuel wagering may determine that one or more of its contests be utilized for pari-mutuel wagering at guest facilities in other states jurisdictions and may also determine that pari-mutuel pools in guest states jurisdictions be combined with corresponding wagering pools established by it as the host facility or comparable wagering pools established by two or more states jurisdictions.
   b. to d. No change.
   c. Any contract for interstate common pools entered into by the facility shall contain a provision to the effect that if, for any reason, it becomes impossible to successfully merge the bets placed in another state jurisdiction into the interstate common pool formed by the facility or if, for any reason, the commission representative or facility determines that attempting to effect transfer of pool data from the guest state jurisdiction may endanger the facility’s wagering pool, the facility shall have no liability for any measure taken which may result in the guest’s wagers not being accepted into the pool.

ITEM 10. Amend paragraph 8.5(4)"b" as follows:
   b. A facility wishing to participate in an interstate common pool may request that the commission representative approve a methodology whereby host facility and guest facility states jurisdictions with different takeout rates for corresponding pari-mutuel pools may effectively and equitably combine wagers from the different states jurisdictions into an interstate common pool.

ITEM 11. Amend subrule 8.6(3) as follows:

8.6(3) Operation of an account. The ADWO shall submit operating procedures with respect to licensee account holder accounts for commission approval. The submission shall include controls and reasonable methods that provide for the following:
   a. A written report to the commission for any incident where there is a violation of Iowa Code chapter 99D or 99F, a commission rule or order, or an internal control within 72 hours of detection. In addition to the written report, the ADWO shall provide immediate notification to the commission if an incident involves employee theft, criminal activity, or a violation of Iowa Code chapter 99D or 99F.
   b. The segregation of incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of the employee’s duties.
   c. User access controls for all sensitive and secure, physical and virtual, areas and systems within a wagering operation.
   d. Treatment of problem gambling by:
      (1) Identifying problem gamblers.
      (2) Complying with the process established by the commission pursuant to Iowa Code section 99F.4(22) and 491—subrule 5.4(12).
      (3) Cooperating with the Iowa gambling treatment program in creating and establishing controls.
      (4) Including information on the availability of the gambling treatment program in a substantial number of the licensee’s advertisements and printed materials.
   e. Setoff winnings of customers who have a valid lien established under Iowa Code chapter 99F.
Amend paragraph 10.6(2)“c” as follows:

Coupling. There will be no coupled entries in any race. In races, excluding stakes races, that overfill, trainers must declare preference of runners with identical ownership at time of entry. Same-owner, second-choice horses will be least preferred. A trainer or owner or licensed designee may not enter more than three horses in a race unless the race is split or divided.

 Amend subparagraph 10.6(18)”a”(2) as follows:

2. An authorized agent or trainer acting on behalf of an ownership entity submits shall not submit more than two claims in a race; the claims shall not be for the same horse with two separate ownership interests.

No change.

Rescind subrule 11.5(3) and adopt the following new subrule in lieu thereof:

11.5(3) The administrator is authorized to approve variations of approved gambling games and bonus features or progressive wagers associated with approved gambling games, subject to the requirements of rule 491—11.4(99F). Features utilizing a controller or a system linked to gambling games that do not require direct monetary consideration and are not otherwise integrated within a slot machine game theme may be allowed as bonus features. Payouts from these bonus features may be included in winnings for the calculation of wagering tax adjusted gross receipts when the following conditions are met:

a. The only allowable nonmonetary consideration to be expended by a participant shall be active participation in a gambling game with a bonus feature or use of a player’s club card, or both.

b. The actual bonus payout deductible in any month from all qualified system bonuses requiring no additional direct monetary consideration shall be:

(1) No more than 2 percent of the coin-in for all slot machines linked to any system bonuses for that month if slot machines linked to system bonuses exceed 20 percent of the total number of slot machines; or

(2) No more than 3 percent of the coin-in for all slot machines linked to any system bonuses for that month if slot machines linked to system bonuses are less than or equal to 20 percent of the total number of slot machines; or

(3) No more than 3 percent of the amount wagered on the qualifying bets for all table games linked to any system bonus for that month.

c. The probability of winning a system bonus award shall be the same for all persons participating in the bonus feature.

Adopt the following new subrule 11.7(10):

11.7(10) Wide area progressive table game systems. A wide area progressive table game system is a method of linking table game progressives, approved in accordance with subrule 11.5(3), by a secured data communication as part of a network that connects participating facilities. The purpose of a wide area progressive table game system is to offer a common progressive jackpot at all participating locations within Iowa or in multiple states. The operation of the wide area progressive table game system (multilink) is permitted, subject to the following conditions:

a. The provider of the multilink (provider) shall be an entity licensed as a manufacturer, a distributor, or an operator of gambling games within the state of Iowa or be the qualified parent company of an operator within the state of Iowa. No entity shall be licensed for the sole purpose of providing a multilink.

b. Prior to operation of a multilink, the provider shall submit to the administrator for review and approval information sufficient to determine the integrity and security of the multilink. The information must include, but is not limited to, the following:
(1) Central system site location, specifications, and operational procedures. Central site facilities must be monitored whenever the multilink is operational at any participatory licensee.

(2) Encryption and method of secured communication over the multilink and between facilities.

(3) Method and process for obtaining and updating contribution data from table games on the multilink.

(4) Jackpot contribution rates, including information sufficient to determine contributions to the jackpot are consistent across all entities participating in the multilink. Any subsequent changes to the contribution rate of a multilink jackpot must be submitted to the administrator for review and approval.

(5) Jackpot verification procedures.

c. Prior to inclusion in a multilink, a licensee shall submit to a gaming representative for review and approval information sufficient to determine the integrity of the multilink processes. The information must include, but is not limited to, the following:

1. Rules of the game, in accordance with subrule 11.4(3).

2. Controls and procedures which govern the process of determining and verifying jackpots on a multilinked table game.

3. The process to report jackpots to the multilink provider.

4. The process to pay the jackpot to the winner or winners.

d. The provider of the multilink shall, upon request, supply reports and information to the administrator which detail the contributions and economic activity of the system, subject to the following requirements:

1. Aggregate and detail reports that show both the economic activity of the entire multilink, as well as details of each table game on the multilink.

2. Upon invoicing a facility, details regarding each machine at the facility and each table game’s contribution to the multilink for the period of the invoice shall be supplied, as well as any other details required by the administrator.

e. Concurrent jackpots which occur before the multilink jackpot meters show reset and updated jackpot amounts will be deemed to have occurred simultaneously. Each winner shall receive the full amount shown on the system jackpot meter.

f. The provider must suspend play on the multilink if a communication failure of the system cannot be corrected within 24 consecutive hours.

g. A meter that shows the amount of the jackpot must be conspicuously displayed at the table games to which the jackpot applies. Jackpot meters may show amounts that differ from the actual system jackpot, due to delays in communication between sites and the central system, but meters shall not display an incorrect amount for an awarded jackpot.

h. In calculating adjusted gross receipts, a facility may deduct only its pro rata share of the present value of any system jackpots awarded. Such deduction shall be listed on the detailed accounting records supplied by the provider. A facility’s pro rata share is based on the amount wagered in conjunction with the rules for that table game progressive from that facility’s table games on the multilink compared to the total amount wagered in conjunction with the rules for that table game progressive on the whole system for the time period between awarded jackpots.

i. In the event a facility ceases operations and a progressive jackpot is awarded subsequent to the last day of the final month of operation, the facility may not file an amended wagering tax submission or make a claim for a wagering tax refund based on its contributions to that particular progressive prize pool.

j. Any jackpot on the multilink shall be paid immediately upon verification of the jackpot. The responsibility for the immediate payment rests with the facility in which the jackpot is awarded, but is subject to reimbursement requirements from the provider, in accordance with the collection procedures agreed to between the provider and the facility.

k. A reserve shall be established and maintained by the provider in an amount not less than the present value of all multilink jackpots offered by the provider and the present value of one additional reset (start amount) for each multilink jackpot offered by the provider.
(1) Upon becoming aware of an event of noncompliance with the terms of the reserve requirement mandated by this paragraph, the provider must immediately notify the administrator.

(2) On a quarterly basis, the provider must deliver to the administrator a calculation of system reserves required under this paragraph. The calculation shall come with a certification of financial compliance signed by a duly authorized financial officer of the provider, on a form prescribed by the administrator, validating the calculation.

l. Multilinks to be offered in conjunction with jurisdictions in other states within the United States are permitted. Multistate multilinks are subject to the requirements of this subrule; in addition, any multistate plans or controls are subject to administrator review and approval.

ITEM 16. Recind subrule 13.2(6) and adopt the following new subrule in lieu thereof:

13.2(6) Reserve. A reserve in the form of cash or cash equivalents segregated from operational funds, an irrevocable letter of credit, payment processor reserves and receivables, a bond, or a combination thereof shall be maintained in the amount necessary to cover the outstanding vendor sports wagering liability and advance deposit sports wagering liability. An accounting of this reserve shall be made available for inspection to the commission upon request.

a. The method of reserve shall be submitted to and approved by the administrator prior to implementation.

b. Reserve calculation shall include the following: patron accounts, future wagers liability, unpaid wagers and pending withdrawals.

c. If, at any time, the licensee’s total reserve is less than the amount required by the reserve calculation, the licensee shall notify the commission of this deficiency within 72 hours.

d. The controller or an employee of higher authority shall file a monthly attestation to the commission that the reserve funds have been safeguarded pursuant to this subrule.

ITEM 17. Amend subrule 13.2(7) as follows:

13.2(7) Internal controls. Licensees and advance deposit sports wagering operators shall submit a description of internal controls to the administrator. The submission shall be made at least 30 days before sports operations are to commence unless otherwise approved by the administrator. All internal controls must be approved by the administrator prior to commencement of sports operations. The operator shall submit to the administrator any changes to the internal controls previously approved at least 15 days before the changes are to become effective unless otherwise directed by the administrator. It shall be the affirmative responsibility and continuing duty of each licensee and advance deposit sports wagering operator and their employees to follow and comply with all internal controls. The submission shall include controls and reasonable methods that provide for the following:

a. to d. No change.

e. To report within 72 hours, in writing. Written notification to the commission for any incident where an employee or customer is detected violating a provision of Iowa Code chapter 99F, a commission rule or order, or an internal controls control within 72 hours of detection. In addition to the written report, the licensee or advance deposit sports wagering operator shall provide immediate notification to the commission if an incident involves employee theft, criminal activity, Iowa Code chapter 99F violations or sports wagering receipts. A written report detailing the violation as required by the administrator.

f. and g. No change.

h. Treatment of problem gambling by:

(1) to (3) No change.

(4) Making available to customers, patrons, and bettors the Iowa gambling treatment program and printed materials.

i. No change.
ITEM 18. Adopt the following new subrule 13.2(12):

13.2(12) Ticket payouts. A method shall be available for players to collect at any time during the facility’s hours of operation winnings from wagers made in person at a facility. Winnings required to be reported on Internal Revenue Service Form W-2G are exempt from this requirement.

ITEM 19. Amend rule 491—13.4(99F) as follows:

491—13.4(99F) Designated sports wagering area. A floor plan identifying the designated sports wagering area, including the location of any wagering kiosks device used to assist in the placement, resolution or collection of any sports wager, shall be filed with the administrator for review and approval. Modification to a previously approved plan must be submitted for approval at least ten days prior to implementation. A sign shall denote that the area is not accessible to persons under the age of 21. Designated wagering areas shall contain conspicuous signage which denotes that an individual must be at least 21 years of age to wager on sports. Exceptions to this rule must be approved in writing by the administrator. The sports wagering area is subject to compliance with 491—subrule 5.4(7).

ITEM 20. Amend subrule 13.5(3) as follows:

13.5(3) Operation of an account. The advance deposit sports wagering operator or a licensee shall submit controls, approved by the commission, that include the following for operating an account:

a. to f. No change.

g. Process to immediately notify a player and lock an account in following an unusual login attempt. In the event that suspicious activity is detected, an account shall be locked. A multifactor authentication process must be employed for the account to be unlocked.

h. Process for players to easily and prominently impose limitations or notifications for wagering parameters including, but not limited to, deposits and wagers. Upon receipt, any self-imposed limitations must be employed correctly and immediately as indicated to the player. Self-imposed limitations must be applied automatically, take effect immediately, and be implemented as indicated by the player. No changes can be made reducing the severity of the self-imposed limitations for at least 24 hours.

i. Process for players to easily and prominently self-exclude from wagering for a specified period of time or and indefinitely and easily and obviously direct participants, via a link, to exclude themselves pursuant to Iowa Code section 99F.4(22). Upon receipt, any self-exclusion limitations must be employed correctly and immediately as indicated to the player. Self-exclusions must be applied automatically, take effect immediately, and be implemented as indicated by the player. No changes can be made to reduce the severity of the self-exclusion limitations for at least 24 hours. In the event of indefinite self-exclusion, the advance deposit sports wagering operator or licensee must ensure that the players are player’s account balance within a reasonable time provided that the advance deposit sports wagering operator or licensee acknowledges that the funds have cleared. Players must be easily and obviously directed via a link to exclude themselves pursuant to Iowa Code section 99F.4(22). This control does not supersede the requirements set forth in Iowa Code section 99F.4(22).

j. and k. No change.

ITEM 21. Amend paragraph 13.6(3)“a” as follows:

a. A system integrity and security risk assessment shall be performed annually on the advance deposit sports wagering system.

(1) No change.

(2) The system integrity and security risk assessment shall be conducted completed no later than 90 days after the start of the licensee’s fiscal year March 31 of each year.

(3) Results from the risk assessment shall be submitted to the administrator no later than 30 days after the assessment is conducted completed. Results shall include a remediation plan to address any risks identified during the risk assessment.

(4) The risk assessment shall be conducted in accordance with current and accepted industry standard review requirements for risk assessments.
(5) The risk assessment shall include a review of licensee controls. Review of controls shall include but not be limited to a comparison of licensee controls to industry standard and best practice controls, and an audit of the licensee processes for compliance with those controls.

ITEM 22. Amend paragraph 14.8(3)“a” as follows:
   a. Criminal or disciplinary proceedings commenced against the service provider or its employees in connection with its operations;

ITEM 23. Amend subparagraph 14.8(4)“c”(1) as follows:
   (1) A system integrity and security risk assessment shall be performed annually on the fantasy sports contest system.
      1. No change.
      2. The system integrity and security risk assessment shall be conducted completed no later than 90 days after the start of the licensee’s fiscal year March 31 of each year. Results shall include a remediation plan to address any risks identified during the risk assessment.
      3. Results from the risk assessment shall be submitted to the administrator no later than 30 days after the assessment is conducted completed.
      4. The risk assessment shall be conducted in accordance with current and accepted industry standard review requirements for risk assessments.

5. The risk assessment shall include a review of licensee controls. Review of controls shall include but not be limited to a comparison of licensee controls to industry standard and best practice controls, and an audit of the licensee processes for compliance with those controls.

ITEM 24. Amend paragraph 14.10(2)“c” as follows:
   c. If, at any time, the licensee’s total available cash and cash equivalent reserve is less than the amount required by the reserve calculation, the licensee shall notify the commission of this deficiency within 48 72 hours.

ITEM 25. Amend paragraph 14.13(1)“e” as follows:
   e. A process for players to easily and prominently impose limitations or notifications for deposits and monetary participation in a contest. Upon receipt, any self-imposed limits must be employed correctly and immediately as indicated to the player. Limitations must be applied automatically, take effect immediately, and be implemented as indicated by the player. No changes can be made reducing the severity of the self-imposed limitations for at least 24 hours.

ITEM 26. Amend paragraph 14.13(1)“f” as follows:
   f. A process for players to easily and prominently self-exclude for a specified period of time or and indefinitely and easily and obviously direct participants, via a link, to exclude themselves pursuant to Iowa Code section 99F.4(22). Upon receipt, any self-exclusion limits must be employed correctly and immediately as indicated to the player. Self-exclusions must be applied automatically, take effect immediately, and be implemented as indicated by the player. No changes can be made to reduce the severity of the self-exclusion limitations for at least 24 hours. In the event of indefinite self-exclusion, the licensee must ensure that the player is paid in full for the player’s account balance within a reasonable time provided that the licensee acknowledges that the funds have cleared. Players must be easily and obviously directed via a link to exclude themselves pursuant to Iowa Code section 99F.4(22). This control does not supersede the requirements set forth in Iowa Code section 99F.4(22).

[Filed 1/13/22, effective 3/16/22]
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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.
ARC 6170C
REAL ESTATE APPRAISER EXAMINING BOARD[193F]
Adopted and Filed
Rule making related to five-year review of rules


Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapter 543D.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 543D.

Purpose and Summary

These amendments implement what the Board considers to be medium- and low-priority changes based on a five-year rolling review of its rules. This is the third level of changes from the Board. The high- and medium-priority changes have already gone through the rule-making process and became effective on November 25, 2020, and September 1, 2021, respectively. These amendments will reduce conflict between the rules and statute, reduce conflict within the rules and better follow current internal practices.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on November 3, 2021, as ARC 6017C. A public hearing was held on November 29, 2021, at 11 a.m. in the Small Conference Room, Third Floor, 200 East Grand Avenue, Des Moines, Iowa. No one attended the public hearing. No public comments were received.

After final review by the Board’s rules committee, one change was made to subrules 5.3(4) and 6.3(4) in which the last sentence, “Copies of the scores will not be accepted,” was stricken from each subrule. One change was also made for consistency in rule 193F—5.3(543D) to strike “200” in reference to creditable course hours.

Adoption of Rule Making

This rule making was adopted by the Board on January 13, 2022.

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.

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 16, 2022.

The following rule-making actions are adopted:

Item 1. Amend subrule 1.6(3) as follows:

1.6(3) Deadlines. Unless the context requires otherwise, such as is the case for timely and late renewal of a registration or certificate, any deadline for filing a document shall be extended to the next working day when the deadline falls on a Saturday, Sunday, or official state holiday.

Item 2. Amend subrule 1.18(2) as follows:

1.18(2) The board must adhere to the criteria established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation when registering associate appraisers or certifying certified appraisers under Iowa Code chapter 543D. To the extent that the rules conflict with the minimum requirements outlined in the current version of the AQB criteria, the minimum standards established in the criteria shall apply and these rules shall give way to the minimum requirements to comply with federal rule, law, or policy.

Item 3. Amend rule 193F—1.20(543D) as follows:

193F—1.20(543D) Application and work product deadlines.

1.20(1) Summary of registration requirements for registration as an associate. The associate appraiser and supervisory appraiser provisions are more fully set out in 193F—Chapters 4 and 15, respectively. Before submitting an application for registration with the board, a person seeking registration as an associate appraiser must complete the state and national criminal history check with the board within the past 180 days, have completed 75 hours of appraisal education within the past five years, take a supervisory/trainee appraiser course, and secure a qualified supervisory appraiser. An associate appraiser applicant who submits an application to the board office must have completed all required qualifying education and the supervisory appraiser/associate coursework requirements prior to submitting an application for registration.

1.20(2) Summary of certification requirements. As more fully set out in 193F—Chapters 3, 5, and 6, a person who is in the process of completing the education, experience, and examination required for certification as a certified appraiser may not submit an application for certification to the board until all prerequisites have been satisfactorily completed. The prerequisites include the following: qualifying college and core criteria appraiser education, qualifying examination, 1,500 hours of qualifying experience in a minimum of 12 months for residential appraisers or 3,000 hours of qualifying experience in a minimum of 18 months for general appraisers, and work product review, and a state and national criminal history check consistent with Iowa Code section 543D.22. Work product review requires numerous steps, as provided in 193F—5.6(543D) and 193F—6.6(543D). The work product review process includes the applicant’s submission of a work product experience log to the board; the board’s selection of three appraisals to review; communication of the selected appraisals to the applicant;
the applicant’s submission of the three appraisals and associated work files to the board in electronic and paper formats; review of the appraisals and work files by a reviewer retained by the board; the reviewer’s submission of review reports to the board; a meeting between the applicant, the applicant’s supervisor, and the board’s work product review committee; a formal board vote at a board meeting; and communication of approval, denial, or deferral to the applicant. All of these steps must be completed before an applicant with approved work product can submit an application for certification to the board office. If the applicant’s supervisor is unable to attend the work product review meeting, the applicant, or the applicant’s supervisor, must submit the circumstances surrounding the absence to the executive officer so that it may be determined if the work product review meeting should be rescheduled.

ITEM 4. Amend rule 193F—1.21(543D) as follows:

193F—1.21(543D) **National criminal history check.** All applicants for any of the classifications listed in 193F—1.17(543D), including an applicant seeking to upgrade from a certified residential credential to a certified general credential, must satisfactorily complete a state and national criminal history check as a condition of registration as an associate real property appraiser, certification as a residential, or certification as or upgrade to a general real property appraiser. The applicant shall authorize release of the results of the criminal history check to the board. If the criminal history check was not completed within 180 calendar days prior to the date the license application is received by the board, the board may perform a new state and national criminal history check or may reject and return the application to the applicant. The background check fee is specified in 193F—Chapter 12.

ITEM 5. Amend subrule 4.4(1) as follows:

**4.4(1) Associate classification.** The associate appraiser classification is intended for those persons training to become certified appraisers and is not intended as a long-term method of performing appraisal services under the supervision of a certified appraiser in the absence of progress toward certification. As a result, the board may impose deadlines for achieving certification, or for satisfying certain prerequisites toward certification, for those persons who apply to renew an associate appraiser registration more than two times. Deadlines, if any, would be imposed as a condition for the third or subsequent renewal.

ITEM 6. Amend rule 193F—4.5(543D) as follows:

193F—4.5(543D) **Applying for certification as a certified residential appraiser or certified general appraiser.** An associate appraiser may apply for certification as a certified residential real property appraiser by satisfying the requirements of 193F—Chapter 5, or as a certified general real property appraiser by satisfying the requirements of 193F—Chapter 6. The requirements for each type of certification include a state and national criminal history check consistent with Iowa Code section 543D.22; education, examination, and experience, which includes work product review; and examination.

ITEM 7. Amend subrules 5.2(1) and 5.2(2) as follows:

**5.2(1) Collegiate education.** There are five options for the collegiate education aspect of the requirements toward certification as a certified residential real property appraiser as specified in the AQB criteria. An applicant must meet at least one of the five options identified in paragraphs 5.2(1) “a” through 5.2(1) “e,” below, in order to be eligible for certification as a residential real property appraiser.

a. An applicant holds a bachelor’s degree in any field of study from an accredited college or university.

b. An applicant holds an associate’s degree in a field of study from an accredited college, junior college, community college, or university that relates to:

(1) Business administration;
(2) Accounting;
(3) Finance;
(4) Economics; or
(5) Real estate.
e. Successful completion of 30 semester hours of college-level courses from an accredited college, junior college, community college, or university that cover each of the following specific areas and hours:
   (1) English composition (3 hours);
   (2) Microeconomics (3 hours);
   (3) Macroeconomics (3 hours);
   (4) Finance (3 hours);
   (5) Algebra, geometry, or higher math (3 hours);
   (6) Statistics (3 hours);
   (7) Computer science (3 hours);
   (8) Business law or real estate law (3 hours);
   (9) Two electives in any of the above topics or in accounting, geography, agriculture, economics, business management, or real estate (3 hours each).

d. Successful completion of at least 30 semester hours of College-Level Examination Program (CLEP) examinations that cover each of the following specific areas and hours:
   (1) College algebra (3 semester hours);
   (2) College composition (6 semester hours);
   (3) College composition modular (3 semester hours);
   (4) College mathematics (6 semester hours);
   (5) Principles of macroeconomics (3 semester hours);
   (6) Principles of microeconomics (3 semester hours);
   (7) Introductory business law (3 semester hours); and
   (8) Information systems (3 semester hours).

e. Any combination of paragraphs 5.2(1)“c.” and 5.2(1)“d.” above, that ensures coverage of all of the topics and hours identified in paragraph 5.2(1)“c.” For purposes of determining whether coverage of the topics and hours identified in paragraph 5.2(1)“c.” has occurred:
   (1) The college algebra CLEP examination may be considered for satisfying the algebra, geometry, or higher math requirement of paragraph 5.2(1)“c.”
   (2) The college composition CLEP examination may be considered for satisfying the English composition requirement of paragraph 5.2(1)“c.”
   (3) The college composition modular CLEP examination may be considered for satisfying the English composition requirement of paragraph 5.2(1)“c.”
   (4) The college mathematics CLEP examination may be considered for satisfying the algebra, geometry, or higher math requirement of paragraph 5.2(1)“c.”
   (5) The principles of macroeconomics CLEP examination may be considered for satisfying the macroeconomics or finance requirement of paragraph 5.2(1)“c.”
   (6) The principles of microeconomics CLEP examination may be considered for satisfying the microeconomics or finance requirement of paragraph 5.2(1)“c.”
   (7) The introductory business law CLEP examination may be considered for satisfying the business law or real estate law requirement of paragraph 5.2(1)“c.”
   (8) The information systems CLEP examination may be considered for satisfying the computer science requirement of paragraph 5.2(1)“c.”

5.2(2) Core criteria. In addition to the formal education in subrule 5.2(1), an applicant must complete 200 creditable class hours meet the current AQB criteria requirements before taking the AQB-approved examination. All courses must be AQB-approved current core criteria to be considered creditable. The required courses and 200 hours consist of the following: The creditable class hours under the general certification AQB-approved current core criteria courses satisfy the residential requirement.

a. Basic appraisal principles ___________________________________________ 30 hours
b. Basic appraisal procedures __________________________________________ 30 hours
c. The 15-hour USPAP course or equivalent ___________________________ 15 hours
d. Residential market analysis and highest and best use ________________ 15 hours
e. Residential appraiser site valuation and cost approach ______________ 15 hours
REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont’d)

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Item 8. Amend rule 193F—5.3(543D) as follows:

**193F—5.3(543D) Examination.** The prerequisite for taking the AQB-approved examination is collegiate education, experience, work product review and completion of 200 all creditable course hours as specified in subrule 5.2(2). The 200 creditable course hours, collegiate education, and all experience must be completed as specified in subrules 5.2(1) and 5.2(2) and rule rules 193F—5.4(543D) and 193F—5.6(543D) prior to the examination. For 5.2(2) “c,” equivalency Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP qualifying education shall be awarded only when the class is instructed by at least one AQB-certified USPAP instructor who holds a state-issued certified residential or certified general appraiser credential in active status and good standing.

5.3(1) In order to qualify to sit for the certified residential real property appraiser examination, the applicant must complete the board’s application form and provide copies of documentation of completion of all courses claimed that qualify the applicant to sit for the examination.

a. No change.

b. The core criteria, collegiate education, and experience, and work product review must be completed and the documentation submitted to the board at the time of application to sit for the examination.

5.3(2) and 5.3(3) No change.

5.3(4) An applicant must supply a true and accurate copy of the original examination scores when applying for certification. Copies of the scores will not be accepted.

5.3(5) No change.

Item 9. Amend subrule 5.6(1) as follows:

5.6(1) An applicant shall submit a complete appraisal log at the time of application for examination and work product review. The board will select three appraisals that Three appraisal reports will be selected to demonstrate a diversity of experience and approaches to value over various time frames for work product review and request that the. The applicant shall submit, both electronically and on paper, one copy of each report and work file for each of the selected appraisals along with the appropriate form and fee. The work product submission shall not be redacted by the applicant; however, the applicant may request the reports remain confidential as specified in subrule 5.6(2). The fee for work product review of the appraisals is provided in 193F—Chapter 12. The board may select the appraisals. Appraisals may be selected at random from the entire log or within certain types of appraisals. The board reserves the right to request one or more additional appraisals if those submitted by the applicant raise issues concerning the applicant’s competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant’s work product. Such additional appraisals may be selected at random from the applicant’s log or may be selected specifically to provide an example of the applicant’s work product regarding a particular type of appraisal.

Item 10. Amend subrule 5.6(8) as follows:

5.6(8) If probable cause exists, the board may open a disciplinary investigation against a certificate holder based on the work product review of an applicant. A potential disciplinary action could arise, for example, if the applicant is a certified residential real property appraiser seeking an upgrade to a certified general real property appraiser, or where the applicant is uncertified and is working under the supervision of a certified real property appraiser who cosigned the appraisal report.

Item 11. Amend subrule 6.2(2) as follows:

6.2(2) *Core criteria.* In addition to the formal education in 6.2(1), an applicant must complete 300 creditable class hours meet the current AQB requirements before taking the AQB-approved examination.
All courses must be AQB-approved under current core criteria to be considered creditable. The required courses and 300 hours consist of the following:

- Basic appraisal principles: 30 hours
- Basic appraisal procedures: 30 hours
- The 15-hour USPAP course or equivalent: 15 hours
- General appraiser market analysis and highest and best use: 30 hours
- General appraiser site valuation and cost approach: 30 hours
- General appraiser sales comparison approach: 30 hours
- General appraiser income approach: 60 hours
- General appraiser report writing and case studies: 30 hours
- Statistics, modeling and finance: 15 hours
- Appraisal subject matter electives: 30 hours

**Item 12.** Amend rule 193F—6.3(543D) as follows:

**193F—6.3(543D) Examination.** The prerequisite for taking the AQB-approved examination is collegiate education, experience, work product review and completion of all creditable course hours as specified in subrule 6.2(2). The 300 core criteria hours, collegiate education, and all experience must be completed as specified in subrules 6.2(1) and 6.2(2) and rule rules 193F—6.4(543D) and 193F—6.5(543D) prior to the examination. For 6.2(2) “c.” equivalency Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP qualifying education shall be awarded only when the class is instructed by at least one AQB-certified USPAP instructor who holds a state-issued certified residential or certified general appraiser credential in active status and good standing.

**6.3(1)** In order to qualify to sit for the certified general real property appraiser examination, the applicant must complete the board’s application form and provide copies of documentation of completion of all courses claimed that qualify the applicant to sit for the examination.

- No change.

**6.3(2) and 6.3(3)** No change.

**6.3(4)** An applicant must supply a true and accurate copy of the original examination scores when applying for certification. Copies of the scores will not be accepted.

**6.3(5)** No change.

**Item 13.** Amend subrule 6.6(1) as follows:

**6.6(1)** An applicant shall submit a complete appraisal log at the time of application for examination and work product review. The board will then select three appraisals. Three appraisal reports will be selected to demonstrate a diversity of experience and approaches to value over various time frames for work product review and request that the. The applicant shall submit, both electronically and on paper, one copy of each report and work file for each of the selected appraisals along with the appropriate form and fee. The work product submission shall not be redacted by the applicant; however, the applicant may request the reports remain confidential as specified in subrule 6.6(2). The fee for work product review of the appraisals is provided in 193F—Chapter 12. The board may select the appraisals. Appraisals may be selected at random from the entire log or within certain types of appraisals. The board reserves the right to request one or more additional appraisals if those submitted by the applicant raise issues concerning the applicant’s competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant’s work product. Such additional appraisals may be selected at random from the applicant’s log or may be selected specifically to provide an example of the applicant’s work product regarding a particular type of appraisal.

**Item 14.** Amend subrule 6.6(8) as follows:

**6.6(8)** If probable cause exists, the board may open a disciplinary investigation against a certificate holder based on the work product review of an applicant. A potential disciplinary action could arise, for
example, if the applicant is a certified residential real property appraiser seeking an upgrade to a certified general real property appraiser, or where the applicant is uncertified and is working under the supervision of a certified real property appraiser who cosigned the appraisal report.

ITEM 15. Amend rule 193F—6.8(543D) as follows:

193F—6.8(543D) Upgrade from a certified residential real property appraiser to a certified general real property appraiser. To upgrade from a certified residential real property appraiser to a certified general real property appraiser, an applicant must complete the following additional education, examination, supervision, and experience requirements, which include work product review and a state and national criminal history check as provided in Iowa Code section 543D.22. For all intents and purposes, a certified residential real property appraiser seeking to upgrade to a certified general status will be considered an associate appraiser as it relates to differences between the scope of practice of the two licensure categories, and the upgrade process will generally follow the same registration requirements, supervisory identification and maintenance requirements, and processes and procedures generally applicable to associate appraisers set forth in 193F—Chapter 4.

6.8(1) Education.
   a. No change.
   b. Core criteria. In addition to the formal education and core criteria educational requirements originally required to obtain a certified residential credential, an applicant must complete the following additional 100 creditable core criteria class hours meet the current AQB requirements before taking the AQB-approved examination. All courses must be AQB approved under current core criteria to be considered creditable. The required courses and 100 hours consist of the following:
      (1) General appraiser market analysis and highest and best use 15 hours
      (2) General appraiser sales comparison approach 15 hours
      (3) General appraiser site valuation and cost approach 15 hours
      (4) General appraiser income approach 45 hours
      (5) General appraiser report writing and case studies 10 hours

6.8(2) to 6.8(5) No change.

ITEM 16. Amend rule 193F—8.3(272C,543D) as follows:

193F—8.3(272C,543D) Sources of information. Without limitation, the following nonexclusive list of information sources may form the basis for the initiation of a disciplinary investigation or proceeding:
   1. to 3. No change.
   4. Complaints, including anonymous complaints, filed with the board by any member of the public.
   5. to 7. No change.

ITEM 17. Amend paragraph 8.5(1)“a” as follows:
   a. The full name, address, and telephone number of the complainant (person complaining), unless the complaint is submitted anonymously.

ITEM 18. Amend subrule 8.5 as follows:

8.5(5) Initial complaint screening. All written complaints received by the board shall be initially screened by the board’s executive officer to determine whether the allegations of the complaint fall within the board’s investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a licensee. Complaints which are clearly outside the board’s jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous shall be referred by the board’s executive officer to the board for closure at the next scheduled board meeting. All other complaints shall be investigated and referred by the board’s executive officer to the board’s disciplinary committee for committee review as described in subrule 8.8(1).

ITEM 19. Amend rule 193F—8.8(17A,272C,543D) as follows:

193F—8.8(17A,272C,543D) Investigation procedures.
8.8(1) No change.

8.8(2) Committee screening. Screening of complaints. Upon the referral of a complaint from the board’s executive officer or from the full board, the committee shall determine whether the complaint presents facts which, if true, suggest that a licensee may have violated a law or rule enforced by the board. All complaints presented to the board shall be screened, evaluated and, where appropriate, investigated. If the committee concludes that the complaint does not present facts which suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee shall refer the complaint to the full board with the recommendation that the complaint be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full board recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

8.8(3) Committee procedures. If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer review committee, provide the licensee An expert investigator, or expert consultant, may be assigned to evaluate the merits of a complaint. In addition, the licensee may be afforded an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193F—8.9(17A,272C,543D) or request board staff to conduct further investigation. Upon completion of an investigation, the investigator, expert consultant, peer review committee or board staff shall present a report to the committee. The committee shall review the report and determine what further action is necessary. The committee may:

a. to d. No change.

8.8(4) No change.

Item 20. Amend rule 193F—8.10(272C,543D) as follows:

193F—8.10(272C,543D) Peer review committee (PRC). A peer review committee may be appointed by the board to investigate a complaint. The committee may consist of one or more certified general or certified residential real property appraisers registered to practice in Iowa. The board may appoint a single peer review consultant to perform the functions of a PRC when, in the board’s opinion, appointing a committee with more members would be impractical, unnecessary or undesirable given the nature of the expertise required, the need for prompt action or the circumstances of the complaint. An individual shall be ineligible as a PRC member in accordance with the standard for disqualification found in rule 193F—20.14(17A).

8.10(1) to 8.10(3) No change.

8.10(4) Reports. Review. Each PRC shall submit a written report to the board within a reasonable period of time.

8.10(5) Components of the report. The report shall include:

a. Statement of the charge to the PRC;

b. Description of the actions taken by the PRC in its investigation, including but not limited to appraisal review(s) and interviews with the respondent or complainant;

c. Summary of a summary of the PRC’s findings, including the PRC’s opinion as to whether a violation occurred, citation of the specific USPAP violation(s), citation of the Iowa Code section(s) and Iowa Administrative Code rule(s) violated, and the PRC’s opinion of the seriousness of the violation; and a recommendation to the board.

d. Recommendation.

8.10(6) Recommended action. Recommendation. The PRC report shall recommend one of the following:

a. to d. No change.

If the PRC recommends further investigation or disciplinary proceedings, supporting information must be submitted to the board including citation of the specific USPAP violation(s), Iowa Code section(s) and Iowa Administrative Code rule(s) violated.

8.10(7) to 8.10(9) No change.
REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont’d)

ITEM 21.  Amend rule 193F—8.14(543D) as follows:

193F—8.14(543D) Decisions.  The board shall make findings of fact and conclusions of law, and set forth the board’s decision, order, or both in the case.  The board’s decision may include, without limitation, any of the following outcomes, either individually or in combination:

1. to 12. No change.
13. Prohibit a licensee from acting as an instructor;
14. Impose any other form of discipline authorized by a provision of law that the board, in its discretion, believes is warranted under the circumstances of the case.

ITEM 22.  Amend rule 193F—8.15(272C,543D) as follows:

193F—8.15(272C,543D) Mitigating and aggravating factors.  Factors the board may consider when determining whether to impose discipline and what type of discipline to impose include but are not limited to:

8.15(1) No change.
8.15(2) Nature of violation.  violations, not limited to:
a. to i. No change.
8.15(3) Interest of the public, not limited to:
a. to e. No change.

ITEM 23.  Adopt the following new subrule 8.17(4):

8.17(4) A state and national criminal history check may be performed on any applicant applying to reinstate registration or credential consistent with Iowa Code section 543D.22.

ITEM 24.  Amend subrule 9.1(3) as follows:

9.1(3) An application to renew a certificate or registration shall be submitted on a form obtained from the board office or on the board’s website forms prescribed by the board.  Applicants may renew electronically through a board established electronic process, as available.

ITEM 25.  Amend subrule 9.3(5) as follows:

9.3(5) Resubmission of rejected applications.  The board shall promptly notify an applicant of the basis for rejecting an insufficient renewal application, and shall return or refund any fees received.  In the event the renewal application is not resubmitted, with the deficiencies corrected, the board may return any fees received.  Applicants for certificate or registration renewal may remedy the insufficiency and resubmit applications that were rejected as insufficient.  Resubmitted applications shall be deemed received when personally delivered to the board office, on the date of electronic submission or, if mailed, the date postmarked, but not the date metered.  Resubmitted applications to renew that are not timely received by the board shall be treated as applications to reinstate, as provided in rule 193F—9.4(272C,543D).

ITEM 26.  Amend subrule 9.4(5) as follows:

9.4(5) Reinstatement.  The board may reinstate a lapsed certificate or registration upon the applicant’s submission of an application to reinstate and completion of all of the following:

a. to c. No change.
d. Completing a state and national criminal history check consistent with Iowa Code section 543D.22.
e. Providing evidence of completed continuing education outlined in rule 193F—11.2(272C,543D), as modified for associate appraisers in subrule 9.4(6), if the licensee wishes to reinstate to active status; and
f. Providing a written statement outlining the professional activities of the applicant in the state of Iowa during the period in which the applicant’s certificate or registration was lapsed.  The statement shall describe all appraisal services performed, with or without the use of the titles described in Iowa Code section 543D.15, for all appraisal assignments that are required by federal or state law, rule, or policy to be performed by a certified real estate appraiser.
ITEM 27. Amend rule 193F—9.7(272C,543D) as follows:

193F—9.7(272C,543D) Property of the board. Every certificate or associate registration issued by the board shall, while it remains in the possession of the holder, be preserved by the holder but shall, nevertheless, always remain the property of the board. In the event that a certificate or associate registration is revoked or suspended, is not renewed, is registered in inactive status, or is placed in retired status, it shall, on demand, be delivered by the holder to the board. The board shall generally not request return of a certificate or associate registration if it has not been revoked, suspended or voluntarily surrendered in a disciplinary action, but may do so if the board reasonably determines that grounds exist to believe that a person holding a lapsed, retired, or inactive certificate or associate registration has engaged in a practice for which active certification or registration is required.

ITEM 28. Amend rule 193F—10.2(543D) as follows:


10.2(1) The board will recognize, on a temporary basis, the certification of an appraiser issued by another state for a period of six months, unless the applicant requests, and is approved for, a one-time extension, of which the one-time extension will not exceed six months, prior to the expiration of the original issued temporary practice permit. An extension request must be received prior to the expiration date of the issuance of the temporary practice permit. An extension may be granted for up to six months past the original expiration date so long as the applicant is still eligible for a temporary practice permit.

10.2(2) The appraiser must register with the board and identify the property(ies) to be appraised and the name and address of the client. The appraiser must demonstrate good standing to be considered for a temporary practice permit. An appraiser who is listed in good standing on the National Registry of the Appraisal Subcommittee generally satisfies the requirement that good standing be demonstrated and does not need to submit additional documentation. An appraiser who is not listed in good standing on the National Registry of the Appraisal Subcommittee must supply an official letter of good standing issued by the licensing board of the appraiser’s resident state and bearing its seal. An appraiser may verify the appraiser’s status on the National Registry of the Appraisal Subcommittee by accessing the ASC’s website. Registration shall be on a form provided by the board and submitted to the board office prior to the performance of the appraisal. The appraiser shall pay the appropriate fee as required in rule 193F—12.1(543D).

10.2(3) and 10.2(4) No change.

10.2(5) The board may deny an application for a temporary practice permit if the applicant has been disciplined in Iowa or another jurisdiction, a disciplinary investigation or proceeding is pending in Iowa or another jurisdiction, the person has been convicted of a crime that is a ground for discipline in Iowa or another jurisdiction, or it appears the applicant is applying for a temporary permit because the applicant would not qualify to renew or reinstate in active status in Iowa or another jurisdiction and the application for a temporary permit is made primarily to compromise compliance with Iowa laws and rules.

10.2(6) and 10.2(7) No change.

10.2(8) The board must receive and approve an application for a temporary practice permit before the applicant is eligible to practice in Iowa under a temporary practice permit. Applicants shall use the form prescribed by the board. The board shall grant or deny all applications for temporary practice permits as quickly as reasonably feasible and no later than five days of receipt of a completed application. Applicants shall use the form prescribed by the board. Applicants disclosing discipline or criminal convictions shall attach documentation from which the board can determine if the discipline or criminal history would be a ground to deny the application. Falsification of information or failure to disclose material information shall be a ground to deny the application and may form the basis to deny any subsequent application or an application to reinstate a lapsed or inactive Iowa certificate.

ITEM 29. Amend rule 193F—11.1(272C,543D), definition of “Credit hour,” as follows:

“Credit hour” means the value assigned by the board, or the AQB, to a continuing or qualifying education program.
ITEM 30. Adopt the following new definition of “Qualifying education” in rule 193F—11.1(272C,543D):

“Qualifying education” means education that is obtained by a person seeking certification as a real property appraiser prior to initial certification or registration where the minimum length of the education offering is at least 15 hours and the individual successfully completes a proctored, closed-book final examination pertinent to that educational offering.

ITEM 31. Amend subrule 11.2(4) as follows:

11.2(4) An applicant seeking to renew an initial certificate or registration issued less than 185 days prior to renewal is not required to report any continuing education. An applicant seeking to renew an initial certificate or registration issued for 185 days to 365 days prior to renewal must demonstrate completion of at least 14 credit hours, including 7 credit hours of the most recent which must include the National USPAP Update course or its AQB equivalent. An applicant seeking to renew an initial certificate or registration issued 365 days prior to renewal or more must demonstrate completion of at least 28 credit hours, including 7 credit hours of the most recent National USPAP Update.

ITEM 32. Adopt the following new subrule 11.2(10):

11.2(10) A person certified or registered to practice real estate appraising in Iowa who completes an education course approved by both the board and another appraiser regulatory body, for which the approved hours vary, will only be allowed to claim the hours approved by the board to meet the requirements of renewal of the person’s associate registration or certified credential in Iowa. A person certified or registered to practice real estate appraising in Iowa who completes an educational course not approved in Iowa, but approved by either the AQB or by another appraiser regulatory body, may claim the hours awarded by either the AQB or the appraiser regulatory body of the other jurisdiction.

ITEM 33. Amend subrules 11.4(4) and 11.4(5) as follows:

11.4(4) Continuing education credit will be granted only for whole hours, with a minimum of 50 minutes constituting one hour. For example, 150 minutes of continuous instruction would count as two three-hour credits; however, more than 50 100 minutes but less than 150 150 minutes of continuous instruction would only count as one hour two hours.

11.4(5) Continuing education credit may be approved for university or college courses, when an official transcript is provided, in qualifying topics according to the following formula: Each semester hour of credit shall equal 15 credit hours and each quarter hour of credit shall equal 10 credit hours.

ITEM 34. Rescind and reserve subrule 11.5(2).

ITEM 35. Amend subrule 11.5(6) as follows:

11.5(6) Only AQB-certified USPAP instructors, listed on the website of the Appraisal Foundation may teach the national USPAP courses, including the 15-hour tested course and the 7-hour continuing education course, or its AQB-approved equivalent.

ITEM 36. Adopt the following new subrule 11.5(21):

11.5(21) Providers must notify the board within 30 days when there is a change in the provider’s primary contact, name, business address, or any other change which may affect the provider’s tax identification number or bond requirements with the Iowa college aid commission.

ITEM 37. Amend rule 193F—11.7(272C,543D) as follows:

193F—11.7(272C,543D) Applications for approval of programs. Applications for approval of programs must be submitted on forms prescribed by the board. All non-AQB courses are approved for 24 months, including the month of approval. AQB-approved courses are approved through the AQB expiration date, which may be longer than 24 months from the date of approval. Programs approved for distance education or by the AQB may be approved by the board. Board approval of a program will only be valid for the shortest period of time such program is approved by either organization.

11.7(1) and 11.7(2) No change.

11.7(3) All required forms and attachments must be submitted for approval at least 30 days prior to the first offering of each program or, if renewing, within 30 days of the course expiration date. The
board will approve or deny each program, in whole or part, within 15 days of the date the board receives a fully completed application. Upon approval of an application for course offering, the board will specify the number of credit hours allowed. Payments for course program applications must be made within 30 calendar days of the date the application is approved by the board or the application approval may be reversed.

11.7(4) Application forms for non-AQB CAP courses will request information including, but not limited to, the following:
   a. to e. No change.
   f. Copies of all instructor and student program materials or, in the case of a one-time course offering, a statement that attests all instructor and student materials will be submitted to the board within ten calendar days of the course offering;
   g. to k. No change.

11.7(5) and 11.7(6) No change.

ITEM 38. Amend rule 193F—11.11(272C,543D) as follows:

193F—11.11(272C,543D) Appraiser request for postapproval of continuing education program. An appraiser seeking credit for attendance and participation in a program that was not conducted by an approved provider or approved by the licensing authority in another state or otherwise approved by the board shall submit to the board a request for credit for the program. Within 15 days after receipt of the request, the board shall advise the requester in writing whether the program is approved and the number of hours allowed. Appraisers not complying with the requirement of this rule may be denied credit for the program. Application for postapproval of a continuing education program shall include the following fee and information:

1. Application fee of $25;
2. School, firm, organization or person conducting the program;
3. Location of the program;
4. Title of program and description of program;
5. Credit hours requested for approval;
6. Dates Date(s) of program;
7. Student and instructor materials;
8. Verification of attendance.

ITEM 39. Amend rule 193F—12.1(543D) as follows:

193F—12.1(543D) Required fees. The following fee schedule applies to certified general, certified residential and associate appraisers.

<table>
<thead>
<tr>
<th>Fee</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial examination application fee</td>
<td>$150</td>
</tr>
<tr>
<td>Examination fee (and reexamination fee) (to be paid to the examination provider)</td>
<td>$415 Current provider rate</td>
</tr>
<tr>
<td>Biennial registration fee for active status (initial, reciprocal, renewal):</td>
<td></td>
</tr>
<tr>
<td>Certified real property appraiser &gt; one year</td>
<td>$200</td>
</tr>
<tr>
<td>Certified real property appraiser &lt; one year</td>
<td>$100</td>
</tr>
<tr>
<td>Associate real property appraiser &gt; one year</td>
<td>$200</td>
</tr>
<tr>
<td>Associate real property appraiser &lt; one year</td>
<td>$100</td>
</tr>
<tr>
<td>Biennial registration fee for inactive status (initial, reciprocal, renewal):</td>
<td></td>
</tr>
<tr>
<td>Certified real property appraiser</td>
<td>$100</td>
</tr>
</tbody>
</table>
Associate real property appraiser | $50  
Temporary practice permit fee (each request) | $100  
Fee to reinstate a lapsed or retired license (lapsed or retired to active status) | $150 (plus the registration fee)  
Fee to reactivate an inactive or retired license (inactive or retired to active status) | $50 (plus the registration fee)  
Formal wall certificate | $25  

Work product review fees:

- Original submission, certified residential | $300  
- Original submission, certified general | $650  
- Additional residential reports as requested by the board | $150 per report  
- Additional nonresidential reports as requested by the board | $250 per report  
- Voluntary submission of residential reports for review | $150 per report  
- Voluntary submission of nonresidential reports for review | $250 per report  

Course application fee (non-AQB-approved courses and secondary providers) | $50  
Pre-/post-course application fee | $25  
Background check | $51  
ASC National Registry fee > one year, separate from registration fee | $80  
ASC National Registry fee < one year, separate from registration fee | $40  
Fee to add supervisory appraiser | $25  
Fee to add course instructor | $10  
Waiver to administrative rules | $25  
Late renewal fee (associate, certified) | $50  

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[Published 2/9/22]  
EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to commercial driver’s license skills test

The Transportation Department hereby amends Chapter 607, “Commercial Driver Licensing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 307.12 and section 321.187A as enacted by 2021 Iowa Acts, House File 828, section 5.
PUBLIC NOTICE

TRANSPORTATION DEPARTMENT[761](cont’d)

State or Federal Law Implemented


Purpose and Summary

This rule making conforms Chapter 607 with 2021 Iowa Acts, House File 828, sections 5 and 6, which authorize the Department and county treasurer locations offering commercial driver’s license (CDL) skills tests to charge fees for that service.

All state-run driver’s license service centers administer the CDL skills test, and ten county treasurer locations also offer the CDL skills test. The CDL skills test is comprised of three parts: the pre-trip vehicle inspection test, the basic vehicle control skills test, and the on-road driving skills test. The legislation authorizes the Department to set a $25 fee to administer the pre-trip segment of the skills test and a county treasurer location to charge $25 for each segment of the three-part skills test. The legislation also provides exceptions to the fee for CDL applicants who are employed by or volunteer for a government agency. The fee for the pre-trip segment of the test is due when the CDL skills test is scheduled and is not refundable if the applicant does not show up for the test or fails the test. Fees paid to the Department are directed to be deposited in the Statutory Allocations Fund, and fees paid to a county treasurer location will be retained in the county’s general fund.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 1, 2021, as ARC 6065C. No public comments were received.

Two changes from the Notice have been made. The references to 2021 Iowa Acts, House File 828, have been removed from subrule 607.28(8) and the implementation sentence for rule 761—607.28(321) because that legislation has been codified.

Adoption of Rule Making

This rule making was adopted by the Department on January 12, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond any impact anticipated by the legislation.

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 761—Chapter 11.

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 16, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 607.2(1) as follows:

607.2(1) Information and location. Applications, forms and information about the commercial driver’s license (CDL) are available at any driver’s license service center. Assistance is also available by mail from the Driver and Identification Services Bureau Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; by facsimile at (515)239-1837; or on the department’s website at www.iowadot.gov.

ITEM 2. Adopt the following new subrule 607.28(8):

607.28(8) Fees. Fees authorized pursuant to Iowa Code sections 321.187A and 321M.6A will be collected by the department or a county treasurer location offering commercial driver’s license skills tests.

(a) Except as provided in paragraph 607.28(8)“c,” the fee for an applicant to schedule the pre-trip vehicle inspection segment of the skills test with the department is $25. No fees are due to the department for scheduling the basic vehicle control skills or on-road skills segment of the test.

(b) Except as provided in paragraph 607.28(8)“c,” the fee to schedule the pre-trip vehicle inspection segment of the skills test with a county treasurer is $25. The fee for a county treasurer to administer the basic vehicle control skills segment is $25, and the fee to administer the on-road skills segment of the test is $25. However, if the applicant fails one segment of the driving skills test, no fee shall be due for a subsequent segment of the test.

(c) If the applicant is an employee or volunteer of a government agency as defined in Iowa Code section 553.3, the following shall apply:

(1) The department shall not charge the pre-trip inspection scheduling fee under paragraph 607.28(8)“a.”

(2) A county treasurer may charge only the pre-trip inspection fee under paragraph 607.28(8)“b.”

(3) An applicant must provide the department or county treasurer with reasonable proof that the applicant is an employee or volunteer of a qualifying government agency and that a commercial driver’s license is necessary for the applicant’s employment or volunteer duties. Reasonable proof shall be provided on Form 430311. Alternatively, if the applicant is seeking a skills test from a county treasurer, reasonable proof may include payment of the pre-trip inspection fee by a government agency on behalf of the applicant.

(d) If an applicant fails to appear for the pre-trip inspection segment of the skills test, the appointment shall be canceled and no other applicable fees are due.

(e) Except as provided in paragraph 607.28(8)“g,” new fees will apply if an applicant schedules a new skills test appointment.

(f) The department or a county treasurer may collect any fees due and owed for the skills test at the same time any fees are collected as part of the commercial driver’s license issuance transaction.

(g) Any fees collected under this subrule are nonrefundable. However, nothing in this paragraph shall be construed as preventing the department or a county treasurer from transferring a fee charged for a pre-trip inspection to a new pre-trip inspection if rescheduling the appointment is determined necessary or appropriate as determined by the department or county treasurer upon a showing of good cause.

(h) A skills test fee charged under this subrule that remains unpaid may be collected at the person’s next driver’s license renewal or replacement.

ITEM 3. Amend rule 761—607.28(321), implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.186, 321.187A, and 321.188 and 321M.6A.
ITEM 4. Amend paragraph 607.30(2)“a” as follows:

a. The department may certify as a third-party tester a community college, Iowa-based motor carrier or Iowa nonprofit corporation to administer skills tests. A community college, Iowa-based motor carrier or Iowa nonprofit corporation that seeks certification as a third-party tester shall contact the driver and identification services bureau motor vehicle division and schedule a review of the proposed testing program, which shall include the proposed testing courses and facilities, information sufficient to identify all proposed third-party skills test examiners, and any other information necessary to demonstrate compliance with 49 CFR Section 383.75.

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[Published 2/9/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/22.

ARC 6171C

VETERINARY MEDICINE BOARD[811]

Adopted and Filed

Rule making related to veterinarian/client/patient relationships

The Board of Veterinary Medicine hereby amends Chapter 12, “Standards of Practice,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 169.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 169.5.

Purpose and Summary

Currently, a veterinarian/client/patient relationship (VCPR) is established when three criteria are met. This amendment revises one of these criteria by requiring that in order to maintain a VCPR, a veterinarian must have performed a physical examination of the patient within the previous 12 months or have visited the site where the patient is kept within the previous 12 months.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as ARC 5848C. A public hearing was held on September 1, 2021, at 10 a.m. in the Second Floor Board Room, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa. One person attended the public hearing and expressed concern that the proposed rule making could impact livestock facilities that house many animals or have frequent and consistent farm movement.

The Board received several other comments regarding this rule making. Many of the commenters were concerned that the amendment would prohibit telemedicine or make utilizing telemedicine more difficult. This rule making does not negatively impact telemedicine. Telemedicine can continue to be utilized, as long as the veterinarian continues to maintain a VCPR with the patient by adhering to the new timeline that the rule addresses.

Another comment received sought clarification on how the Board would interpret and enforce some of the provisions in the amended rule and expressed concern that requiring physical examinations could impact biosecurity measures.

Some minor nonsubstantive changes from the Notice have been made to provide additional clarity and address public feedback. The content of the rule remains the same.
Adoption of Rule Making

This rule making was adopted by the Board on December 30, 2021.

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 81—Chapter 14.

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 April 1, 2022.

The following rule-making action is adopted:

Amend paragraph 12.1(1)“b” as follows:

b. The licensed veterinarian has sufficient knowledge of the patient to initiate at least a general or preliminary diagnosis of the medical condition of the patient. Sufficient knowledge means that the licensed veterinarian has recently seen or is personally acquainted with the care of the patient by virtue of an examination of the patient within the past 12 months or by medically appropriate and timely visits to the premises where the patient is kept within the past 12 months; and

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