



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

STEPHANIE A. HOFF, Administrative Code Editor

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2016

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
12	Wednesday, November 16, 2016	December 7, 2016
13	Wednesday, November 30, 2016	December 21, 2016
14	Wednesday, December 14, 2016	January 4, 2017

PLEASE NOTE:

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Claims—forms, approval, 41.1(1) IAB 10/26/16 ARC 2790C	Conference Room 6, A Level Hoover State Office Bldg. Des Moines, Iowa	November 15, 2016 11 a.m. to 12 noon
Internship appointments, 57.6(3) IAB 11/9/16 ARC 2794C	Conference Room 5, A Level Hoover State Office Bldg. Des Moines, Iowa	November 29, 2016 1 to 2 p.m.
Out-of-state travel by state employees, 64.10(2) IAB 10/26/16 ARC 2789C	Conference Room 6, A Level Hoover State Office Bldg. Des Moines, Iowa	November 15, 2016 10 to 11 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality, amendments to chs 20 to 23, 25 to 28, 31, 33 IAB 11/9/16 ARC 2799C	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	December 12, 2016 1 p.m.
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Regulation of securities offerings and those who engage in the securities business—business continuity and succession plan, amendments to ch 50 IAB 10/26/16 ARC 2787C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	November 15, 2016 10 a.m.
Annual privacy notice to customers—when required, 90.4(4) IAB 10/26/16 ARC 2788C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	November 16, 2016 10 a.m.

INTERIOR DESIGN EXAMINING BOARD[193G]

Description of organization; disciplinary authority, investigations and proceedings; grounds for discipline, amendments to chs 1, 5 to 7 IAB 11/9/16 ARC 2797C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	November 29, 2016 10 a.m.
Registration; continuing education; renewal and reinstatement, amend chs 2, 3; rescind ch 8 IAB 11/9/16 ARC 2796C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	November 29, 2016 10 a.m.

NATURAL RESOURCE COMMISSION[571]

Turtle harvesting, amendments to ch 86 IAB 11/9/16 ARC 2802C	Marr Park Conservation Education Center 2943 Hwy. 92 Ainsworth, Iowa	November 29, 2016 3 p.m.
	Auditorium Wallace State Office Bldg. Des Moines, Iowa	November 29, 2016 5 p.m.
	Lost Island Nature Center Palo Alto County Conservation 3267 350th St. Ruthven, Iowa	November 29, 2016 7 p.m.

RACING AND GAMING COMMISSION[491]

Persons subject to gaming board authority; medical personnel; mobile pari-mutuel wagering; partnerships; grounds for sanction; horse racing; gambling games; accounting and cash control, amendments to chs 1, 4 to 6, 10 to 12 IAB 11/9/16 ARC 2801C	Commission Office, Suite 100 1300 Des Moines St. Des Moines, Iowa	November 29, 2016 9 a.m.
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Historic preservation and cultural and entertainment district tax credit, 42.54, 42.55, 52.47, 52.48 IAB 11/9/16 ARC 2806C	Auditorium Wallace State Office Bldg. Des Moines, Iowa	December 1, 2016 9:30 a.m.
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Department organization; update of division name, amendments to chs 1, 10 to 12, 112, 115 IAB 10/26/16 ARC 2779C	South Conference Room, First Floor Administration Bldg. 800 Lincoln Way Ames, Iowa	November 17, 2016 10 a.m. (If requested)
Motorized bicycle maximum speed; update of cross references and office name, 400.58(1), 410.1(3), 410.2 IAB 10/26/16 ARC 2780C	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	November 17, 2016 1 p.m. (If requested)
Driver's license, nonoperator identification card—veteran designation, amendments to chs 605, 630 IAB 11/9/16 ARC 2800C	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	December 1, 2016 10 a.m. (If requested)

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Iowa educational savings plan trust, 16.2 to 16.5, 16.7, 16.9 to 16.11 IAB 10/26/16 ARC 2791C	Room 116 State Capitol Des Moines, Iowa	November 15, 2016 10 a.m.
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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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ARC 2794C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 8A.104(5), the Administrative Services Department hereby gives Notice of Intended Action to amend Chapter 57, “Appointments,” Iowa Administrative Code.

Rule 11—57.6(8A) outlines procedures for internship appointments. The proposed amendment to the rule involves allowing for successful completion of an internship appointment to be done in at least 480 hours, instead of 90 calendar days. The proposed amendment aligns subrule 57.6(3) with subparagraph 54.2(4)“a”(3). Subparagraph 54.2(4)“a”(3) was amended to specify an hourly measure rather than a daily measure because of confusion as to how many hours made up one calendar day’s worth of work. Rule 11—57.6(8A) was not changed at the same time. This proposed amendment would convert 90 calendar days to 480 hours and reduce the number of days for successful completion of an internship with the State of Iowa by 30 days.

Interested persons may make written comments on the proposed amendment until 4:30 p.m. on November 29, 2016. Comments should be directed to Tami Wiencek, Department of Administrative Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-6140 or by e-mail to tami.wiencek@iowa.gov.

A public hearing will be held on November 29, 2016, from 1 to 2 p.m. in Conference Room 5, A Level, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling (515)725-2017.

There is no fiscal impact to the State. Many internships are unpaid positions. The Department does not have reliable data by which to gauge the impact on paid internships.

The Department does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Department’s general rules concerning waivers.

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

This amendment is intended to implement Iowa Code section 8A.402(1)“e.”

The following amendment is proposed.

Amend subrule 57.6(3) as follows:

57.6(3) Successful completion of an internship appointment of at least ~~90 calendar days~~ 480 hours shall authorize the appointee to be on promotional or all-applicant lists. Only persons formally enrolled in the department’s intern development program are eligible to be on promotional lists. Successful completion shall be as determined by the director at the time of enrollment.

ARC 2807C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 206.6(5)“b,” the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 45, “Pesticides,” Iowa Administrative Code.

The proposed amendment adds a definition of the sensitive crop registry by including the FieldWatch™ program. This amendment reflects the Department’s planned move to the FieldWatch™ online registry tools for pesticide-sensitive crops to assist pesticide-sensitive crops, beekeepers and pesticide applicators.

Any interested persons may make written suggestions or comments on the proposed amendment on or before November 29, 2016. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by e-mail to Margaret.Thomson@IowaAgriculture.gov.

This proposed amendment is subject to the Department’s general waiver provisions.

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

This amendment is intended to implement Iowa Code section 206.6.

The following amendment is proposed.

Adopt the following **new** definition of “Sensitive crop registry” in rule **21—45.1(206)**:

“*Sensitive crop registry*” means the sensitive crop registry designated by the department, which may include but is not limited to the FieldWatch™, Inc. program.

ARC 2803C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 189A.7(8), the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 76, “Meat and Poultry Inspection,” Iowa Administrative Code.

This proposed amendment updates references to federal regulations in order to retain recognition of the state meat and poultry program.

Any interested person may make written comments or suggestions on the proposed amendment on or before November 29, 2016. Written comments should be sent to Margaret Thomson, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; or faxed to (515)281-6236. E-mail comments may be sent to Margaret.Thomson@IowaAgriculture.gov.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

No waiver provision is included in the proposed amendment; however, the Department's general waiver rule would apply.

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

This amendment is intended to implement Iowa Code section 159.5(8) and chapter 189A.

The following amendment is proposed.

Amend rule 21—76.2(189A) as follows:

21—76.2(189A) Federal Wholesome Meat Act regulations adopted. Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 412, Part 416, Part 417, Part 418, Part 424, Part 430, Part 441 and Part 442 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2016~~ 2017, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, are hereby adopted in their entirety by reference. Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.

This rule is intended to implement Iowa Code sections 189A.3 and 189A.7(8).

ARC 2799C**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 21, “Compliance,” Chapter 22, “Controlling Pollution,” Chapter 23, “Emission Standards for Contaminants,” Chapter 25, “Measurement of Emissions,” Chapter 26, “Prevention of Air Pollution Emergency Episodes,” Chapter 27, “Certificate of Acceptance,” Chapter 28, “Ambient Air Quality Standards,” Chapter 31, “Nonattainment Areas,” and Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality,” Iowa Administrative Code.

The purpose of the proposed rule making is to:

1. Rescind unnecessary rules and update other rules to provide regulatory certainty and flexibility. The proposed amendments will implement a portion of the Department of Natural Resources' (Department's) five-year review of rules plan to accomplish the requirements of Iowa Code section 17A.7(2).

2. Offer uniform rules by making changes that match federal regulations and eliminate inconsistencies between federal and state rules. By adopting federal updates into state administrative rules, the Commission is ensuring that Iowa's air quality rules are no more stringent than federal regulations. Additionally, the updates allow the Department, rather than the United States Environmental Protection Agency (EPA), to be the primary agency to implement the air quality requirements in Iowa, thereby allowing the Department and its partners to provide compliance assistance and outreach to affected facilities.

Item 1 amends the title of Chapter 20 to shorten and correct the title so that it better describes what is included in the chapter.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Item 2 amends rule 567—20.1(455B,17A) to update the summaries that describe each chapter of the air quality rules. The amendments proposed in Items 1 and 2 implement a portion of the Department's five-year review of rules plan.

Item 3 amends rule 567—20.2(455B), the definition of "EPA reference method" to adopt the most current EPA methods for measuring air pollutant emissions (stack testing and continuous monitoring). On September 13, 2010, February 27, 2014, and April 2, 2014, EPA revised the reference methods in 40 Code of Federal Regulations (CFR) Parts 51, 60, 61, and 63 to eliminate outdated procedures, add alternative testing methods, and restructure the audit program. EPA's changes to the audit program allow providers to supply audit samples and require facilities to obtain and use samples from either EPA or the accredited providers. On January 18, 2012, EPA also made administrative changes to the continuous monitoring methods in 40 CFR Part 75 for the acid rain program. Adopting EPA's updates ensures that state reference methods match current federal reference methods and are not more stringent than the federal methods. Further, the alternative test methods and restructured audit program offer regulatory flexibility to affected facilities. The amendments in Items 10, 17, 20, 21, 22, 25, and 26 are being proposed concurrently with this amendment to similarly reflect updates to EPA testing and monitoring methods as the methods apply to specific air quality programs.

Item 4 rescinds subrule 21.1(4), which specifies the emissions inventory requirements for the Clean Air Interstate Rule (CAIR). EPA rescinded the referenced federal CAIR requirements, so the provisions in subrule 21.1(4) are no longer necessary and can be removed.

Item 5 amends paragraph 22.1(1)"b" to remove the federal amendment date for the referenced federal regulation and adds language to instead refer to the state rule in which the federal regulation is adopted by reference. The provisions of 40 CFR Part 63 are adopted by reference in Chapter 23 (specifically, subrule 23.1(4)). This amendment implements a portion of the Department's five-year review of rules plan by eliminating repetition of federal reference dates.

Item 6 amends subparagraph 22.1(1)"c"(2) to adopt the two most recent changes made by EPA to the federal air quality control strategies for lead. EPA made changes to 40 CFR Part 51, Subpart G, on November 12, 2008, and February 19, 2015. This amendment ensures that this subparagraph references all federal control requirements for lead nonattainment areas and that state control strategy requirements are not more stringent than federal requirements. Iowa currently has one area of the state, in Council Bluffs, that is not meeting the air quality standards for lead and is a nonattainment area to which these control strategies apply.

Item 7 amends subrule 22.1(2) to make updates to the exemptions from construction permitting, as described below.

The introductory paragraphs are updated to clarify that facilities applying for plantwide applicability limitations (PALs), as specified in rule 567—33.9(455B), are eligible to use the construction permitting exemptions.

Paragraph 22.1(2)"b" is updated to revise the reference to federal regulations. EPA amended the specifications for burning used oil set forth in 40 CFR 279.11 on July 14, 2006, to correct typographical errors, spelling errors, and incorrect citations. EPA's amendments did not create any new regulatory requirements. This update ensures the exemption from the requirement for a construction permit for equipment burning used oil references the current federal requirements.

Paragraph 22.1(2)"x" is updated to remove a misplaced comma.

Paragraph 22.1(2)"ff" is updated to correct an error in a technical equation.

Paragraph 22.1(2)"oo" is updated to revise the reference to federal regulations. On April 30, 2010, EPA updated 40 CFR 1068.30 to clarify the definition of "engine." This amendment ensures the exemption from a requirement for a construction permit for non-road diesel engines references current federal regulations.

Item 8 amends subrule 22.1(3) to reduce the number of copies of a construction permit application required to be submitted to the Department. Except for projects subject to prevention of significant deterioration (PSD) or nonattainment new source review (NSR), only one hard copy of the application (instead of two copies) needs to be submitted. For PSD or nonattainment NSR projects, the Department

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may request an additional hard copy or electronic copy. These changes reduce the regulatory burden on affected facilities and implement a portion of the Department's five-year review of rules plan.

Item 9 amends paragraph 22.1(3)"b" to replace the outdated form title, "Air Construction Permit Application," with the current instructions for submitting an application on forms available on the Department's Web site. This change fulfills a portion of the Department's five-year review of rules plan.

Item 10 amends rule 567—22.100(455B) to update specific definitions applicable to the Title V Operating Permit (Title V) program, as described below.

The definition of "designated representative" is revised to update the reference to federal regulations to reflect administrative changes to 40 CFR Part 72.

The definition of "EPA reference method" is updated to adopt the most current federal reference methods for stack tests and continuous emissions monitoring, as described above for Item 3.

The definition of "existing hazardous air pollutant source" is revised to remove federal amendment dates and add the cross references to the state rules in which the federal regulations are adopted by reference. The federal definitions applicable to this Title V definition are adopted by reference in subrules 23.1(3) and 23.1(4).

The definition of "high-risk pollutant" is updated to remove the federal amendment date and to add the cross reference to the state rule in which the federal regulation is adopted by reference (subrule 23.1(4)).

The definition of "major source" is revised to reflect the March 6, 2015, changes EPA made to that definition as it applies in nonattainment areas.

The updates in this amendment make certain that the state rules for the Title V program are consistent with federal requirements and are no more stringent than federal requirements. Additionally, the amendment implements a portion of the Department's five-year review of rules plan by making clear which federal standards are already adopted into state rules and by eliminating unnecessary federal reference dates.

Item 11 amends the definition of "subject to regulation" to adopt the updated federal methods for estimating and reporting greenhouse gas emissions.

Item 12 amends subrule 22.102(3) to update the Title V exemptions. Facilities affected by specific federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) are exempt from the Title V program if being subject to these standards is the only reason a facility would be required to obtain a Title V permit. This amendment specifies which NSPS and NESHAP are adopted by reference in Chapter 23, as explained in Items 19, 20, and 21. The changes made in this amendment ensure that the Title V exemptions are up to date and include all exempt equipment and processes.

Item 13 amends subrule 22.103(1) to adopt the October 6, 2009, changes that EPA made to 40 CFR section 70.5. Making this change ensures that state rules for Title V insignificant activities include up-to-date references to federal regulations.

Item 14 amends paragraph 22.103(2)"b" to add indirect cooling to the description of fuel-burning equipment that may be classified as an insignificant activity for the Title V program. This update provides regulatory relief for Title V facilities with indirect cooling devices. Additionally, this amendment updates the reference to federal regulations for burning used oil, as explained above for Item 7. These changes also achieve consistency in the air quality rules by making the requirements for this Title V insignificant activity identical to the construction permitting exemption for the same equipment.

Item 15 amends rule 567—22.105(455B) to update the mailing address for the EPA Region VII offices and to provide regulatory relief to facilities that are submitting a Title V application and have previously submitted an annual emissions inventory.

Currently, all facilities submitting a Title V initial application or renewal application must also submit all of the emissions inventory forms and calculations. Many times, however, a facility has already submitted this information with the annual emissions inventory, which is typically due before the Title V application. The amendment allows the Department to notify a facility that, if the required emissions inventory information has already been submitted, the facility does not need to provide the same information with the Title V application.

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These two changes will eliminate redundant information, reduce the regulatory burden on affected facilities and implement a portion of the Department's five-year review of rules plan.

Item 16 amends subparagraph 22.108(17)“a”(2) to update the reference to federal regulations in 40 CFR 70.4. The amendment ensures that state Title V provisions reference the most current federal regulations.

Item 17 amends the introductory paragraph of rule 567—22.120(455B) to update the adoption by reference of definitions in 40 CFR Part 72 to match the current federal regulations for the acid rain program.

Item 18 amends rule 567—22.120(455B) to update definitions applicable to 40 CFR Parts 72, 75, and 78 to ensure that state rules for the acid rain program reference the most current federal regulations.

Item 19 amends subrule 22.128(4) to reduce the number of submittals required for the acid rain program to two copies of the application. This change reduces the regulatory burden for affected facilities and implements a portion of the Department's five-year review of rules plan.

New Source Performance Standards and Air Toxics Standards (Items 20, 21, and 22)

The U.S. Clean Air Act (CAA) obligates the EPA to issue standards to control air pollution. Two categories of standards, the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP), set standards and deadlines for industrial, commercial or institutional facilities to meet uniform standards for equipment operation and air pollutant emissions.

NESHAP regulations differ depending on whether a facility is a “major source” or an “area source.” Major sources are typically larger facilities and have potential emissions of 10 tons or more per year of any single hazardous air pollutant (also known as “HAP” or “air toxics”) or 25 tons or more of any combination of HAPs. Area sources have potential air toxics emissions at less than the major source thresholds. Although area sources generally emit less air toxics than major sources, area sources are more numerous and may collectively cause adverse impacts to public health.

Because the NSPS and NESHAP proposed for adoption are federal regulations, affected sources are subject to the federal requirements regardless of whether the Commission adopts the standards into state rules. However, the CAA allows a state or local agency to implement NSPS and NESHAP as a “delegated authority.” Upon state adoption, the Department becomes the delegated authority for the specific NSPS or NESHAP and is the primary implementation agency in Iowa. Two local agencies, Polk County and Linn County, implement these standards within their counties. Iowa's rules, including all compliance deadlines, are identical to the federal NSPS and NESHAP as of a specific date.

Stakeholders affected by NSPS and NESHAP typically prefer for the Department, rather than the EPA, to be the primary implementation authority. Upon adoption of the new and amended NSPS and NESHAP, the Department will work with affected facilities to provide compliance assistance, as needed. Additionally, affected area sources that are small businesses are eligible for free assistance from the Iowa Air Emissions Assistance Program through the University of Northern Iowa.

NSPS Amendments

Item 20 amends subrule 23.1(2) to adopt new and revised NSPS, as described below.

The text in parentheses in each section heading below indicates the applicable subpart(s) in 40 CFR Part 60 and the corresponding paragraph(s) in subrule 23.1(2).

Fossil Fuel-Fired Steam Generators (Subpart D; paragraph 23.1(2)“a”)

These changes make clear that recent EPA revisions to the standards for fossil fuel-fired steam generators are not adopted into state rules. EPA finalized amendments to the NSPS in conjunction with finalizing NESHAP standards commonly known as the Mercury Air Toxics Standards (MATS). Because of active EPA reconsiderations and current litigation affecting the MATS and the NSPS amendments, the NSPS amendments that EPA finalized on and after February 16, 2012, are not proposed for adoption in this rule making. Rather, only the federal amendments as published through January 20, 2011, are adopted (these are the NSPS amendments currently adopted in paragraph 23.1(2)“a”). The same changes are made for other, similar NSPS affecting fossil fuel-fired units, as described below.

Portland Cement Plants (Subpart F; paragraph 23.1(2)“c”)

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The amendment will adopt the revisions to the NSPS that EPA published on September 11, 2015, July 27, 2015, and February 12, 2013, that resolve litigation and reconsiderations of the NSPS amendments that EPA issued in 2010. The revisions apply only to sources that commenced construction, reconstruction or modification after May 6, 2009. Because the 2015 changes to the Portland cement NSPS are the most recent changes of all the NSPS amendments being proposed for adoption in subrule 23.1(2), September 11, 2015, is the overall NSPS amendment date indicated in the introductory paragraph of subrule 23.1(2).

Existing Nitric Acid Plants (Subpart G; paragraph 23.1(2)“d”)

The amendment specifies that Subpart G now applies only to nitric acid production units that commenced construction or modification after August 17, 1971, and on or before October 14, 2011. Any facility that commenced construction or modification after October 14, 2011, is subject to Subpart Ga, as noted for the description of paragraph “bbbb” below.

Hot Mix Asphalt Plants (Subpart I; paragraph 23.1(2)“f”)

The Commission is revising outdated and incomplete descriptions of the NSPS for hot mix asphalt plants. EPA did not make any changes to the NSPS. However, modernizing the descriptions of the NSPS provides clarity to regulated entities and the public and assists in implementing the Department’s five-year review of rules plan.

Electric Utility Steam Generating Units (Subpart Da; paragraph 23.1(2)“z”)

Because of active EPA reconsiderations and current litigation as described above for paragraph 23.1(2)“a,” the NSPS amendments that EPA finalized on and after February 16, 2012, are not proposed for adoption in this rule making. Rather, only the federal amendments as published through January 20, 2011, are adopted.

Industrial-Commercial-Institutional Steam Generating Units (Subpart Db; paragraph 23.1(2)“ccc”)

Because of active EPA reconsiderations and current litigation as described above for paragraph 23.1(2)“a,” the NSPS amendments that EPA finalized on and after February 16, 2012, are not proposed for adoption in this rule making. Rather, only the federal amendments as published through January 20, 2011, are adopted.

Small Industrial-Commercial-Institutional Steam Generating Units (Subpart Dc; paragraph 23.1(2)“lll”)

Because of active EPA reconsiderations and current litigation as described above for paragraph 23.1(2)“a,” the NSPS amendments that EPA finalized on and after February 16, 2012, are not proposed for adoption in this rule making. Rather, only the federal amendments as published through January 20, 2011, are adopted.

Commercial and Industrial Solid Waste Incineration (Subpart CCCC; paragraph 23.1(2)“vvv”)

This paragraph is being updated to make clear that recent EPA amendments to the NSPS for commercial and industrial solid waste incinerators (CISWI) are not adopted. EPA revised the NSPS in 2011 and again in 2013, but the EPA amendments are under active EPA reconsideration and current litigation. The changes specify that only the federal amendments as published through December 1, 2000, are adopted (these are the NSPS amendments currently adopted in paragraph 23.1(2)“vvv”).

New Nitric Acid Plants (Subpart Ga; paragraph 23.1(2)“bbbb”)

On August 14, 2012, EPA published the NSPS for new, reconstructed, and modified nitric acid plants. Adoption of this standard would allow the Department to provide additional regulatory assistance to fertilizer plants permitted for construction or modification after October 14, 2011.

Test Methods (Amendments throughout Part 60)

The amendment adopts the changes EPA made to the NSPS test methods, as explained in the description above for Item 3.

NESHAP Amendments

Item 21 amends subrule 23.1(3) to adopt revisions to the NESHAP standards in 40 CFR Part 61 for EPA’s updates to test methods, as explained above for Item 3.

Item 22 amends subrule 23.1(4) to adopt federal amendments to the NESHAP for source categories, as described below.

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The text in parentheses in each section heading below indicates the applicable subpart(s) in 40 CFR Part 63 and the corresponding paragraph(s) in subrule 23.1(4). With the exceptions of the amendments described below for paragraphs 23.1(4)“bl” and “cz,” the amendments to the other NESHAP are adopted through updating the overall NESHAP amendment date in the introductory paragraph of subrule 23.1(4); thus, the paragraphs themselves are not being revised. This amendment also rescinds the adoption of a NESHAP affecting petroleum refineries and removes outdated references to two NESHAP affecting brick and structural clay manufacturing and clay ceramics manufacturing, as explained below.

Chromium Electroplating (Subpart N; paragraph 23.1(4)“n”)

The amendment adopts revisions to the NESHAP for chromium electroplating facilities that EPA published on September 19, 2012. The NESHAP affects both major sources and area sources. EPA’s updates establish new work practice and emission standards that will lower chromium emissions from some facilities and equipment.

Facilities were required to comply with the work practice standards specified in the NESHAP by March 19, 2013. Facilities subject to new emissions or control requirements were required to comply with the new provisions by September 19, 2014. The Department estimates 11 existing facilities are subject to this NESHAP.

Pulp and Paper Industry (Subpart S; paragraph 23.1(4)“s”)

The amendment adopts EPA’s revisions to the pulp and paper NESHAP that were published on September 11, 2012. At this time, no facilities in Iowa are affected by this NESHAP. However, the Department is aware of one facility that could become subject to the standards in the future should the facility expand or make changes to its production process.

Offsite Waste and Recovery Operations (Subpart DD; paragraph 23.1(4)“ad”)

The amendment adopts changes to the standards for offsite waste and recovery operations published on March 18, 2015. At this time, no facilities in Iowa are affected by this NESHAP. New facilities, or existing facilities that change their production lines, could become subject to this NESHAP in the future.

Wood Furniture Manufacturing (Subpart JJ; paragraph 23.1(4)“aj”)

The amendment adopts changes to the standards for wood furniture manufacturing published on November 21, 2011. This NESHAP affects only major sources. EPA’s revisions establish a work practice limit to reduce formaldehyde emissions from affected facilities. Facilities were required to comply with the new requirements by November 21, 2014. The Department estimates that nine existing facilities are currently subject to the NESHAP.

Generic MACT (Subpart YY; paragraph 23.1(4)“ay”)

The amendment adopts EPA’s recent changes to the “generic MACT” standards, published on October 8, 2014. EPA developed the generic MACT in 1999 as a consolidated rule for source categories consisting of five or fewer major sources. Through the generic MACT, EPA sets the Maximum Achievable Control Technology (MACT) for the specific source categories by referring to previously finalized MACT for similar sources in other categories. EPA’s stated goal in the generic MACT is to promote regulatory consistency and predictability.

Currently, one facility in Iowa is affected by the generic MACT. EPA’s recent revisions, however, do not apply to this facility.

Mineral Wool Production (Subpart DDD; paragraph 23.1(4)“bd”)

The amendment adopts changes to the standards for mineral wool production published on July 29, 2015. This standard affects only major facilities. At this time, no facilities in Iowa are affected by this NESHAP. New facilities, or existing facilities in Iowa that change their production lines, could become subject to this NESHAP in the future.

Natural Gas Transmission and Storage (Subpart HHH; paragraph 23.1(4)“bh”)

The amendment adopts EPA’s August 16, 2012, updates to the standards for natural gas transmission and storage. Facilities were required to comply with the new requirements by October 15, 2015. One facility has notified the Department that the facility is subject to the new NESHAP requirements.

Flexible Polyurethane Foam Production (Subpart III; paragraph 23.1(4)“bi”)

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This update adopts the August 15, 2014, amendments to the standards for flexible polyurethane foam production. These standards apply only to major sources. New facilities, or existing facilities in Iowa that change their production lines, could become subject to this NESHAP in the future.

Portland Cement Plants (Subpart LLL; paragraph 23.1(4)“bl”)

The amendment will adopt the revisions to the NESHAP that EPA published on July 25, 2016, September 11, 2015, July 27, 2015, and February 12, 2013, which resolve litigation and reconsiderations of the NESHAP that EPA issued in 2010. Because the 2016 revisions to the Portland cement NESHAP are the most recent changes of all the NESHAP amendments being proposed for adoption in subrule 23.1(4), July 25, 2016, is the overall NESHAP amendment date indicated in the introductory paragraph of subrule 23.1(4).

EPA’s amendments establish emission limits and monitoring methods for emissions of particulate matter, mercury, and air toxics from kilns. The amendments also establish work practices to reduce particulate emissions from open clinker storage piles. Additionally, EPA provides a temporary compliance alternative and extends the compliance date for affected facilities to meet the emission standards for kilns.

One facility has notified the Department that it is subject to NESHAP. One facility has notified the Department that it is not subject to the NESHAP requirements for kilns but is affected by the NESHAP requirements for clinker storage piles and other non-kiln-related requirements.

The amendments to Subpart LLL are adopted through updating the overall NESHAP amendment date in the introductory paragraph of subrule 23.1(4). The revision to paragraph 23.1(4)“bl” removes the older amendment date that is now obsolete with the adoption of the current NESHAP amendments.

Pesticide Active Ingredient Production (Subpart MMM; paragraph 23.1(4)“bm”)

This revision adopts EPA’s amendments to the standards for pesticide active ingredient production, published on March 27, 2014. This NESHAP affects only major sources. The updated NESHAP required compliance with some new requirements starting on March 27, 2014, and requires compliance with other new requirements by March 27, 2017. One facility has notified the Department that the facility is subject to the NESHAP.

Manufacture of Amino/Phenolic Resins (Subpart OOO; paragraph 23.1(4)“bo”)

This amendment adopts EPA’s October 8, 2014, updates to the standards for manufacture of amino/phenolic resins. This NESHAP applies only to major sources. New facilities, or existing facilities in Iowa that change their production lines, could become subject to this NESHAP in the future.

Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units (Subpart UUU; paragraph 23.1(4)“bu”)

The Department identified that this previously adopted NESHAP does not affect any facilities in Iowa and is unlikely to affect any Iowa facilities in the future. The Commission is proposing to strike and remove the paragraph that adopts by reference this NESHAP. The removal accomplishes the Department’s goal of eliminating obsolete rules and meets the requirements in Iowa Code section 17A.7(2). If an affected facility should plan to locate in Iowa, the Department will evaluate whether to request adoption of the standards at that time. Removing the unnecessary provisions makes the rules more accessible and understandable for regulated entities and the public.

Emission Standards for Stationary Reciprocating Internal Combustion Engines (RICE NESHAP) (Subpart ZZZZ; paragraph 23.1(4)“cz”)

The Commission previously adopted the RICE NESHAP amendments that EPA finalized on January 30, 2013 (see **ARC 1014C**, IAB 9/18/13). Paragraph 23.1(4)“cz” is now being amended to remove the January 30, 2013, amendment date that is no longer needed because the introductory paragraph for subrule 23.1(4) now accurately reflects the current amendment date for all NESHAP adopted by reference in subrule 23.1(4), including the RICE NESHAP.

Brick and Structural Clay Products Manufacturing (Subpart JJJJ; paragraph 23.1(4)“dj”)

This amendment removes an obsolete reference to the NESHAP for brick and structural clay manufacturing. The Commission had previously adopted the NESHAP. However, the NESHAP was subsequently vacated by the United States Court of Appeals for the District of Columbia Circuit (D.C.

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Circuit Court). The Commission consequently rescinded adoption by reference of the NESHAP, but retained the NESHAP description with a notation explaining the vacatur and rescission.

EPA finalized a new NESHAP on September 24, 2015, to replace the vacated standards. The new NESHAP will become effective 60 days after publication of the federal standards. At such time as the new federal standards are published and in effect, the Commission will consider whether to include adoption of the new standards in a future rule making.

The adoption by reference of the previous NESHAP is being removed because the reference is outdated and could cause confusion now that EPA has issued a new NESHAP.

Clay Ceramics Manufacturing (Subpart KKKKK; paragraph 23.1(4)“dk”)

This amendment removes an obsolete reference to the NESHAP for clay ceramics manufacturing. The Commission had previously adopted the NESHAP. However, the NESHAP was subsequently vacated by the D.C. Circuit Court concurrently with the vacating of the NESHAP for brick and structural clay manufacturing. The Commission did not rescind adoption of the NESHAP for clay ceramics manufacturing at that time because the NESHAP did not affect any Iowa facilities and was unlikely to affect any Iowa facilities in the future.

EPA finalized a new NESHAP on September 24, 2015, to replace the vacated standards. The new NESHAP will become effective 60 days after publication of the federal standards. At such time as the new federal standards are published and in effect, the Commission will consider whether to include adoption of the new standards in a future rule making.

The paragraph adopting the previous, vacated NESHAP is being removed because the paragraph is outdated and could cause confusion now that EPA has issued a new NESHAP.

Test Methods (Amendments throughout Part 63)

The amendment also adopts the changes EPA made to the NESHAP test methods, as explained in the description above for Item 3.

Item 23 amends subparagraph 23.1(5)“a”(3) to correct an error in the emission guidelines for municipal solid waste landfills. This update clarifies that landfills must meet both the size and weight requirements indicated in the subparagraph, rather than only one of these requirements, to be subject to the emission guidelines. The amendment makes the requirements consistent with the regulatory flexibility specified elsewhere in the emission guidelines.

Item 24 amends subrule 23.3(1) to clarify that facility operations subject to performance standards under subrule 23.1(2) (NSPS) are not also subject to the emission standards specified in rule 567—23.3(455B).

Item 25 amends subrule 25.1(9) to adopt the revised federal methods for emissions testing and monitoring as described above for Item 3. The updates will make certain that only current federal test methods are used to demonstrate compliance with permit conditions and that required test methods are no more stringent than federal methods.

Item 26 amends rule 567—25.2(455B) to adopt federal updates for monitoring methods under the Acid Rain program, as noted above for Item 3. This update ensures that state air quality rules for testing and monitoring are consistent and match federal regulations.

Item 27 amends subrule 26.2(2) to reflect the current federal levels and terminology for air pollution emergency episodes for ozone and particulate matter to be used in making determinations for the declaration of an emergency episode condition.

Item 28 amends rule 567—27.1(455B) to correct a reference to the Iowa Code from section 455B.145 to 455B.139.

Item 29 amends paragraph 27.3(4)“c” to revise the variance procedures for local programs to be consistent with the Department’s variance procedures and rules specified in Chapter 21. This change provides regulatory certainty for affected facilities and additional flexibility for approved local air quality programs.

Item 30 amends rule 567—28.1(455B) to adopt by reference EPA’s revisions to the National Ambient Air Quality Standards (NAAQS) for fine particulate matter (PM_{2.5}). On January 15, 2013, EPA published amendments to the primary (health-based) annual PM_{2.5} standard by lowering the level from 15.0 micrograms per cubic meter (mg/m³) to 12.0 mg/m³ to provide increased protection against

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health effects associated with long-term exposures. The Department has determined that no other changes to air quality rules are needed to implement the revised NAAQS for PM_{2.5}.

Item 31 rescinds and reserves rule 567—31.2(455B) to remove the adoption by reference of federal “general conformity” requirements specified in 40 CFR Part 93, Subpart B. The general conformity provisions require federal agencies to meet criteria for federal actions conducted in nonattainment areas. Prior to 2005, the CAA required states to include general conformity requirements in any State Implementation Plan (SIP) submitted for a nonattainment area. The CAA was revised in 2005 to eliminate this requirement, and EPA subsequently updated regulations in 40 CFR 51.851 to make a general conformity SIP optional for states. The federal general conformity requirements in 40 CFR Part 93 continue to apply to federal agencies without the need for identical state rules or SIPs. Consistent with the Department’s five-year review of rules plan, Iowa’s general conformity provisions are no longer necessary and can be rescinded.

Item 32 amends rule 567—33.1(455B) to reflect EPA’s revisions to the PSD program. The specific revisions are adopted in Items 32, 33, 34, 35, 36, and 37 and are described below.

Item 33 amends subrule 33.3(1) by defining “subject to regulation” in the same manner as described above for Item 11 to adopt the updated federal methods for estimating and reporting greenhouse gas emissions. Item 33 also revises the definition of “subject to regulation” to remove thresholds related to greenhouse gases. The revision is identical to the changes EPA made to federal PSD regulations on August 19, 2015.

Item 34 amends subrule 33.3(9) to adopt by reference EPA’s revision to 40 CFR 52.21(i). On December 9, 2013, EPA rescinded the significant monitoring concentration for PM_{2.5}. On March 6, 2015, EPA added provisions explaining that areas designated as nonattainment for a NAAQS, and for which the NAAQS have since been revoked, are not considered to be current nonattainment areas. Specific PSD requirements may apply to facilities in those areas. This amendment will make certain that the state PSD requirements are identical to current federal regulations and are not more stringent than federal regulations.

Item 35 amends subrule 33.3(11) to adopt EPA’s updates to 40 CFR 52.21(k), published on December 9, 2013, to remove the Significant Impact Levels for PM_{2.5}. This change ensures that state PSD provisions match federal regulations.

Item 36 amends subrule 33.3(20) by correcting the table that lists the federal significance levels for PSD major source or major modification to remove the inaccurate title, “Significant Impact Levels (SILs).” This change should improve clarity for regulated facilities referring to these provisions.

Item 37 amends subrule 33.3(22) to allow for rescission of PSD permits that are no longer required for a source classified as major for PSD solely because of the source’s greenhouse gas emissions or for a source emitting major levels of other pollutants that underwent a modification resulting in an increase of only greenhouse gas emissions above the levels specified for a major modification. This update matches changes EPA made to the federal PSD regulations in 40 CFR 52.21(w), published on May 7, 2015, and August 19, 2015.

Anyone may make written suggestions or comments on the proposed amendments no later than 4:30 p.m. on Monday, December 12, 2016. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324; fax (515)725-9501; or by e-mail to christine.paulson@dnr.iowa.gov.

A public hearing will be held on Monday, December 12, 2016, at 1 p.m. in the conference rooms at the Department’s Air Quality Bureau office located at 7900 Hickman Road, Windsor Heights, Iowa.

Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact Christine Paulson at (515)725-9510 or by e-mail at christine.paulson@dnr.iowa.gov to advise of any specific needs.

Jobs Impact Statement

The following is a summary of the jobs impact statement. The complete jobs impact statement is available from the Department upon request.

After analysis and review, the Commission has determined that the amendments proposed in Items 1 through 19 and Items 23 through 37 will have no impact on private sector jobs or will have

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a positive impact on private sector jobs. These amendments rescind unnecessary rules, update other rules, and streamline the rules to provide regulatory certainty and, in some cases, regulatory relief. These amendments also implement a portion of the Department's five-year review of rules plan as required under Iowa Code section 17A.7(2). Additionally, most of these amendments make changes that match federal regulations and eliminate inconsistencies between federal regulations and state rules. By adopting federal updates into state rules, the Commission is ensuring that Iowa's air quality rules are no more stringent than federal regulations.

For the amendments proposed for Items 20, 21, and 22 (adoption of new and amended NSPS and NESHAP), the Commission has determined that jobs could be impacted. However, the proposed amendments are only implementing federally mandated regulations. The amendments are identical to the federal regulations and would not impose any regulations on Iowa businesses not already required by federal law. In some cases, the revised federal standards proposed for adoption provide more flexibility and potential cost savings for affected businesses, offering a positive impact on private sector jobs. Further, the proposed amendments allow the Department, rather than EPA, to be the primary agency to implement the standards in Iowa, thereby allowing the Department and its partners to provide compliance assistance to affected facilities. The amendment in Item 22 also removes the adoption by reference of two NESHAP and removes an obsolete reference to one NESHAP. Eliminating unnecessary rules implements a portion of the Department's five-year review of rules plan as required under Iowa Code section 17A.7(2).

These amendments are intended to implement Iowa Code sections 455B.133, 455B.139, and 455B.145.

The following amendments are proposed.

ITEM 1. Amend **567—Chapter 20**, title, as follows:

~~SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE~~

ITEM 2. Amend rule ~~567—20.1(455B,17A)~~ as follows:

567—20.1(455B,17A) Scope of title. The department has jurisdiction over the atmosphere of the state to prevent, abate and control air pollution, by establishing standards for air quality and by regulating potential sources of air pollution through a system of general rules or specific permits. The construction and operation of any new or existing stationary source which emits or may emit any air pollutant requires a specific permit from the department, unless exempted by the department.

This chapter provides general definitions applicable to this title ~~and rules of practice, including forms, applicable to the public in the department's administration of the subject matter of this title.~~

Chapter 21 contains the provisions requiring compliance schedules, allowing for variances, and setting forth the emission reduction program. Chapter 22 contains the standards and procedures for the permitting of emission sources. Chapter 23 contains the air emission standards for contaminants. Chapter 24 provides for the reporting of excess emissions and the equipment maintenance and repair requirements. Chapter 25 contains the testing and sampling requirements for new and existing sources. Chapter 26 identifies air pollution emergency episodes and the preplanned abatement strategies. Chapter 27 sets forth the conditions political subdivisions must meet in order to secure acceptance of a local air pollution control program. Chapter 28 identifies the state ambient air quality standards. Chapter 29 sets forth the qualifications for an observer for reading visible emissions. Chapter 30 sets forth requirements to pay fees for specified activities. Chapter 31 contains ~~the conformity of general federal actions to the Iowa state implementation plan or federal implementation plan and requirements for areas designated nonattainment~~ rules for the nonattainment major new source review (NSR) program and general conformity. Chapter 32 specifies requirements for conducting the animal feeding operations field study. Chapter 33 contains special regulations and construction permit requirements for major stationary sources and includes the requirements for prevention of significant deterioration (PSD). Chapter 34 contains provisions for air quality emissions trading programs. Chapter 35 specifies the requirements for the department to provide financial assistance to eligible applicants for the purpose of reducing air pollution emissions.

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All dates specified in reference to the Code of Federal Regulations (CFR) are the dates of publication of the last amendments to the portion of the CFR being cited.

ITEM 3. Amend rule **567—20.2(455B)**, definition of “EPA reference method,” as follows:

“EPA reference method” means the following methods used for performance tests and continuous monitoring systems:

1. Performance test (stack test). A stack test shall be conducted according to EPA reference methods specified in 40 CFR 51, Appendix M (as amended through ~~December 21, 2010~~ April 2, 2014); 40 CFR 60, Appendix A (as amended through ~~September 9, 2010~~ February 27, 2014); 40 CFR 61, Appendix B (as amended through ~~October 17, 2000~~ February 27, 2014); and 40 CFR 63, Appendix A (as amended through ~~August 20, 2010~~ February 27, 2014).

2. Continuous monitoring systems. Minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are as specified in 40 CFR 60, Appendix B (as amended through ~~September 9, 2010~~ February 27, 2014); 40 CFR 60, Appendix F (as amended through ~~September 9, 2010~~ February 27, 2014); 40 CFR 75, Appendix A (as amended through ~~March 28, 2011~~ January 18, 2012); 40 CFR 75, Appendix B (as amended through ~~March 28, 2011~~); and 40 CFR 75, Appendix F (as amended through ~~March 28, 2011~~ January 18, 2012).

ITEM 4. Rescind and reserve subrule **21.1(4)**.

ITEM 5. Amend paragraph **22.1(1)“b”** as follows:

b. New or reconstructed major sources of hazardous air pollutants. No person shall construct or reconstruct a major source of hazardous air pollutants, as defined in 40 CFR 63.2 and 40 CFR 63.41 as ~~amended through April 22, 2004~~ as adopted by reference in 567—subrule 23.1(4), unless a construction permit has been obtained from the department, which requires maximum achievable control technology for new sources to be applied. The permit shall be obtained prior to the initiation of construction or reconstruction of the major source.

ITEM 6. Amend subparagraph **22.1(1)“c”(2)** as follows:

(2) The applicant must cease construction if the department’s evaluation demonstrates that the construction, reconstruction or modification of the source will interfere with the attainment or maintenance of the national ambient air quality standards or will result in a violation of a control strategy required by 40 CFR Part 51, Subpart G, as amended through ~~August 12, 1996~~ February 19, 2015.

ITEM 7. Amend subrule 22.1(2) as follows:

22.1(2) Exemptions. The requirement to obtain a permit in subrule 22.1(1) is not required for the equipment, control equipment, and processes listed in this subrule. The permitting exemptions in this subrule do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements. Equipment, control equipment, or processes subject to rule 567—22.4(455B) and 567—Chapter 33 (~~except rule 567—33.9(455B)~~), prevention of significant deterioration requirements, or rule 567—22.5(455B) or 567—31.3(455B), requirements for nonattainment areas, may not use the exemptions from construction permitting listed in this subrule. Equipment, control equipment, or processes subject to 567—subrule 23.1(2), new source performance standards (40 CFR Part 60 NSPS); 567—subrule 23.1(3), emission standards for hazardous air pollutants (40 CFR Part 61 NESHAP); 567—subrule 23.1(4), emission standards for hazardous air pollutants for source categories (40 CFR Part 63 NESHAP); or 567—subrule 23.1(5), emission guidelines, may still use the exemptions from construction permitting listed in this subrule provided that a permit is not needed to create federally enforceable limits that restrict potential to emit. If equipment is permitted under the provisions of rule 567—22.8(455B), then no other exemptions shall apply to that equipment.

Records shall be kept at the facility for exemptions that have been claimed under the following paragraphs: 22.1(2)“a” (for equipment > 1 million Btu per hour input), 22.1(2)“b,” 22.1(2)“e,” 22.1(2)“r” or 22.1(2)“s.” The records shall contain the following information: the specific exemption claimed and a description of the associated equipment. These records shall be made available to the department upon request.

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The following paragraphs are applicable to paragraphs 22.1(2) “g” and “i.” A facility claiming to be exempt under the provisions of paragraph 22.1(2) “g” or “i” shall provide to the department the information listed below. If the exemption is claimed for a source not yet constructed or modified, the information shall be provided to the department at least 30 days in advance of the beginning of construction on the project. If the exemption is claimed for a source that has already been constructed or modified and that does not have a construction permit for that construction or modification, the information listed below shall be provided to the department within 60 days of March 20, 1996. After that date, if the exemption is claimed by a source that has already been constructed or modified and that does not have a construction permit for that construction or modification, the source shall not operate until the information listed below is provided to the department:

- A detailed emissions estimate of the actual and potential emissions, specifically noting increases or decreases, for the project for all regulated pollutants (as defined in rule 567—22.100(455B)), accompanied by documentation of the basis for the emissions estimate;
 - A detailed description of each change being made;
 - The name and location of the facility;
 - The height of the emission point or stack and the height of the highest building within 50 feet;
 - The date for beginning actual construction and the date that operation will begin after the changes are made;
- A statement that the provisions of rules 567—22.4(455B), 567—22.5(455B), and 567—31.3(455B) and 567—Chapter 33 (except rule 567—33.9(455B)) do not apply; and
- A statement that the accumulated emissions increases associated with each change under paragraph 22.1(2) “i,” when totaled with other net emissions increases at the facility contemporaneous with the proposed change (occurring within five years before construction on the particular change commences), have not exceeded significant levels, as defined in 40 CFR 52.21(b)(23) as amended through October 20, 2010, and adopted in rules 567—22.4(455B) and 567—33.3(455B), and will not prevent the attainment or maintenance of the ambient air quality standards specified in 567—Chapter 28. This statement shall be accompanied by documentation for the basis of these statements.

The written statement shall contain certification by a responsible official as defined in rule 567—22.100(455B) of truth, accuracy, and completeness. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

- a. No change.
- b. Fuel-burning equipment for indirect heating or indirect cooling with a capacity of less than 1 million Btu per hour input per combustion unit when burning untreated wood, untreated seeds or pellets, other untreated vegetative materials, or fuel oil, provided that the equipment and the fuel meet the conditions specified in this paragraph. Used oils meeting the specification from 40 CFR 279.11 as amended through ~~May 3, 1993~~ July 14, 2006, are acceptable fuels for this exemption. When combusting used oils, the equipment must have a maximum rated capacity of 50,000 Btu or less per hour of heat input or a maximum throughput of 3,600 gallons or less of used oils per year. When combusting untreated wood, untreated seeds or pellets, or other untreated vegetative materials, the equipment must have a maximum rated capacity of 265,600 Btu or less per hour or a maximum throughput of 378,000 pounds or less per year of each fuel or any combination of fuels. Records shall be maintained on site by the owner or operator for at least two calendar years to demonstrate that fuel usage is less than the exemption thresholds. Owners or operators initiating construction, installation, reconstruction, or alteration of equipment (as defined in rule 567—20.2(455B)) on or before October 23, 2013, burning coal, used oils, untreated wood, untreated seeds or pellets, or other untreated vegetative materials that qualified for this exemption may continue to claim this exemption after October 23, 2013, without being restricted to the maximum heat input or throughput specified in this paragraph.
- c. to w. No change.
- x. The following equipment, processes, and activities:
 - (1) to (8) No change.
 - (9) Air compressors and vacuum; pumps, including hand tools.

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(10) to (27) No change.

y. to *ee.* No change.

ff. Production welding.

(1) Consumable electrode.

1. No change.

2. Welding operations for which initiation of construction, installation, reconstruction, or alteration (as defined in rule 567—20.2(455B)) occurred after October 23, 2013, using a consumable electrode, provided that the consumable electrode used falls within American Welding Society specification A5.18/A5.18M for Gas Metal Arc Welding (GMAW), A5.1 or A5.5 for Shielded Metal Arc Welding (SMAW), and A5.20 for Flux Core Arc Welding (FCAW), and provided that the quantity of all electrodes used at the stationary source of the acceptable specifications is below ~~1,600~~ 12,500 pounds per year for GMAW and ~~12,500~~ 1,600 pounds per year for SMAW or FCAW. Records that identify the type and annual amount of welding electrode used shall be maintained on site by the owner or operator for a period of at least two calendar years. For stationary sources where electrode usage exceeds these levels, the welding activity at the stationary source may be exempted if the amount of electrode used (Y) is less than:

Y = the greater of $84x - 1,200$ or ~~1,600~~ 12,500 for GMAW, or

Y = the greater of $11x - 160$ or ~~12,500~~ 1,600 for SMAW or FCAW

Where “x” is the minimum distance to the property line in feet and “Y” is the annual electrode usage in pounds per year.

If the stationary source has welding processes that fit into both of the specified exemptions, the most stringent limits must be applied.

(2) No change.

gg. to *nn.* No change.

oo. A non-road diesel fueled engine, as defined in 40 CFR 1068.30 and as amended through ~~October 8, 2008~~ April 30, 2010, with a brake horsepower rating of less than 1,100 at full load measured at the shaft, used to conduct periodic testing and maintenance on natural gas pipelines. For the purposes of this exemption, the manufacturer’s nameplate rating shall be defined as the brake horsepower output at the shaft at full load.

(1) to (3) No change.

ITEM 8. Amend subrule 22.1(3), introductory paragraph, as follows:

22.1(3) Construction permits. The owner or operator of a new or modified stationary source shall apply for a construction permit. ~~Two copies~~ One copy of a construction permit application for a new or modified stationary source shall be presented or mailed to Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324. Alternatively, the owner or operator may apply for a construction permit for a new or modified stationary source through the electronic submittal format specified by the department. An owner or operator applying for a permit as required pursuant to rule 567—31.3(455B) (nonattainment new source review) or 567—33.3(455B) (prevention of significant deterioration (PSD)) shall present or mail to the department one hard copy of a construction permit application to the address specified above and, upon request from the department, shall also submit one electronic copy and one additional hard copy of the application. The owner or operator of any new or modified industrial anaerobic lagoon or a new or modified anaerobic lagoon for an animal feeding operation other than a small animal feeding operation as defined in rule 567—65.1(~~455B~~ 459, 459B) shall apply for a construction permit. Two copies of a construction permit application for an anaerobic lagoon shall be presented or mailed to Department of Natural Resources, Water Quality Bureau, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319.

ITEM 9. Amend paragraph **22.1(3)“b,”** introductory paragraph, as follows:

b. Construction permit applications. Each application for a construction permit shall be submitted to the department on the form ~~“Air Construction Permit Application.”~~ permit application forms available on the department’s Web site. Final plans and specifications for the proposed equipment or related control equipment shall be submitted with the application for a permit and shall be prepared by or under the

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direct supervision of a professional engineer licensed in the state of Iowa in conformance with Iowa Code section 542B.1, or consistent with the provisions of Iowa Code section 542B.26 for any full-time employee of any corporation while the employee is doing work for that corporation. The application for a permit to construct shall include the following information:

ITEM 10. Amend rule **567—22.100(455B)**, definitions of “Designated representative,” “EPA reference method,” “Existing hazardous air pollutant source,” “High-risk pollutant” and “Major source,” as follows:

“*Designated representative*” means a responsible natural person authorized by the owner(s) or operator(s) of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted in accordance with Subpart B of 40 CFR Part 72 as amended ~~to October 24, 1997~~ through April 28, 2006, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the acid rain program. Whenever the term “responsible official” is used in ~~567—Chapter 22~~, it shall be deemed to refer to the designated representative with regard to all matters under the acid rain program.

“*EPA reference method*” means the following methods used for performance tests and continuous monitoring systems:

1. Performance test (stack test). A stack test shall be conducted according to EPA reference methods specified in 40 CFR 51, Appendix M (as amended through ~~December 21, 2010~~ April 2, 2014); 40 CFR 60, Appendix A (as amended through ~~September 9, 2010~~ February 27, 2014); 40 CFR 61, Appendix B (as amended through ~~October 17, 2000~~ February 27, 2014); and 40 CFR 63, Appendix A (as amended through ~~August 20, 2010~~ February 27, 2014).

2. Continuous monitoring systems. Minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are as specified in 40 CFR 60, Appendix B (as amended through ~~September 9, 2010~~ February 27, 2014); 40 CFR 60, Appendix F (as amended through ~~September 9, 2010~~ February 27, 2014); 40 CFR 75, Appendix A (as amended through ~~March 28, 2011~~ January 18, 2012); 40 CFR 75, Appendix B (as amended through March 28, 2011); and 40 CFR 75, Appendix F (as amended through ~~March 28, 2011~~ January 18, 2012).

“*Existing hazardous air pollutant source*” means any source as defined in 40 CFR 61 (as amended through ~~July 20, 2004~~) as adopted by reference in ~~567—subrule 23.1(3)~~ and 40 CFR 63.72 (as amended through ~~December 29, 1992~~) as adopted by reference in ~~567—subrule 23.1(4)~~ with respect to Section 112(i)(5) of the Act, the construction or reconstruction of which commenced prior to proposal of an applicable Section 112(d) standard.

“*High-risk pollutant*” means one of the following hazardous air pollutants listed in Table 1 in 40 CFR 63.74 ~~as amended through October 21, 1994~~ as adopted by reference in 567—subrule 23.1(4).

cas #	chemical name	weighting factor
53963	2-Acetylaminofluorene	100
107028	Acrolein	100
79061	Acrylamide	10
107131	Acrylonitrile	10
0	Arsenic compounds	100
1332214	Asbestos	100
71432	Benzene	10
92875	Benzidine	1000
0	Beryllium compounds	10
542881	Bis(chloromethyl) ether	1000
106990	1,3-Butadiene	10
0	Cadmium compounds	10

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cas #	chemical name	weighting factor
57749	Chlordane	100
532274	2-Chloroacetophenone	100
0	Chromium compounds	100
107302	Chloromethyl methyl ether	10
0	Coke oven emissions	10
334883	Diazomethane	10
132649	Dibenzofuran	10
96128	1,2-Dibromo-3-chloropropane	10
111444	Dichloroethyl ether(Bis(2-chloroethyl) ether)	10
79447	Dimethylcarbamoyl chloride	100
122667	1,2-Diphenylhydrazine	10
106934	Ethylene dibromide	10
151564	Ethylenimine (Aziridine)	100
75218	Ethylene oxide	10
76448	Heptachlor	100
118741	Hexachlorobenzene	100
77474	Hexachlorocyclopentadiene	100
302012	Hydrazine	100
0	Manganese compounds	10
0	Mercury compounds	100
60344	Methyl hydrazine	10
624839	Methyl isocyanate	10
0	Nickel compounds	10
62759	N-Nitrosodimethylamine	100
684935	N-Nitroso-N-methylurea	1000
56382	Parathion	10
75445	Phosgene	10
7803512	Phosphine	10
7723140	Phosphorus	10
75558	1,2-Propylenimine	100
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin	100,000
8001352	Toxaphene (chlorinated camphene)	100
75014	Vinyl chloride	10

“Major source” means any stationary source (or any group of stationary sources located on one or more contiguous or adjacent properties and under common control of the same person or of persons under common control) belonging to a single major industrial grouping that is any of the following:

1. A major stationary source of air pollutants, as defined in Section 302 of the Act, that directly emits or has the potential to emit 100 tons per year (tpy) or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Act, unless the source belongs to one of the stationary source categories listed in this chapter.

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2. A major source of hazardous air pollutants according to Section 112 of the Act as follows:

For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tpy or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Act and these rules or 25 tpy or more of any combination of such hazardous air pollutants. Notwithstanding the previous sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emission from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

For Title V purposes, all fugitive emissions of hazardous air pollutants are to be considered in determining whether a stationary source is a major source.

For radionuclides, "major source" shall have the meaning specified by the administrator by rule.

3. A major stationary source as defined in Part D of Title I of the Act, including:

For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified or treated as classified as "marginal" or "moderate," 50 tpy or more in areas classified or treated as classified as "serious," 25 tpy or more in areas classified or treated as classified as "severe" and 10 tpy or more in areas classified or treated as classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding, under Section 182(f)(1) or (2) of the Act, that requirements under Section 182(f) of the Act do not apply;

For ozone transport regions established pursuant to Section 184 of the Act, sources with potential to emit 50 tpy or more of volatile organic compounds;

For carbon monoxide nonattainment areas (1) that are classified or treated as classified as "serious" and (2) in which stationary sources contribute significantly to carbon monoxide levels, and sources with the potential to emit 50 tpy or more of carbon monoxide;

For particulate matter (~~PM-10~~ PM₁₀), nonattainment areas classified or treated as classified as "serious," sources with the potential to emit 70 tpy or more of ~~PM-10~~ PM₁₀.

For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

ITEM 11. Amend rule ~~567—22.100(455B)~~, definition of "Subject to regulation," numbered paragraph "2," as follows:

2. The term "tpy CO₂ equivalent emissions (CO₂e)" shall represent an amount of GHGs emitted and shall be computed by multiplying the mass amount of emissions (tpy) for each of the six greenhouse gases in the pollutant GHGs by the associated global warming potential of the gas published at 40 CFR Part 98, Subpart A, Table A-1, "Global Warming Potentials," (as amended ~~on October 30, 2009~~ through December 24, 2014) and summing the resultant value for each to compute a tpy CO₂e.

ITEM 12. Amend subrule 22.102(3) as follows:

22.102(3) The following source categories are exempt from the obligation to obtain a Title V permit:

a. All sources and source categories that would be required to obtain a Title V permit solely because they are subject to 40 CFR 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters, as amended through ~~December 14, 2000~~ March 16, 2015;

b. All sources and source categories that would be required to obtain a Title V permit solely because they are subject to 40 CFR 61, Subpart M, National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for Demolition and Renovation, ~~as amended through July 20, 2004~~ as adopted by reference in ~~567—subrule 23.1(3)~~;

c. All sources and source categories that would be required to obtain a Title V permit solely because they are subject to any of the following subparts from 40 CFR 63:

(1) Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities, as ~~amended through December 19, 2005~~ as adopted by reference in ~~567—subrule 23.1(4)~~.

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(2) Subpart N, National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, ~~as amended through December 19, 2005~~ as adopted by reference in 567—subrule 23.1(4).

(3) Subpart O, Ethylene Oxide Emissions Standards for Sterilization Facilities, ~~as amended through December 19, 2005~~ as adopted by reference in 567—subrule 23.1(4).

(4) Subpart T, National Emission Standards for Halogenated Solvent Cleaning, ~~as amended through December 19, 2005~~ as adopted by reference in 567—subrule 23.1(4).

(5) Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production, ~~as amended through December 19, 2005~~ as adopted by reference in 567—subrule 23.1(4).

(6) Subpart VVV, National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works, ~~as amended through June 23, 2003~~ as adopted by reference in 567—subrule 23.1(4).

ITEM 13. Amend subrule 22.103(1), introductory paragraph, as follows:

22.103(1) *Insignificant activities excluded from Title V operating permit application.* In accordance with 40 CFR 70.5 (as amended through ~~July 21, 1992~~ October 6, 2009), these activities need not be included in the Title V permit application.

ITEM 14. Amend paragraph **22.103(2)“b”** as follows:

b. The following are insignificant activities:

(1) Fuel-burning equipment for indirect heating and reheating furnaces or indirect cooling units using natural or liquefied petroleum gas with a capacity of less than 10 million Btu per hour input per combustion unit.

(2) Fuel-burning equipment for indirect heating or indirect cooling for which initiation of construction, installation, reconstruction, or alteration (as defined in rule 567—20.2(455B)) occurred on or before October 23, 2013, with a capacity of less than 1 million Btu per hour input per combustion unit when burning coal, untreated wood, or fuel oil.

Fuel-burning equipment for indirect heating or indirect cooling for which initiation of construction, installation, reconstruction, or alteration (as defined in rule 567—20.2(455B)) occurred after October 23, 2013, with a capacity of less than 1 million Btu per hour input per combustion unit when burning untreated wood, untreated seeds or pellets, other untreated vegetative materials, or fuel oil provided that the equipment and the fuel meet the condition specified in this subparagraph (22.103(2)“b”(2)). Used oils meeting the specification from 40 CFR 279.11 as amended through ~~May 3, 1993~~ July 14, 2006, are acceptable fuels. When combusting used oils, the equipment must have a maximum rated capacity of 50,000 Btu or less per hour of heat input or a maximum throughput of 3600 gallons or less of used oils per year. When combusting untreated wood, untreated seeds or pellets, or other untreated vegetative materials, the equipment must have a maximum rated capacity of 265,600 Btu or less per hour or a maximum throughput of 378,000 pounds or less per year of each fuel or any combination of fuels.

(3) to (6) No change.

ITEM 15. Amend rule 567—22.105(455B) as follows:

567—22.105(455B) Title V permit applications.

22.105(1) *Duty to apply.* For each source required to obtain a Title V permit, the owner or operator or designated representative, where applicable, shall present or mail a complete and timely permit application in accordance with this rule to the following locations: Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324 (two copies); and U.S. EPA Region VII, ~~901 North 5th Street, Kansas City, Kansas 66401~~ 11201 Renner Boulevard, Lenexa, Kansas 66219 (one copy); and, if applicable, the local permitting authority, which is either Linn County Public Health Department, Air Quality Division, 501 13th Street NW, Cedar Rapids, Iowa 52405 (one copy); or Polk County Public Works, Air Quality Division, 5885 NE 14th Street, Des Moines, Iowa 50313 (one copy). Alternatively, an owner or operator may submit a complete and timely application through the electronic submittal format specified by the department. An owner

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or operator of a source required to obtain a Title V permit pursuant to subrule 22.101(1) shall submit all required fees as required in 567—Chapter 30.

a. and b. No change.

22.105(2) *Standard application form and required information.* To apply for a Title V permit, applicants shall complete the standard permit application form available only from the department and supply all information required by the filing instructions found on that form. The information submitted must be sufficient to evaluate the source and its application and to determine all applicable requirements and to evaluate the fee amount required by rule 567—30.4(455B). If a source is not a major source and is applying for a Title V operating permit solely because of a requirement imposed by paragraphs 22.101(1) “*c*” and “*d*,” then the information provided in the operating permit application may cover only the emissions units that trigger Title V applicability. The applicant shall submit the information called for by the application form for each emissions unit to be permitted, except for activities which are insignificant according to the provisions of rule 567—22.103(455B). The applicant shall provide a list of all insignificant activities and specify the basis for the determination of insignificance for each activity. Nationally standardized forms shall be used for the acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act. The standard application form and any attachments shall require that the following information be provided:

a. and b. No change.

c. The following emissions-related information shall be submitted to the department on the emissions inventory portion of the application, unless the department notifies the applicant that the emissions-related information is not required because it has already been submitted:

(1) to (10) No change.

d. to j. No change.

22.105(3) to 22.105(5) No change.

ITEM 16. Amend subparagraph **22.108(17)“a”(2)** as follows:

(2) The reopening and revision on this ground is not required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions have been extended pursuant to 40 CFR 70.4(b)(10)(i) or (ii) as amended to ~~May 15, 2001 through October 6, 2009~~; or

ITEM 17. Amend rule 567—22.120(455B), introductory paragraph, as follows:

567—22.120(455B) Acid rain program—definitions. The terms used in rules 567—22.120(455B) through 567—22.147(455B) shall have the meanings set forth in Title IV of the Clean Air Act, 42 U.S.C. 7401, et seq., as amended through November 15, 1990, and in this rule. The definitions set forth in 40 CFR Part 72 as amended through ~~January 24, 2008~~ March 28, 2011, and 40 CFR Part 76 as amended through October 15, 1999, are adopted by reference.

ITEM 18. Amend rule **567—22.120(455B)**, definitions of “40 CFR Part 72,” “40 CFR Part 75,” and “40 CFR Part 78,” as follows:

“40 CFR Part 72,” or any cited provision therein, shall mean 40 Code of Federal Regulations Part 72, or the cited provision therein, as amended through ~~January 24, 2008~~ March 28, 2011.

“40 CFR Part 75,” or any cited provision therein, shall mean 40 Code of Federal Regulations Part 75, or the cited provision therein, as amended through ~~February 13, 2008~~ January 18, 2012.

“40 CFR Part 78,” or any cited provision therein, shall mean 40 Code of Federal Regulations Part 78, or the cited provision therein, as amended through ~~April 28, 2006~~ August 8, 2011.

ITEM 19. Amend subrule 22.128(4) as follows:

22.128(4) Submission of copies. ~~The original and three~~ Two copies of all permit applications shall be presented or mailed to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324.

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ITEM 20. Amend subrule 23.1(2) as follows:

23.1(2) *New source performance standards.* The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~June 28, 2011~~ September 11, 2015, are adopted by reference, except § 60.530 through § 60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

a. Fossil fuel-fired steam generators. A fossil fuel-fired steam generating unit of more than 250 million Btu heat input for which construction, reconstruction, or modification is commenced after August 17, 1971. Any facility covered under paragraph “z” is not covered under this paragraph. (Subpart D as amended through January 20, 2011)

b. No change.

c. Portland cement plants. Any of the following in a Portland cement plant: kiln; clinker cooler; raw mill system; finish mill system; raw mill dryer; raw material storage; clinker storage; finished product storage; conveyor transfer points; bagging and bulk loading and unloading systems. (Subpart F ~~as amended through October 17, 2000~~)

d. Nitric acid plants. A nitric acid production unit. Unless otherwise exempted, these standards apply to any nitric acid production unit that commences construction or modification after August 17, 1971, and on or before October 14, 2011. (Subpart G)

e. No change.

f. ~~Asphalt-concrete Hot mix asphalt plants. An asphalt-concrete plant.~~ Each hot mix asphalt facility that commenced construction or modification after June 11, 1973. For the purpose of this paragraph, a hot mix asphalt facility is comprised only of any combination of the following: dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring, and storing mineral filler, systems for mixing hot mix asphalt; and the loading, transfer, and storage systems associated with emission control systems. (Subpart I)

g. to y. No change.

z. Electric utility steam generating units. An electric utility steam generating unit that is capable of combusting more than 250 million Btus per hour (73 megawatts) heat input of fossil fuel for which construction or modification or reconstruction is commenced after September 18, 1978, or an electric utility combined cycle gas turbine that is capable of combusting more than 250 million Btus per hour (73 megawatts) heat input. “Electric utility steam generating unit” means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW net-electrical output to any utility power distribution system for sale. Also, any steam supplied to a steam distribution system for the purpose of providing steam to a steam electric generator that would produce electrical energy for sale is considered in determining the electrical energy output capacity of the affected facility. (Subpart Da as amended through January 20, 2011)

aa. to bbb. No change.

ccc. Industrial-commercial-institutional steam generating units. Unless exempted, each steam generating unit for which construction, reconstruction, or modification commenced after June 19, 1984, and which has a heat input capacity of more than 100 million Btu/hour. (Subpart Db as amended through January 20, 2011)

ddd. to kkk. No change.

lll. Small industrial-commercial-institutional steam generating units. Each steam generating unit for which construction, modification, or reconstruction is commenced after June 9, 1989, and that has a maximum design heat input capacity of 100 million Btu per hour or less, but greater than or equal to 10 million Btu per hour. (Subpart Dc as amended through January 20, 2011)

mmm. to uuu. No change.

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vvv. Commercial and industrial solid waste incineration. Unless exempted, this standard applies to units for which construction is commenced after November 30, 1999, or for which modification or reconstruction is commenced on or after June 1, 2001. (Part 60, Subpart CCCC, as amended through December 1, 2000)

www. to aaaa. No change.

bbbb. Nitric acid plants. Unless otherwise exempted, these standards apply to any nitric acid production unit that commenced construction, reconstruction or modification after October 14, 2011. (Subpart Ga)

ITEM 21. Amend subrule 23.1(3), introductory paragraph, as follows:

23.1(3) Emission standards for hazardous air pollutants. The federal standards for emissions of hazardous air pollutants, 40 Code of Federal Regulations Part 61 as amended or corrected through ~~May 16, 2007~~ February 27, 2014, and 40 CFR Part 503 as adopted on August 4, 1999, are adopted by reference, except 40 CFR §61.20 to §61.26, §61.90 to §61.97, §61.100 to §61.108, §61.120 to §61.127, §61.190 to §61.193, §61.200 to §61.205, §61.220 to §61.225, and §61.250 to §61.256, and shall apply to the following affected pollutants and facilities and activities listed below. The corresponding 40 CFR Part 61 subpart designation is in parentheses. Reference test methods (Appendix B), compliance status information requirements (Appendix A), quality assurance procedures (Appendix C) and the general provisions (Subpart A) of Part 61 also apply to the affected activities or facilities.

ITEM 22. Amend subrule 23.1(4) as follows:

23.1(4) Emission standards for hazardous air pollutants for source categories. The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through ~~December 21, 2012~~ July 25, 2016, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses (~~except for paragraph 23.1(4) "ez," which specifies a later date for adoption by reference~~). 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purposes of this subrule, "hazardous air pollutant" has the same meaning found in 567—22.100(455B). For the purposes of this subrule, a "major source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an "area source" means any stationary source of hazardous air pollutants that is not a "major source" as defined in this subrule. Paragraph 23.1(4) "a," general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below.

a. to bk. No change.

bl. Emission standards for hazardous air pollutants for Portland cement manufacturing operations. These standards apply to all new and existing major and area sources of Portland cement manufacturing unless exempted. Cement kiln dust (CKD) storage facilities, including CKD piles and landfills, are excluded from this standard. Affected processes include, but are not limited to, all cement kilns and in-line kiln/raw mills, unless they burn hazardous waste. (Subpart LLL ~~as amended through December 20, 2006~~)

bm. to bt. No change.

bu. Emission standards for hazardous air pollutants for petroleum refineries: catalytic cracking units, catalytic reforming units, and sulfur recovery units. This standard applies to a new or existing

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~~petroleum refinery that is located at a major source of hazardous air pollutants (HAPs) emissions. (Part 63, Subpart UUU)~~

bv. to cy. No change.

cz. Emission standards for stationary reciprocating internal combustion engines. These standards apply to new and existing major sources and to new and existing area sources with stationary reciprocating internal combustion engines (RICE). For purposes of these standards, stationary RICE means any reciprocating internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work and which is not mobile. (Part 63, Subpart ZZZZ, ~~as amended through January 30, 2013~~)

da. to di. No change.

~~*dj. Emission standards for hazardous air pollutants for brick and structural clay products manufacturing.* These standards apply to new and existing brick and structural clay products manufacturing facilities that are, are located at, or are part of a major source of hazardous air pollutant emissions. (Part 63, Subpart JJJJ)*~~

~~*As of April 15, 2009, the adoption by reference of Part 63, Subpart JJJJ, is rescinded. On June 18, 2007, the United States Court of Appeals for the District of Columbia Circuit issued its mandate vacating 40 CFR Part 63, Subpart JJJJ, in its entirety, and requiring EPA to repromulgate final standards for brick and structural clay products manufacturing at new and existing major sources.~~

~~*dk. Emission standards for hazardous air pollutants for clay ceramics manufacturing.* These standards apply to clay ceramics manufacturing facilities that are, are located at, or are part of a major source of hazardous air pollutant emissions. The clay ceramics manufacturing source category includes those facilities that manufacture pressed floor tile, pressed wall tile, and other pressed tile; or sanitaryware, such as toilets and sinks. (Part 63, Subpart KKKKK)~~

dl. to fd. No change.

ITEM 23. Amend numbered paragraph **23.1(5)“a”(3)“1”** as follows:

1. MSW landfill emissions at each MSW landfill meeting the conditions below shall be controlled. A design capacity report must be submitted to the director by November 18, 1997.

The landfill has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition.

The landfill has a design capacity greater than or equal to 2.5 million megagrams ~~or~~ and 2.5 million cubic meters. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions shall be documented and submitted with the report. All calculations used to determine the maximum design capacity must be included in the design capacity report.

The landfill has a nonmethane organic compound (NMOC) emission rate of 50 megagrams per year or more. If the MSW landfill's design capacity exceeds the established thresholds in 23.1(5)“a”(3)“1,” the NMOC emission rate calculations must be provided with the design capacity report.

ITEM 24. Amend subrule 23.3(1) as follows:

23.3(1) General. The emission standards contained in this rule shall apply to each source operation unless a specific emission performance standard for the process involved is ~~prescribed elsewhere in this chapter~~ is specified in subrule 23.1(2), in which case the specific performance standard shall apply.

ITEM 25. Amend subrule 25.1(9) as follows:

25.1(9) Methods and procedures. Stack sampling and associated analytical methods used to evaluate compliance with emission limitations of 567—Chapter 23 or a permit condition are as follows:

a. Performance test (stack test). A stack test shall be conducted according to EPA reference methods as specified in 40 CFR 51, Appendix M (as amended through ~~December 21, 2010~~ April 2, 2014); 40 CFR 60, Appendix A (as amended through ~~September 9, 2010~~ February 27, 2014); 40 CFR 61, Appendix B (as amended through ~~October 17, 2000~~ February 27, 2014); and 40 CFR 63, Appendix A (as amended through ~~August 20, 2010~~ February 27, 2014). The owner of the equipment or the owner's authorized agent may use an alternative methodology if the methodology is approved by the department in writing before testing. Each test shall consist of at least three separate test runs. Unless

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otherwise specified by the department, compliance shall be assessed on the basis of the arithmetic mean of the emissions measured in the three test runs.

b. Continuous monitoring systems. Minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are as specified in 40 CFR 60, Appendix B (as amended through ~~September 9, 2010~~ February 27, 2014); 40 CFR 60, Appendix F (as amended through ~~September 9, 2010~~ February 27, 2014); 40 CFR 75, Appendix A (as amended through ~~March 28, 2011~~ January 18, 2012); 40 CFR 75, Appendix B (as amended through ~~March 28, 2011~~ January 18, 2012); and 40 CFR 75, Appendix F (as amended through ~~March 28, 2011~~ January 18, 2012). The owner of the equipment or the owner's authorized agent may use an alternative methodology for continuous monitoring systems if the methodology is approved by the department in writing prior to conducting before the minimum performance specification and quality assurance procedure is conducted.

c. No change.

ITEM 26. Amend rule 567—25.2(455B) as follows:

567—25.2(455B) Continuous emission monitoring under the acid rain program. The continuous emission monitoring requirements for affected units under the acid rain program as provided in 40 CFR Part 75, including Appendices A, B, F and K as amended through ~~January 24, 2008 (Appendix F also was corrected on February 13, 2008)~~ January 18, 2012, are adopted by reference.

ITEM 27. Amend subrule 26.2(2) as follows:

26.2(2) Declaration. In making determinations for the declaration of an air pollution episode condition, the commission, or the director will be guided by the criteria stated in the following paragraphs.

a. Air pollution alert. An alert will be declared when any one of the following levels is reached at any monitoring site, and when meteorological conditions are such that the contaminant concentrations can be expected to remain at those levels for 12 or more hours, or increase, unless control actions are taken.

- (1) Sulfur dioxide—800 micrograms per cubic meter (0.3 ppm), 24-hour average.
- (2) ~~Fine particulate~~ Particulate matter (PM₁₀ PM₁₀)—350 micrograms per cubic meter, 24-hour average.
- (3) Carbon monoxide—17 milligrams per cubic meter (15 ppm), eight-hour average.
- (4) ~~Oxidants (ozone)~~ Ozone—400 micrograms per cubic meter (0.2 ppm), one-hour average.
- (5) Nitrogen dioxide—1,130 micrograms per cubic meter (0.6 ppm), one-hour average, or 282 micrograms per cubic meter (0.15 ppm), 24-hour average.

b. Air pollution warning. A warning will be declared when any one of the following levels is reached at any monitoring site and when meteorological conditions are such that the contaminant concentrations can be expected to remain at those levels for 12 or more hours or increase, unless control actions are taken.

- (1) Sulfur dioxide—1,600 micrograms per cubic meter (0.6 ppm), 24-hour average.
- (2) ~~Fine particulate~~ Particulate matter (PM₁₀ PM₁₀)—420 micrograms per cubic meter, 24-hour average.
- (3) Carbon monoxide—34 milligrams per cubic meter (30 ppm), eight-hour average.
- (4) ~~Oxidants (ozone)~~ Ozone—800 micrograms per cubic meter (0.4 ppm), one-hour average.
- (5) Nitrogen dioxide—2,260 micrograms per cubic meter (1.2 ppm), one-hour average, or 565 micrograms per cubic meter (0.3 ppm), 24-hour average.

c. Air pollution emergency. An emergency will be declared when any one of the following levels is reached at any monitoring site, and when meteorological conditions are such that this condition can be expected to continue for 12 or more hours.

- (1) Sulfur dioxide—2,100 micrograms per cubic meter (0.8 ppm), 24-hour average.
- (2) ~~Fine particulate~~ Particulate matter (PM₁₀ PM₁₀)—500 micrograms per cubic meter, 24-hour average.

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(3) Carbon monoxide—46 milligrams per cubic meter (40 ppm), eight-hour average.

(4) ~~Oxidants (ozone)—1,200 micrograms per cubic meter (0.6 ppm)~~ Ozone—1,000 micrograms per cubic meter (0.5 ppm), one-hour average.

(5) Nitrogen dioxide—3,000 micrograms per cubic meter (1.6 ppm), one-hour average or 750 micrograms per cubic meter (0.4 ppm), 24-hour average.

d. No change.

ITEM 28. Amend rule 567—27.1(455B) as follows:

567—27.1(455B) General.

27.1(1) Purpose. Political subdivisions shall meet the conditions specified in this chapter if they intend to secure acceptance of the local air pollution control program and to obtain a certificate of acceptance from the director, as provided in Iowa Code section 455B.145.

27.1(2) Limitation. When a certificate of acceptance is issued to a political subdivision, the director retains authority to take emergency action as provided in Iowa Code section ~~455B.145~~ 455B.139.

This rule is intended to implement Iowa Code sections 455B.133, 455B.134, 455B.139, and 455B.143.

ITEM 29. Amend paragraph **27.3(4)“c”** as follows:

c. ~~*Variation Procedures for granting variances or extensions of time to attain compliance status. A procedure for granting variances or extensions of time to attain compliance status, providing that the authority to grant such variance or extension of time shall not be allocated to any administrative officer of the local control agency.*~~

The local control agency shall maintain on file a record of the names, addresses, sources of emissions, types of emissions, rates of emissions, reason for granting, conditions and length of time specified, relating to all variances or extension of time granted; and shall make such records available to the commission or the department upon request.

ITEM 30. Amend rule 567—28.1(455B) as follows:

567—28.1(455B) Statewide standards. The state of Iowa ambient air quality standards shall be the National Primary and Secondary Ambient Air Quality Standards as published in 40 Code of Federal Regulations Part 50 (1972) and as amended at 38 Federal Register 22384 (September 14, 1973), 43 Federal Register 46258 (October 5, 1978), 44 Federal Register 8202, 8220 (February 9, 1979), 52 Federal Register 24634-24669 (July 1, 1987), 62 Federal Register 38651-38760, 38855-38896 (July 18, 1997), 71 Federal Register 61144-61233 (October 17, 2006), 73 Federal Register 16436-16514 (March 27, 2008), 73 Federal Register 66964-67062 (November 12, 2008), 75 Federal Register 6474-6537 (February 9, 2010), ~~and 75 Federal Register 35520-35603 (June 22, 2010), and 78 Federal Register 3086-3287 (January 15, 2013).~~ The department shall implement these rules in a time frame and schedule consistent with implementation schedules in federal laws and regulations.

This rule is intended to implement Iowa Code section 455B.133.

ITEM 31. Rescind and reserve rule **567—31.2(455B)**.

ITEM 32. Amend rule 567—33.1(455B), introductory paragraph, as follows:

567—33.1(455B) Purpose. This chapter implements the major New Source Review (NSR) program contained in Part C of Title I of the federal Clean Air Act as amended on November 15, 1990, and as promulgated under 40 CFR 51.166 and 52.21 as amended through ~~July 20, 2014~~ August 19, 2015. This is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under Part C of the Clean Air Act as amended on November 15, 1990. In areas that do not meet the national ambient air quality standards (NAAQS), the nonattainment major program applies. The requirements for the nonattainment major NSR program are set forth in 567—22.5(455B), 567—22.6(455B), 567—31.20(455), and 567—31.3(455B). In areas that meet the NAAQS, the PSD program applies. Collectively, the nonattainment major and PSD programs are referred to as the major

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NSR program. An owner or operator required to apply for a construction permit under 567—Chapter 33 shall submit fees as required in 567—Chapter 30.

ITEM 33. Amend subrule **33.3(1)**, definition of “Subject to regulation,” as follows:

“*Subject to regulation*” means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally applicable regulation codified by the Administrator in 40 CFR Subchapter C (Air Programs) that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity, except that:

1. Greenhouse gases (GHGs), the air pollutant defined in 40 CFR §86.1818-12(a) (as amended through September 15, 2011) as the aggregate group of six greenhouse gases that includes carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in ~~paragraphs “4” and “5,”~~ paragraph “4,” and shall not be subject to regulation if the stationary source maintains its total sourcewide emissions below the GHG PAL level, meets the requirements in rule 567—33.9(455B), and complies with the PAL permit containing the GHG PAL.

2. For purposes of paragraphs ~~“3,” “4,” and “5,”~~ “3” and “4,” the term “tpy CO₂ equivalent emissions (CO₂e)” shall represent an amount of GHGs emitted and shall be computed as follows:

(a) Multiply the mass amount of emissions (tpy) for each of the six greenhouse gases in the pollutant GHGs by the associated global warming potential of the gas published at 40 CFR Part 98, Subpart A, Table A-1, “Global Warming Potentials,” (as amended ~~on October 30, 2009~~ through December 24, 2014). For purposes of this definition, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

(b) Sum the resultant value from paragraph (a) for each gas to compute a tpy CO₂e.

3. The term “emissions increase,” as used in this paragraph and in ~~paragraphs “4” and “5,”~~ paragraph “4,” shall mean that both a significant emissions increase (as calculated using the procedures specified in 33.3(2) “c” through 33.3(2) “h”) and a significant net emissions increase (as specified in 33.3(1), in the definitions of “net emissions increase” and “significant”) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO₂e and shall be calculated assuming the pollutant GHGs are a regulated NSR pollutant, and “significant” is defined as 75,000 tpy CO₂e rather than calculated by applying the value specified in 33.3(1), in paragraph “2” of the definition of “significant.”

4. Beginning January 2, 2011, the pollutant GHGs are subject to regulation if:

(a) The stationary source is a new major stationary source for a regulated NSR pollutant that is not a GHG, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more, or

(b) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not a GHG, and also will have an emissions increase of a regulated NSR pollutant and an emissions increase of 75,000 tpy CO₂e or more; ~~and.~~

~~5. Beginning July 1, 2011, in addition to the provisions in paragraph “4,” the pollutant GHGs shall also be subject to regulation:~~

~~(a) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e, or~~

~~(b) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more.~~

ITEM 34. Amend subrule 33.3(9) as follows:

33.3(9) Exemptions. The provisions for allowing exemptions from certain requirements for PSD-subject sources as specified in 40 CFR 52.21(i) as amended through ~~October 20, 2010~~ March 6, 2015, are adopted by reference.

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ITEM 35. Amend subrule 33.3(11) as follows:

33.3(11) Source impact analysis. The provisions for a source impact analysis as specified in 40 CFR 52.21(k) as amended through ~~October 20, 2010~~ December 9, 2013, are adopted by reference.

ITEM 36. Amend subrule 33.3(20) as follows:

33.3(20) Conditions for permit issuance. Except as explained below, a permit may not be issued to any new “major stationary source” or “major modification” as defined in subrule 33.3(1) that would locate in any area designated as attainment or unclassifiable for any national ambient air quality standard pursuant to Section 107 of the Act, when the source or modification would cause or contribute to a violation of any national ambient air quality standard. A major stationary source or major modification will be considered to cause or contribute to a violation of a national ambient air quality standard when such source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

Significant Impact Levels (SILs)					
Pollutant	Averaging Time				
	Annual (µg/m ³)	24 hrs. (µg/m ³)	8 hrs. (µg/m ³)	3 hrs. (µg/m ³)	1 hr. (µg/m ³)
SO ₂	1.0	5	_____	25	_____
PM ₁₀	1.0	5	_____	_____	_____
PM _{2.5}	0.3	1.2	_____	_____	_____
NO ₂	1.0	_____	_____	_____	_____
CO	_____	_____	500	_____	2000

A permit may be granted to a major stationary source or major modification as identified above if the major stationary source or major modification reduces the impact of its emissions upon air quality by obtaining sufficient emissions reductions to compensate for its adverse ambient air impact where the major stationary source or major modification would otherwise contribute to a violation of any national ambient air quality standard. This subrule shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that the source is located in an area designated under Section 107 of the Act as nonattainment for that pollutant.

ITEM 37. Amend subrule 33.3(22) as follows:

33.3(22) Permit rescission. Any permit issued under 40 CFR 52.21 or this chapter or any permit issued under rule 567—22.4(455B) shall remain in effect unless and until it is rescinded. The department will consider requests for rescission that meet the conditions specified under paragraphs “a” and “b” of this subrule. If the department rescinds a permit or a condition in a permit issued under 40 CFR 52.21, this chapter, or rule 567—22.4(455B), the public shall be given adequate notice of the proposed rescission. Publication of an announcement of rescission in a newspaper of general circulation in the affected region 60 days prior to the proposed date for rescission shall be considered adequate notice.

a. The department may rescind a permit or a portion of a permit upon request from an owner or operator of a stationary source who holds a permit for a source or modification that was ~~issued under 40 CFR 52.21 as in effect on July 30, 1987, or earlier, provided the application also meets the provisions in paragraph “b” of this subrule.~~ issued:

(1) Under 40 CFR 52.21 as in effect on July 30, 1987, or earlier, provided the application also meets the provisions in paragraph 33.3(22) “b”;

(2) Under this chapter between July 1, 2011, and July 6, 2015, to a source that was classified as a major stationary source under subrule 33.3(1) solely on the basis of potential emissions of greenhouse gases; or

(3) Under this chapter between July 1, 2011, and July 6, 2015, for a modification that was classified as a major modification under subrule 33.3(1) solely on the basis of an increase in emissions of greenhouse gases.

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b. If the application for rescission meets the provisions in paragraph “*a*” of this subrule, the department may rescind a permit if the owner or operator shows that the PSD provisions under 40 CFR 52.21 or this chapter would not apply to the source or modification.

ARC 2797C**INTERIOR DESIGN EXAMINING BOARD[193G]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 544C.3, the Interior Design Examining Board hereby gives Notice of Intended Action to amend Chapter 1, “Description of Organization,” Chapter 5, “Disciplinary Authority and Grounds for Discipline,” Chapter 6, “Disciplinary Investigations,” and Chapter 7, “Disciplinary Proceedings,” Iowa Administrative Code.

The proposed amendments are a result of the five-year rolling administrative rules review outlined in Iowa Code section 17A.7(2). A committee of the Board, including Board members and staff, with the assistance of legal counsel, reviewed all eight chapters to identify outdated or redundant references, inconsistencies with statutes, and methods of enhancing efficiencies. The proposed amendments update citations and make general updates. The proposed amendments in Chapter 1 update the Board’s address, clarify the Board’s make-up, specify length of officer terms, and remove references to the procedural uniform rules for the Professional Licensing and Regulation Bureau. The proposed amendments to Chapter 5 update Iowa Code references. The proposed amendments to Chapter 6 update Iowa Code references and remove closing orders, which are not used by the Board. The proposed amendments to Chapter 7 update references.

Consideration will be given to all written suggestions or comments received on or before November 29, 2016. Comments should be directed to Lori SchraderBachar, Iowa Interior Design Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to lori.schraderbachar@iowa.gov.

A public hearing will be held on November 29, 2016, at 10 a.m. in the Board Office, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person’s name and address for the record and to confine remarks to the subject of the proposed amendments. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Board and advise of specific needs.

These proposed amendments were approved by the Board on September 26, 2016.

These proposed amendments are subject to waiver or variance pursuant to 193—Chapter 5.

After analysis and review of this rule making, the Board determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code section 544C.3.

The following amendments are proposed.

ITEM 1. Strike “Supplement” wherever it appears in **193G—Chapter 1**.

ITEM 2. Amend rule **193G—1.1(544C,17A)**, definition of “Bureau,” as follows:

“*Bureau*” means the professional licensing and regulation bureau, of the division of banking of the department of commerce.

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

ITEM 3. Amend rule 193G—1.2(544C) as follows:

193G—1.2(544C) Description.

1.2(1) The purpose of the interior design examining board is to administer and enforce the provisions of Iowa Code Supplement chapter 544C, including issuing registration certificates and registration renewals; investigating violations and infractions of the interior design law; disciplining registrants; and seeking injunctive relief against unregistered persons who violate Iowa Code Supplement chapter 544C. To this end, the board has promulgated these rules to clarify the board's intent and procedures.

1.2(2) The primary mission of the board is to protect the public interest. All board rules shall be construed as fostering the guiding policies and principles described in Iowa Code Supplement chapter 544C. The board and its registrants shall strive at all times to protect the public interest by promoting the highest standards of interior design.

1.2(3) All official communications, including submissions and requests, should be addressed to the board at 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309.

ITEM 4. Amend rule 193G—1.3(544C,17A), introductory paragraph, as follows:

193G—1.3(544C,17A) Organization and duties. The board shall consist of seven members: five members who are interior designers registered under Iowa Code chapter 544C and two members who are not interior designers and who represent the general public. The board shall elect annually from its members a chairperson and a vice-chairperson. A quorum of the board shall be four members, and all final motions and actions must receive a majority of a quorum vote. The board shall enforce the provisions of Iowa Code Supplement chapter 544C and shall maintain a roster of all registered interior designers in the state.

ITEM 5. Amend rule 193G—1.4(544C,17A) as follows:

193G—1.4(544C,17A) Meetings. Calls for meetings shall be issued in accordance with Iowa Code section 21.4. The annual meeting of the board shall be the first meeting scheduled after April 30. At this meeting, the chairperson and vice-chairperson shall be elected to serve until their successors are elected. The chairperson and vice-chairperson shall serve one-year terms. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which they are elected.

ITEM 6. Amend rule 193G—1.5(544C) as follows:

193G—1.5(544C) Other meetings. In addition to the annual meeting and any subsequent meetings, the time and place of which may be fixed by resolution vote of the board, a meeting may be called by the chairperson of the board or by joint call of a majority of its members.

ITEM 7. Amend rule 193G—1.6(544C,17A) as follows:

193G—1.6(544C,17A) Order of business. The chairperson or the chairperson's designee board administrator shall prepare an agenda listing all matters to be discussed at a meeting. A copy of the agenda shall be available to each member of the board. Proceedures shall be in accordance with Robert's Rules of Order.

ITEM 8. Amend subrule 1.7(1) as follows:

1.7(1) The board chairperson may appoint administrative committees of not less than two nor more than four three members who shall be members of the board for the purpose of making recommendations on matters specified by the board.

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

ITEM 9. Rescind rules **193G—1.8(544C,17A)** to **193G—1.12(544C,17A)**.

ITEM 10. Renumber rule **193G—1.13(544C,17A)** as **193G—1.8(544C,17A)**.

ITEM 11. Amend renumbered rule 193G—1.8(544C,17A) as follows:

193G—1.8(544C,17A) Waivers and variances.

1.8(1) Persons who wish to seek waivers or variances from board rules should consult the uniform rules for the ~~professional licensing and regulation~~ bureau at ~~193 IAC 5~~ 193—Chapter 5.

1.8(2) In addition to the provisions of ~~193 IAC 5~~ 193—Chapter 5, the following shall apply for interim rulings:

a. The board chairperson, or the vice-chairperson if the chairperson is not available, may rule on a petition for waiver or variance when it would not be timely to wait for the next regularly scheduled board meeting for a ruling from the board.

b. The ~~executive officer~~ board administrator, upon receipt of a petition that meets all applicable criteria established in ~~193 IAC 5~~ 193—Chapter 5, shall present the request to the board chairperson or vice-chairperson along with all pertinent information regarding established precedent for granting or denying such requests.

c. The chairperson or vice-chairperson shall reserve the right to hold an electronic meeting of the board, pursuant to Iowa Code section 21.8, when prior board precedent does not clearly resolve the request, input of the board is deemed required, and the practical result of waiting until the next regularly scheduled meeting would be a denial of the request due to timing issues.

d. No change.

e. ~~Subrule 1.13(2)~~ Subrule 1.8(2) on interim rulings does not apply if the waiver or variance was filed in a contested case.

ITEM 12. Rescind rules **193G—1.14(544C,17A,272C)** to **193G—1.16(272C)**.

ITEM 13. Amend rules 193G—5.1(17A,272C,544C) and 193G—5.2(17A,272C,544C) as follows:

193G—5.1(17A,272C,544C) Disciplinary authority. The board is empowered to administer Iowa Code chapters 17A, 272C, and 544C and related administrative rules for the protection and well-being of those persons who may rely upon registered individuals for the performance of interior design services within this state or for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of registrants, determine whether disciplinary proceedings are warranted, initiate and prosecute disciplinary proceedings, establish standards of professional conduct, and impose discipline pursuant to Iowa Code sections ~~17A.13, 272C.3 to 272C.6, 272C.10, 544C.3 and 544C.10~~.

193G—5.2(17A,272C,544C) Grounds for discipline. The board may initiate disciplinary action against a registered interior designer on any of the following grounds:

1. A violation of any of the rules of professional conduct set forth in 193G—Chapter 4.

2. A violation of Iowa Code ~~subsection~~ section 272C.9(2) or 272C.9(3).

3. Failure to comply with an order of the board imposing discipline.

~~4. A violation of Iowa Code subsection 272C.3(2).~~

~~5.~~ 4. Continuing to practice as a registered interior designer without satisfying the continuing education requirement, absent express waiver granted by the board.

~~6.~~ 5. Failure to fully cooperate with a registrant disciplinary investigation or investigation against a nonregistrant, including failure to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the registrant's last address on file at the board office.

~~7.~~ 6. A violation of Iowa Code section 544C.9 or 272C.10.

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

ITEM 14. Amend rule 193G—6.3(272C,544C) as follows:

193G—6.3(272C,544C) 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. General or random review of publicly available work product.
2. News articles or other media sources.
3. Reports filed with the board by the commissioner of insurance pursuant to Iowa Code ~~subsection 272C.4(9)~~ section 272C.4(10).
4. Complaints filed with the board by any member of the public.
5. Registration applications or other documents submitted to the board.
6. Reports to the board from any regulatory or law enforcement agency from any jurisdiction.
7. Board audits of registrant compliance with conditions for registration, such as continuing education.

ITEM 15. Amend subrule 6.5(1), introductory paragraph, as follows:

6.5(1) Contents of a written complaint. Written complaints may be submitted on forms provided by the board which are available from the board office and on the board's Web site. Written complaints, whether submitted on a board complaint form or in other written medium, ~~shall~~ may contain the following information:

ITEM 16. Amend rule 193G—6.7(272C,544C) as follows:

193G—6.7(272C,544C) Confidentiality of complaint and investigative information. All complaint and investigative information received or created by the board is privileged and confidential pursuant to Iowa Code ~~subsection~~ section 272C.6(4). Such information shall not be released to any person except as provided in that ~~subsection~~ section.

ITEM 17. Amend subrule 6.8(1) as follows:

6.8(1) Disciplinary committee. The board chairperson ~~shall~~ may annually appoint, as needed, two to ~~four~~ three members of the board to serve on the board's disciplinary committee to review and process disciplinary complaints. The disciplinary committee is a purely advisory body which shall review complaint files referred by the ~~board's executive officer~~ board administrator, generally supervise the investigation of complaints, and make recommendations to the full board on the disposition of complaints. Members of the committee shall not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the board.

ITEM 18. Amend rule 193G—6.10(17A,272C,544C) as follows:

193G—6.10(17A,272C,544C) Closing complaint files.

6.10(1) Grounds for closing. Upon the recommendation of the board's executive officer pursuant to subrule 6.5(5), the recommendation of the disciplinary committee pursuant to rule 193G—6.8(17A,272C,544C), or on its own motion, the board may close a complaint file, with or without prior investigation. The board's decision is final and not eligible for judicial review. Given the broad scope of matters about which members of the public may complain, it is not possible to catalog all possible reasons why the board may close a complaint file. The following nonexclusive list is, however, illustrative of the grounds upon which the board may close a complaint file:

a. to g. No change.

6.10(2) Closing orders. ~~The board's executive officer may enter an order stating the basis for the board's decision to close a complaint file. If entered, the order shall not contain the identity of the complainant or the respondent and shall not disclose confidential complaint or investigative information. If entered, a closing order will be indexed by case number and shall be a public record pursuant to Iowa Code subsection 17A.3(1)(d). A copy of the order may be mailed to the complainant, if any, and to the respondent. The board's decision whether or not to pursue an investigation, to institute disciplinary proceedings, or to close a file is not subject to judicial review.~~

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

~~6.10(3)~~ **6.10(2)** *Cautionary letters.* The board may issue a confidential letter of caution to a registrant when a complaint file is closed which informally cautions or educates the registrant about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the registrant. ~~Informal cautionary~~ Cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a registrant continues a practice about which the registrant has been cautioned.

~~6.10(4)~~ **6.10(3)** *Reopening closed complaint files.* The board may reopen a closed complaint file if additional information arises after closure which provides a basis to reassess the merits of the initial complaint.

ITEM 19. Amend rule 193G—7.1(17A,272C,544C) as follows:

193G—7.1(17A,272C,544C) Initiation of disciplinary proceedings. Disciplinary proceedings may be initiated only by the affirmative vote of a majority of a quorum of the board at a public meeting. Board members who are disqualified shall not be included in determining whether a quorum exists. If, for example, two members of the board are disqualified, four members of the board shall constitute a quorum of the remaining six board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the board's executive officer may request the special appointment of one or more substitute board members pursuant to Iowa Code section ~~17A.11, subsection 5~~ 17A.11(5).

ITEM 20. Amend subrule 7.4(3) as follows:

7.4(3) The board shall notify other state interior design boards that have issued a similar license to an Iowa registrant of disciplinary action taken against the Iowa registrant. The board shall also notify the ~~National Council for Interior Design Qualification~~ NCIDQ of disciplinary action taken against an Iowa registrant.

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INTERIOR DESIGN EXAMINING BOARD[193G]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 544C.3, the Interior Design Examining Board hereby gives Notice of Intended Action to amend Chapter 2, “Registration,” and Chapter 3, “Continuing Education,” and to rescind Chapter 8, “Renewal and Reinstatement,” Iowa Administrative Code.

The rules in Chapter 2 describe the process for registration. The proposed amendments to Chapter 2 outline the process for registration, move the fee schedule from rule 193G—2.1(544C) to rule 193G—2.4(544C), remove the transition provisions, allow for reciprocal registration, and incorporate the rules on renewal and reinstatement from Chapter 8 into the registration chapter. The rules in Chapter 3 describe licensees' continuing education requirements as a condition of registration renewal. The proposed amendments to Chapter 3 define distance education; decrease the number of continuing education hours required and specify that all continuing education must be taken in health, safety, and welfare subjects; and allow registrants to take additional continuing education if the Board disallows any continuing education. The rules in Chapter 8 outline the process for renewal and reinstatement of certificates of registration. The rules within Chapter 8 have been moved to Chapter 2.

Consideration will be given to all written suggestions or comments received on or before November 29, 2016. Comments should be directed to Lori SchraderBachar, Iowa Interior Design

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to lori.schraderbachar@iowa.gov.

A public hearing will be held on November 29, 2016, at 10 a.m. in the Board Office, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person's name and address for the record and to confine remarks to the subject of the proposed amendments. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Board and advise of specific needs.

These proposed amendments were approved by the Board on September 26, 2016.

These proposed amendments are subject to waiver or variance pursuant to 193—Chapter 5.

After analysis and review of this rule making, the Board determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code section 544C.3.

The following amendments are proposed.

ITEM 1. Amend rule 193G—2.1(544C) as follows:

193G—2.1(544C) Certificate of registration. All applicants for registration must complete a board-approved application, satisfy the interior design education, practical training, ~~and~~ examination, ~~and~~ fee requirements established by this rule.

2.1(1) and 2.1(2) No change.

~~**2.1(3) Transition provisions.**~~ For a period of two years from July 1, 2005, the board may issue a certificate as a registered interior designer to a person residing in Iowa who does not meet the examination requirements specified in Iowa Code Supplement section 544C.5, if the person satisfies all of the following:

~~*a.*—Has a minimum of two years of interior design education and a combined total of six years of interior design education and acceptable experience.~~

~~*b.*—Has successfully completed Section 1 of the NCIDQ examination relating to life safety codes and barrier free requirements.~~

~~*c.*—Has submitted a completed application by June 30, 2007.~~

~~**2.1(3) Reciprocity.** The board may also grant registration by reciprocity. An applicant applying to the board for registration by reciprocity shall furnish satisfactory evidence that the applicant meets both of the following requirements:~~

~~*a.* Holds a valid registration or license issued by another registration authority recognized by the board where the qualifications for registration or licensure were substantially equivalent to those prescribed in this state on the date of original registration or licensure with the other registration authority. The applicant must obtain a letter of good standing or complete a form stating that the applicant is in good standing from all jurisdictional licensing boards with which the applicant holds an active registration. The letter or form must bear the seal of the jurisdictional licensing board.~~

~~*b.* Holds a current certificate number issued by the NCIDQ.~~

~~**2.1(4) Applications.** Persons applying for initial or renewal registration shall submit an application on a form provided by the board and shall pay a registration fee of \$275. Certificates issued to registrants with last names beginning with A through K shall expire on June 30 of even-numbered years, and certificates issued to registrants with last names beginning with L through Z shall expire on June 30 of odd-numbered years. Registration fees and continuing education requirements shall be applied pro rata to those registrants whose certificates expire in less than two years.~~

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

Type of fee	Amount
Initial registration fee	\$275
Renewal	\$275
Late renewal fee	\$25
Reinstatement of lapsed registration	\$100

~~This rule is intended to implement Iowa Code Supplement chapter 544C.~~

ITEM 2. Adopt the following **new** rules 193G—2.2(17A,272C,544C) to 193G—2.4(544C):

193G—2.2(17A,272C,544C) Renewal of certificates of registration. Certificates of registration expire biennially on June 30. Certificates issued to registrants with last names beginning with A through K shall expire on June 30 of even-numbered years and certificates issued to registrants with last names beginning with L through Z shall expire on June 30 of odd-numbered years. In order to maintain authorization to practice in Iowa, a registrant is required to renew the certificate of registration prior to the expiration date. However, the board will accept an otherwise sufficient renewal application which is untimely if the board receives the application and late fee of \$25 within 30 days of the date of expiration. A registrant who fails to renew by the expiration date is not authorized to use the title of registered interior designer in Iowa until the certificate is reinstated as provided in rule 193G—3.2(17A,272C,544C).

2.2(1) It is the policy of the board to mail to each registrant at the registrant's last-known address a notice of the pending expiration date approximately one month prior to the date the certificate of registration is scheduled to expire. Failure to receive this notice does not relieve the registrant of the responsibility to timely renew the certificate and pay the renewal fee.

2.2(2) If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant by restricted certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the registrant failed to satisfy the continuing education provisions required as a condition for registration. If the basis for denial is a pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

2.2(3) When a registrant appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), offer a registrant the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the registrant complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the registrant. Any additional hours of continuing education completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A registrant is free to accept or reject the offer. If the offer of settlement is accepted, the registrant will be issued a renewed certificate of registration and will be subject to disciplinary action if the terms of the consent order are not fulfilled. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the registrant pursuant to 193—subrule 7.40(1).

2.2(4) A registrant who continues to use the title of registered interior designer in Iowa after the registration has expired may be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a registrant's application for reinstatement.

2.2(5) Registrants shall notify the board within 30 days of any change of address or business.

193G—2.3(544C,17A) Reinstatement of certificates of registration. An individual may reinstate a lapsed certificate of registration to active registration by doing the following:

1. Paying the current renewal fee;

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2. Paying the reinstatement fee of \$100;
3. Providing a written statement outlining the professional activities that the applicant performed in Iowa during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant; and
4. Submitting documented evidence of completion of 5 contact hours of continuing education for each year or partial year since the registrant's last renewal year in active status with a maximum of 20 contact hours. The continuing education hours used for reinstatement may not be used again at the next renewal and shall not have been earned more than four years prior to the date of the application to reinstate.

193G—2.4(544C) Applications. Persons applying for initial, renewal, or reciprocal registration shall submit an application on a form provided by the board and shall pay a registration fee of \$275. Certificates issued to registrants with last names beginning with A through K shall expire on June 30 of even-numbered years, and certificates issued to registrants with last names beginning with L through Z shall expire on June 30 of odd-numbered years. An applicant applying for initial, reciprocal, or reinstatement registration within 12 months from the applicant's required renewal date shall pay half of the required fee. An applicant applying for initial, reciprocal, or reinstatement registration more than 12 months from the applicant's required renewal date shall pay the full registration fee.

Type of fee	Amount
Initial registration fee	\$275
Reciprocal registration fee	\$275
Renewal	\$275
Late renewal fee	\$25
Reinstatement of lapsed registration	\$100

ITEM 3. Adopt the following **new** implementation sentence in **193G—Chapter 2**:
These rules are intended to implement Iowa Code chapter 544C.

ITEM 4. Amend rule **193G—3.1(17A,272C,544C)**, definition of "Structured activity," as follows:
"*Structured activity*" means a method of interior design-related learning led by a qualified individual and conducted or sponsored by a professional organization, technical organization, industry source or accredited college or university including monographs, courses of study taught in person or by correspondence, organized lectures, presentations or workshops, formal courses of instruction, and other means through which identifiable technical and professional subjects are presented in a planned manner through distance education.

ITEM 5. Adopt the following **new** definition of "Distance education" in rule **193G—3.1(17A,272C,544C)**:

"*Distance education*" means any education process based on the geographical separation of student and instructor.

ITEM 6. Amend rule 193G—3.2(17A,272C,544C) as follows:

193G—3.2(17A,272C,544C) Continuing education requirements.

3.2(1) Hours required. Each registrant shall complete ~~during each two-year registration term~~ a minimum of ~~±~~ 10 contact hours of in acceptable health, safety and welfare subjects for continuing education approved by the board. ~~Compliance with the continuing education requirement is a prerequisite for registration renewal. All hours shall be in structured activity programs and must be acquired during the renewal period. Carryover hours from a previous renewal are not allowed.~~

3.2(2) ~~Within any biennial renewal period during which 12 contact hours must be acquired, at least 8 contact hours shall be in health, safety and welfare subjects in a structured activity. A maximum of 4 contact hours may be in self-directed activities. Hours acquired in any 24-month renewal period may not be carried over to a subsequent 24-month renewal period. Continuing education hours need not be~~

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

~~acquired in this state, but may be acquired in any location provided that the registrant can demonstrate that the program meets the definition of either structured activity or self-directed activity as defined in this chapter. Continuing education hours need not be acquired in this state, provided that the registrant can demonstrate that the program meets the definition of structured activity as defined in this chapter.~~

~~3.2(3) No change.~~

~~3.2(4) Sources of continuing education. The following suggested list may be used by all registrants to determine the types of activities that may fulfill the continuing education requirements. Credit may not be claimed for any activity required as part of a registered interior designer's routine professional responsibilities. Credit may not be claimed for any activity required as part of a registered interior designer's routine professional responsibilities. Structured activities include:~~

~~a.—Self-directed activities (actual hours spent, up to a maximum of 2 contact hours per activity and limited to 4 contact hours per reporting period):~~

~~(1) Tours of interior design significant sites for a specified educational purpose.~~

~~(2) A service to the public which uses the registered interior designer's expertise as an interior designer. Examples include serving on a planning commission, building code advisory board or building code study committee.~~

~~(3) Informal industry or other similar instruction related to new interior design or new interior design related technology and offered by an individual qualified by education or experience.~~

~~(4) Service as an officer or active committee participant in an educational, technical or professional society. One full year of service is required for the service to be considered.~~

~~b.—Structured activities:~~

~~(1) Completion of a formal college or university course, seminar, tutorial or short course/monograph.~~

~~(2) Completion of a formal program, course, self-study course, monograph or equivalent educational experience sponsored by a professional or technical organization or industry source.~~

~~(3) Instruction of a course, seminar, lecture, presentation, workshop or similar formal educational program. Credit shall be allowed at a maximum of three preparation hours for each class hour spent for actual presentation, valid for the initial presentation only. College and university faculty may not claim contact or preparation credit for teaching regular curriculum courses.~~

~~(4) Research that is published or is formally presented to the profession or public. Credit shall be allowed at a maximum of 4 contact hours per reporting period and shall be valid for the initial presentation only.~~

~~(5) Completion of college or university credit courses dealing with interior design related subjects. Each semester hour shall equal 15 contact hours. A quarter hour shall equal 10 contact hours. There is no limit to hours claimed for this activity.~~

~~a. Completion of any program or course sponsored by a professional or technical organization or industry source.~~

~~b. Instruction of a course, seminar, lecture, presentation, workshop or similar formal educational program. Credit shall be allowed at a maximum of 3 preparation hours for each class hour spent for actual presentation, valid for the initial presentation only. College and university faculty may not claim contact or preparation credit for teaching regular curriculum courses.~~

~~c. Research that is formally presented to the profession or public. Credit shall be allowed at a maximum of 4 contact hours per reporting period and shall be valid for the initial presentation only.~~

~~d. Completion of college or university credit courses dealing with interior design-related subjects. Each semester hour shall equal 15 contact hours. A quarter hour shall equal 10 contact hours.~~

~~3.2(5) Approved continuing education. The board does not preapprove continuing education activities or courses; however, in general, activities and courses in acceptable HSW subjects are considered to include, but are not limited to, that enhance the health, safety, and well-being of the public include the following topics:~~

~~a. Life safety, ADA, and other building and safety codes, standards and administrative regulations governing the practice of interior design.~~

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

- ~~b. Safety and security issues (e.g., exit design, fall prevention design, crime prevention design, etc.).~~
- c. Physical and mental health issues.
- d. Topics that relate to human physiology, perception, anthropometrics, ergonomics, psychology, sociology, ecology and cultural factors.
- e. Energy efficiency.
- f. Environmental issues.
- g. Accessibility and universal design.
- h. Materials and methods.
- i. Building systems.
- j. Statutes and rules relating to interior design regulation.
- k. Professional ethics.
- l. Legal aspects of professional practice.
- m. Construction documents and services.
- n. Project administration.

ITEM 7. Amend rule 193G—3.3(17A,272C,544C) as follows:

193G—3.3(17A,272C,544C) Controls and reporting.

3.3(1) An applicant for registration renewal may be requested to provide, in such manner and at such time as prescribed by the board, a signed statement, under penalty of perjury, on forms provided by the board, setting forth the continuing education in which the registrant has participated.

a. When an applicant is requested to provide a listing of the continuing education completed for structured activities, the information shall include:

- (1) School, firm or organization conducting the course.
- (2) Location of course.
- (3) Title of course or description of content.
- (4) Principal instructor.
- (5) Dates attended.
- (6) Hours claimed.

b. ~~Proof of participation in a nonstructured activity shall include:~~

- ~~(1) Activity claimed.~~
- ~~(2) Names of other individuals (if any) who participated.~~
- ~~(3) Date attended.~~
- ~~(4) Duration of activity.~~
- ~~(5) Location of activity.~~
- ~~(6) Written summary of the experience and learning outcomes.~~
- ~~(7) Signed statement that the activity was not part of the individual's routine professional responsibilities.~~

~~responsibilities.~~

~~3.3(2) The board may require sponsors of courses to furnish an attendance list or any other information the board deems essential for administration of these continuing education rules.~~

~~3.3(3) 3.3(2)~~ The board will verify, on a random basis, information submitted by registrants. If an application for renewal is not approved, the applicant will be so notified and may be granted a period of time by the board in which to correct the deficiencies noted.

~~3.3(4) 3.3(3)~~ Primary responsibility for documenting the requirements rests with the registrant, and evidence to support fulfillment of those requirements must be retained for a period of five years subsequent to submission of the report claiming the credit. Satisfaction of the requirements, including retention of attendance records and written outlines, may be accomplished as follows:

a. For courses taken for scholastic credit at accredited universities and colleges, evidence of satisfactory completion of the course is sufficient; for noncredit courses taken, a statement of the hours of attendance, signed by the instructor, must be obtained by the registrant.

b. For correspondence courses and formal independent study courses, written evidence or a certificate of completion from the sponsor or course provider shall be obtained by the registrant.

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

c. In all other instances, the registrant must maintain a record of the information listed in ~~subrule 3.3(1), paragraph “a,”~~ paragraph 3.3(1)“a” and a copy of the course outline prepared by the course sponsor.

3.3(4) The registrant is responsible for maintaining verification of claimed credit for a minimum of five years subsequent to submission of the report to the board office. Acceptable verification may be presented with a course completion certificate or a college transcript.

ITEM 8. Amend rule 193G—3.4(17A,544C) as follows:

193G—3.4(17A,544C) Hearings. If the board disallows any continuing education hours, the registrant shall have 60 days from notice of such disallowance to either provide further evidence of having completed the continuing education hours disallowed or remedy the disallowance by completing the required number of continuing education hours (provided that such continuing education hours shall not again be used for the next renewal). In the event of denial, in whole or in part, of any application for approval of credit for continuing education activity, the registrant shall have the right, within 20 days after the date of notification of the denial by mail, to request a hearing by the board. The hearing shall be held within 60 days after receipt of the request for the hearing. The decision of the board shall be final. If the board finds, after proper notice and hearing, that the registrant willfully disregarded the continuing education requirements set forth in this chapter or falsified documentation of the required continuing education hours, the registrant may be subject to disciplinary action.

ITEM 9. Rescind rule 193G—3.5(17A,544C) and adopt the following **new** rule in lieu thereof:

193G—3.5(17A,544C) Exemptions.

3.5(1) As provided in Iowa Code section 272C.2(4), a registered interior designer shall be deemed to have complied with the continuing education requirements set forth in this chapter if during the continuing education compliance period the registrant:

- a. Has served honorably on active duty in the military service; or
- b. Is a resident of another state or district having a continuing education requirement for registered interior design and has complied with all requirements of that state or district for practice therein; or
- c. Is a government employee working as a registered interior designer outside the United States.

3.5(2) The board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. See 193—Chapter 5.

ITEM 10. Rescind rule **193G—3.6(17A,544C)**.

ITEM 11. Renumber rule **193G—3.7(17A,544C)** as **193G—3.6(17A,544C)**.

ITEM 12. Rescind and reserve **193G—Chapter 8**.

ARC 2802C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 481A.39, 481A.67 as amended by 2016 Iowa Acts, House File 2357, and 482.1, the Natural Resource Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 86, “Turtles,” Iowa Administrative Code.

2016 Iowa Acts, House File 2357 (HF 2357), signed by Governor Branstad on March 23, 2016, specifically instructs the Commission to adopt rules establishing commercial and recreational seasons

NATURAL RESOURCE COMMISSION[571](cont'd)

and daily catch limits on turtles. Iowa law requires the Commission, in partnership with the Department of Natural Resources (DNR), to manage the state's turtle population for posterity.

Many surrounding Midwest states have determined their turtle populations can only be sustainably managed by entirely closing commercial harvest (e.g., North Dakota, South Dakota, Nebraska, Kansas, Illinois, and Indiana). The Commission considered this approach. However, as an interim measure and pending the results of HF 2357's five-year study, the Commission has instead determined that commercial and recreational harvest can continue so long as egg-laying females are protected during most of their nesting season and with restrictive daily catch and possession limits. The proposed amendments are structured accordingly.

Nothing in this proposed rule making shall apply to aquaculture operations already regulated pursuant to Iowa Code sections 481A.141 to 481A.145 or 571—Chapter 89. In addition, the proposed rule making does not implement any requirements that may be imposed on commercial harvesters and buyers by the U.S. Department of State or U.S. Fish and Wildlife Service due to the proposed inclusion of wild spiny softshell, smooth softshell, and common snapping turtles in Appendix 3 of the Convention on the International Trade of Endangered Species (CITES).

Although the Commission does not anticipate a significant change in the number of licensed turtle harvesters, buyers, or helpers due to this proposed rule making (or in the sale of recreational fishing licenses generally), there is the possibility of a negative impact on the commercial turtle harvest industry. There may be a loss of jobs and individual harvesters may experience a reduction in income because there will be fewer days to harvest turtles under the proposed season. In the proposed rule making, the Commission has attempted to mitigate any job or income loss, while still setting seasons and daily catch limits as required by HF 2357. The Commission is proposing these amendments to protect Iowa's wild turtle population, held in trust for the public, for posterity; this in turn will ensure the long-term sustainability of Iowa's commercial turtle harvest industry and protect jobs related to it into the future.

Any person may submit written suggestions or comments on the proposed amendments through November 29, 2016. Such written material should be submitted to Martin Konrad, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; by fax to (515)725-8201; or by e-mail to Martin.Konrad@dnr.iowa.gov. Persons who have questions may contact Martin Konrad by e-mail or at (515)725-8447.

Public hearings where persons may present their views orally or in writing will be held November 29, 2016, at 3 p.m. at Marr Park Conservation Education Center, 2943 Hwy. 92, Ainsworth, Iowa; at 5 p.m. in the Wallace State Office Bldg. Auditorium, 502 E. 9th Street, Des Moines, Iowa; and at 7 p.m. at the Lost Island Nature Center – Palo Alto County Conservation, 3267 350th St., Ruthven, Iowa. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subjects of the proposed amendments. Persons are also encouraged to submit a written copy of their remarks.

Any person who intends to attend a public hearing and has special requirements, such as those related to mobility or hearing impairments, should contact the DNR to advise of any specific needs.

These amendments are intended to implement Iowa Code sections 481A.39, 481A.67 as amended by 2016 Iowa Acts, House File 2357, 482.1, 482.4, and 482.11.

The following amendments are proposed.

ITEM 1. Amend subrule 86.1(1) as follows:

86.1(1) ~~Permissive—catch~~ *Species and season.* It shall be lawful to commercially and noncommercially (recreationally) take common snapping turtles, softshells, spiny softshell (*Apalone spinifera*), smooth softshell (*Apalone mutica*), and painted (*Chrysemys picta*) turtles from July 16 to May 14. Common snapping turtles (*Chelydra serpentina*) may be taken commercially from July 16 to May 14, but may be taken recreationally year-round. ~~Possession of alligator snapping turtles is not permitted.~~ The taking of turtle eggs from wild nests is prohibited. Turtles shall not be harvested from gear set prior to midnight on July 15.

ITEM 2. Rescind subrule 86.1(3) and adopt the following **new** subrule in lieu thereof:

86.1(3) *Daily catch and possession limits.*

NATURAL RESOURCE COMMISSION[571](cont'd)

a. The following daily catch limits apply to commercial and recreational harvesters, while the possession limits apply only to commercial harvesters:

Turtle Species	Daily Catch Limit (commercial and recreational)	Possession Limit (commercial only)
Common snapping turtle	4	20
Spiny softshell and smooth softshell turtle, in aggregate	1	5
Painted turtle	1	5

b. The possession limit for recreational harvesters is a maximum of 100 pounds of live turtles or 50 pounds of dressed turtles pursuant to Iowa Code section 483A.28. A recreational harvester's daily catch limit shall not exceed this possession limit.

ITEM 3. Rescind subrule 86.1(4) and adopt the following **new** subrule in lieu thereof:

86.1(4) Culling. It is unlawful to sort, cull, high-grade, or otherwise replace any turtle in possession.

ITEM 4. Renumber subrule **86.1(5)** as **86.1(7)**.

ITEM 5. Adopt the following **new** subrule 86.1(5):

86.1(5) Tags. All harvesters shall affix a weather-resistant gear tag above the waterline to each piece of gear. The gear tag must plainly show the name, address, and license number of the licensee.

ITEM 6. Adopt the following **new** subrule 86.1(6):

86.1(6) Gear attendance. All turtle traps shall be set with the top of the trap visible above the waterline at all times and shall be checked and completely emptied of catch at least once every 72 hours. When a turtle trap is checked, turtles shall either be taken into possession, up to the daily catch limit, or immediately released.

ITEM 7. Amend rule **571—86.1(481A,482)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67 as amended by 2016 Iowa Acts, House File 2357, 482.1, 482.4, and 482.11.

ARC 2801C**RACING AND GAMING COMMISSION[491]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 1, “Organization and Operation,” Chapter 4, “Contested Cases and Other Proceedings,” Chapter 5, “Track, Gambling Structure, and Excursion Gambling Boat Licensees’ Responsibilities,” Chapter 6, “Occupational and Vendor Licensing,” Chapter 10, “Thoroughbred and Quarter Horse Racing,” Chapter 11, “Gambling Games,” and Chapter 12, “Accounting and Cash Control,” Iowa Administrative Code.

Item 1 provides the current Web site address for the Commission.

Item 2 clarifies that the provisions in subrule 4.5(8) apply to all licensed facilities.

Item 3 removes a requirement for dog tracks.

Item 4 allows for the acceptance of all types of checks.

Item 5 allows for mobile pari-mutuel wagering outside the designated wagering area.

Item 6 provides the current Web site address for the Commission.

RACING AND GAMING COMMISSION[491](cont'd)

Item 7 adds a specific circumstance that is grounds for license sanction.

Item 8 excludes spouses from the partnership requirements.

Item 9 removes the abuse of discretion standard to make consistent with previous rule change.

Item 10 changes the required payments made by the horsemen's bookkeeper.

Item 11 adds a requirement to identify horses that are racing on that day.

Item 12 clarifies which horses are eligible to compete for breeders awards.

Item 13 changes number and types of claims allowed.

Item 14 removes "unsound" as a condition.

Items 15 and 16 add the definition of "independent financial institution" and amend the definition of "reserve."

Item 17 adds requirements relating to preverified cards.

Item 18 makes changes to the wide area progressive system provider requirements.

Item 19 requires changes to internal controls for preverified cards.

Any person may make written suggestions or comments on the proposed amendments on or before November 29, 2016. Written material should be directed to the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309; or irgc@iowa.gov. Persons who wish to convey their views verbally should contact the Commission office at (515)281-7352.

A public hearing will be held on November 29, 2016, at 9 a.m. in the office of the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa. Persons may present their views at the public hearing either verbally or in writing.

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

These amendments are intended to implement Iowa Code chapters 99D and 99F.

The following amendments are proposed.

ITEM 1. Amend paragraph **1.2(2)“a”** as follows:

a. The commission meets periodically throughout the year and shall meet in July of each year. Notice of a meeting is published on the commission's Web site at www.iowa.gov/irgc/ <https://irgc.iowa.gov/> at least five days in advance of the meeting or will be mailed sent to interested persons upon request. The notice shall contain the specific date, time, and place of the meeting. Agendas are available to any interested persons not less than five days in advance of the meeting.

ITEM 2. Amend subrule 4.5(8) as follows:

4.5(8) Persons who are not holders of a license or occupational license and who have allegedly violated commission rules or statute, or whose presence at a ~~track or on a riverboat~~ licensed facility is allegedly undesirable, are subject to the authority of the board and to any penalties, as set forth in rule 491—4.7(99D,99F).

ITEM 3. Amend paragraph **5.4(4)“a”** as follows:

a. During all hours of operation, each licensee shall equip and maintain adequate first-aid facilities and have, at a minimum, one employee trained in CPR, first aid, and the use of the automated external defibrillator (AED). During live racing at horse racetracks and while excursion gambling boats are cruising, the licensee shall have present either a physician, a physician assistant, a registered nurse, a licensed practical nurse, a paramedic, or an emergency medical technician.

ITEM 4. Amend subrule 5.4(9) as follows:

5.4(9) Checks. ~~The acceptance of personal checks shall be allowed; however, “counter” checks shall not be allowed.~~ All checks accepted must be deposited in a bank by the close of the banking day following acceptance.

ITEM 5. Adopt the following **new** subrule 5.5(12):

5.5(12) Mobile pari-mutuel wagering. Pari-mutuel wagering shall be allowed outside the designated wagering area using mobile pari-mutuel tellers with portable wagering devices and by any other method approved in writing by the commission.

RACING AND GAMING COMMISSION[491](cont'd)

ITEM 6. Amend subrule 6.4(2) as follows:

6.4(2) Knowledge of rules. By acceptance of a license from the commission, the licensee agrees to follow and comply with the rules of the commission and Iowa statutes pertaining to racing and gaming, to report immediately to the commission representative any known irregularities or wrongdoing involving racing or gaming and to cooperate in subsequent investigations. Commission rules are available on the commission's Web site at www.iowa.gov/irgc/ <https://irgc.iowa.gov/>.

ITEM 7. Adopt the following **new** paragraph **6.5(3)“x”**:

x. Communicating with or contacting a person who is voluntarily excluded pursuant to Iowa Code chapter 99D or 99F for gaming-related activities.

ITEM 8. Amend subrule 6.20(1) as follows:

6.20(1) A partnership is defined as a formal or informal arrangement between two or more persons to own a racing animal. All partnerships, excluding ~~husband and wife spouses~~, must be licensed with the commission on forms furnished by the commission, and in accordance with the requirements of 491—6.17(99D).

ITEM 9. Amend subparagraph **10.4(4)“d”(3)** as follows:

(3) Fouls.

1. Extent of disqualification. Upon any claim of foul submitted to them, the stewards shall determine the extent of any disqualification and place any horse found to be disqualified behind others in the race with which it interfered or may place the offending horse last in the race. The stewards at their discretion may determine if there was sufficient interference or intimidation to affect the outcome of the race and take the appropriate actions thereafter. ~~Abuse of discretion shall be the standard of review used in any appeal involving a steward's disqualification decision.~~

2. and 3. No change.

ITEM 10. Amend subparagraph **10.4(15)“d”(3)** as follows:

(3) The horsemen's bookkeeper shall disburse the purse of each race and all stakes, entrance money, and jockey fees, ~~purchase money in claiming races, and all applicable taxes~~, upon request, within 48 hours of receipt of notification that all tests with respect to such races have cleared the drug testing laboratory (commission chemist) as reported by the stewards. Minimum jockey mount fees may be disbursed prior to notification that the tests have cleared the testing laboratory.

ITEM 11. Amend subparagraph **10.5(1)“a”(2)** as follows:

(2) Preventing the administration of any drug, medication, or other prohibited substance that may cause a violation of these rules. An “in-today” sign must be placed by 8 a.m. on race day next to the stall of a horse that is scheduled to race on that day. For horses shipping in on race day, the sign must be placed upon the horse's arrival.

ITEM 12. Adopt the following **new** paragraph **10.6(2)“n”**:

n. Iowa-foaled horse. An Iowa-foaled horse may be entered in an Iowa-bred race without having its official jockey club registration papers stamped, but shall not compete in a race limited to Iowa-foaled horses unless the horse is registered with and the papers are stamped by the department of agriculture and land stewardship. An Iowa-foaled horse would be allowed to run in an open race without the stamp, but would be ineligible for Iowa-bred supplement, Iowa-bred breeders awards and Iowa-bred breeders supplement.

ITEM 13. Rescind subparagraph **10.6(18)“a”(2)** and adopt the following **new** subparagraph in lieu thereof:

(2) Number of claims.

1. An ownership entity (sole owner, partnership or limited liability partnership, racing stable, corporation or limited liability corporation, or owner/trainer acting as an owner) shall not claim more than one horse in a race, and an authorized agent or trainer acting on behalf of an ownership entity shall not submit more than two claims in a race with two separate ownership interests.

RACING AND GAMING COMMISSION[491](cont'd)

2. If an authorized agent or trainer acting on behalf of an ownership entity submits two claims in a race, the claims shall not be for the same horse.

3. A trainer shall not receive more than two horses from any claiming race.

ITEM 14. Amend subparagraph **10.6(18)“g”(3)** as follows:

(3) The stewards shall void the claim and return the horse to the original owner if:

1. The claimed horse suffers a fatality during the running of the race, dies, or is euthanized before leaving the track.

2. The commission veterinarian, during the veterinarian's observation of the horse coming off the track or upon its arrival to the test barn, determines the horse will be placed on the veterinarian's list as ~~unsound~~ or lame. The stewards shall not void the claim if, prior to the race in which the horse is claimed, the claimant elects to claim the horse regardless of whether the commission veterinarian determines the horse will be placed on the veterinarian's list as ~~unsound~~ or lame. An election made under this rule shall be entered on the claim form.

3. The race is called off, canceled, or declared no contest.

ITEM 15. Adopt the following new definition of “Independent financial institution” in rule **491—11.1(99F)**:

“*Independent financial institution*” means a bank approved to do business in the state of Iowa or an insurance company admitted to transact insurance in the state of Iowa with an A.M. Best insurance rating of “A” or other equivalent rating.

ITEM 16. Amend rule **491—11.1(99F)**, definition of “Reserve,” as follows:

“*Reserve*” means an account with an independent financial institution or brokerage firm consisting of cash, ~~and~~ qualified investments, or other secure funding method approved by the administrator used to satisfy periodic payments of prizes.

ITEM 17. Adopt the following new subrule 11.7(9):

11.7(9) Preverified cards. Cards that are verified prior to arrival at the facility may be approved by the administrator for use in table games authorized by this rule. Preverified cards may be shuffled or sequenced according to the licensee's specifications. Each manufacturer of preverified cards shall request approval of its cards, pursuant to subrule 11.4(1), and is subject to the following additional requirements:

a. Each device used to verify or automate the randomization of the cards before they are shipped to a licensee shall be certified by a commission-designated independent testing facility.

b. The manufacturer shall develop and submit to the administrator a process for producing, shuffling, and packaging preverified cards that includes the following:

(1) A visual inspection of the back of each card, ensuring the cards are not flawed or marked in any way that might compromise the integrity of the gambling game.

(2) A verification that each package of cards contains the correct number of suits and cards in accordance with the commission-approved rules of the game for the game with which the package of cards is intended for use.

(3) Insertion of the cards in a package with a tamper-evident seal that bears conspicuous indication if the package has been opened. The exterior of the package shall indicate:

1. The total number of decks contained within the package.

2. The commission-authorized game with which the cards are intended for use.

3. The color of the cards within the package.

(4) Generation of a receipt in the package or a label on the sealed package to include the following information:

1. The total number of cards and decks contained within the package.

2. The date and time the cards were shuffled, verified and packaged.

3. Information sufficient to determine the specific details regarding any persons or devices involved in the production, verification or packaging of the cards.

ITEM 18. Rescind paragraph **11.12(8)“j”** and adopt the following new paragraph in lieu thereof:

j. The provider shall comply with the following:

RACING AND GAMING COMMISSION[491](cont'd)

(1) A reserve shall be established and maintained by the provider in an amount of not less than the sum of the following amounts:

1. The present value of the amount currently reflected on the jackpot meters of the multilink.
2. The present value of one additional reset (start amount) of the multilink.

(2) For system jackpots disbursed in periodic payments, a provider shall fund the periodic payments within 90 days of the notice of the jackpot award with:

1. Purchase of a qualified investment. A copy of such qualified investment shall be provided to the administrator within 30 days of purchase. Any qualified investment shall have a surrender value at maturity, excluding any interest paid before the maturity date, equal to or greater than the value of the corresponding periodic jackpot payment and shall have a maturity date prior to the date the periodic jackpot payment is required to be made; or

2. An irrevocable surety bond or an irrevocable letter of credit with an independent financial institution which provides periodic payments to a winner should the establishment default for any reason. The written agreement establishing an irrevocable surety bond or irrevocable letter of credit shall be submitted to the administrator within 30 days of purchase; or

3. An irrevocable trust with an independent financial institution in accordance with a written trust agreement approved by the administrator which provides periodic payments from an unallocated pool of assets to a group of winners and which shall expressly prohibit the winner from encumbering, assigning or otherwise transferring in any way the winner's right to receive the deferred portion of the winnings except to the winner's estate. The assets of the trust shall consist of federal government securities including but not limited to treasury bills, treasury bonds, savings bonds or other federally guaranteed securities in an amount sufficient to meet the periodic payments as required; or

4. Another irrevocable method of providing the periodic payments to a winning player consistent with the purpose of this subparagraph, and which is approved by the administrator prior to implementation.

(3) The provider shall not be permitted to sell, trade, or otherwise dispose of any periodic payment funding unless approval to do so is first obtained from the administrator.

(4) Upon becoming aware of an event of noncompliance with the terms of the reserve requirement mandated by subparagraph 11.12(8)“j”(1) above, or in the event of nonpayment of a periodic payment directly by the provider, the provider must immediately notify the administrator. An event of noncompliance includes a nonpayment of a jackpot periodic payment or a circumstance which may cause the provider to be unable to fulfill, or which may otherwise impair the provider's ability to satisfy, the provider's jackpot payment obligations.

(5) On a quarterly basis, the provider must deliver to the administrator a calculation of system reserves required under subparagraph 11.12(8)“j”(1) above. 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.

(6) On an annual basis, the provider must deliver to the administrator updated information sufficient to determine compliance with the funding requirements of all outstanding periodic payments. This shall include an updated listing of all winners showing outstanding periodic payment amounts and any updates to funding documents and agreements. The updated information shall come with a certification of compliance signed by a duly authorized financial officer of the provider.

(7) The reserve required under subparagraph 11.12(8)“j”(1) must be examined by an independent certified public accountant according to procedures approved by the administrator. Two copies of the report must be submitted to the administrator within 90 days after the conclusion of the provider's fiscal year.

(8) The administrator may require additional information or audits at any time to ensure compliance with this paragraph.

ITEM 19. Adopt the following **new** paragraph **12.3(1)“g”**:

g. Preverified card control, for use with cards approved pursuant to 491—subrule 11.7(9). Controls shall be designed to document:

RACING AND GAMING COMMISSION[491](cont'd)

- (1) The procedure governing inspection of the packaging when the cards are put into use on a live table game, including verification of the tamper-evident seal and review of the manufacturer-generated receipt for relevant details.
- (2) The procedure for employee breaking of the tamper-evident seal to sign the receipt with name, time the package is being placed in use, and specific table where the package is being used.
- (3) The procedure to retain the receipt and the details of use.
- (4) Any additional procedures that will be used to verify or randomize preverified cards prior to play.

ARC 2806C**REVENUE DEPARTMENT[701]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 422.68 and Iowa Code section 404A.6 as amended by 2016 Iowa Acts, House File 2443, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, “Adjustments to Computed Tax and Credits,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” and Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

The proposed amendments are necessary to implement the changes to the Historic Preservation and Cultural and Entertainment District Tax Credit Program that resulted from 2016 Iowa Acts, House File 2443. House File 2443 transferred primary responsibility for administration of the Program for all projects registered on or after August 15, 2016, from the Department of Cultural Affairs to the Economic Development Authority. House File 2443 also retroactively made the tax credit refundable in the hands of a transferee and provided a five-year carryforward period for nonrefundable tax credits.

These proposed amendments reflect those changes. The proposed amendments also implement additional changes in response to program user feedback and questions. In response to feedback, the proposed amendments provide more detail on the parameters for transferring tax credits and update the rules on when a taxpayer may claim the tax credit to provide more flexibility to program users. For proposed rules related to the historic preservation and cultural and entertainment district tax credits and other related information, see Economic Development Authority Notice of Intended Action **ARC 2774C** (IAB 10/12/16).

Interested persons may make written comments on the proposed amendments on or before November 29, 2016. Written comments on the proposed amendments should be directed by mail to Alana Stamas, Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457; or by e-mail to alana.stamas@iowa.gov. Persons who wish to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue by telephone at (515)725-2265 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

A public hearing will be held on December 1, 2016, at 9:30 a.m. in the Wallace State Office Building Auditorium at 502 East Ninth Street, Des Moines, Iowa.

These rules do not have a fiscal impact in and of themselves; however, 2016 Iowa Acts, House File 2443, which these rules implement, does. The fiscal note for House File 2443 indicated that the cost of the amendments which make the tax credit refundable to transferees will negatively impact the State General Fund but did not specify a dollar amount for that negative impact. The fiscal note also indicated that modifications to the tax credit award, claim, and transfer administration system will have a fiscal

REVENUE DEPARTMENT[701](cont'd)

impact of \$20,000 to \$475,000 but 2016 Iowa Acts, House File 2443, Section 33, requires that the Program's administrative fees be used to cover the cost of those modifications.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

These amendments have no known impact on jobs.

These amendments are intended to implement Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443.

The following amendments are proposed.

ITEM 1. Amend rule 701—42.54(404A,422) as follows:

701—42.54(404A,422) Historic preservation and cultural and entertainment district tax credit for projects with ~~Part 2 applications approved registered on or after July 1, 2014, and agreements entered into on or after July 1, 2014 and before August 15, 2016.~~ The For projects registered before August 15, 2016, the department of cultural affairs is authorized by the general assembly to award tax credits for a percentage of the qualified rehabilitation expenditures on a qualified rehabilitation project as described in the historic preservation and cultural and entertainment district tax credit program, Iowa Code chapter 404A. The program is administered by the department of cultural affairs with the assistance of the department of revenue. The general assembly has mandated that the department of cultural affairs and the department of revenue adopt rules to jointly administer Iowa Code chapter 404A. In general, the department of cultural affairs is responsible for evaluating whether projects comply with the prescribed standards for rehabilitation while the department of revenue is responsible for evaluating whether projects comply with the tax aspects of the program.

2014 Iowa Acts, House File 2453, amended the historic preservation and cultural and entertainment district tax credit program effective July 1, 2014. The department of revenue's provisions for projects with Part 2 applications approved and tax credits reserved prior to July 1, 2014, are found in rule 701—42.19(404A,422). The department of revenue's provisions for projects ~~with Part 2 applications approved registered on or after July 1, 2014, and with agreements entered into on or after July 1, 2014 and before August 15, 2016,~~ are found in this rule. The department of cultural affairs' rules related to this program may be found at 223—Chapter 48. ~~Division I of 223—Chapter 48 applies to projects with tax credit reservations approved prior to July 1, 2014. Division II of 223—Chapter 48 applies to projects with Part 2 applications approved on or after July 1, 2014, and agreements entered into on or after July 1, 2014.~~

2016 Iowa Acts, House File 2443, amended the program and transferred primary responsibility for its administration to the economic development authority effective August 15, 2016. Effective August 15, 2016, the program is administered by the economic development authority with the assistance of the department of cultural affairs and the department of revenue. The department of revenue's provisions for projects registered on or after August 15, 2016, are found in rule 701—42.55(404A,422). The economic development authority's rules related to the program may be found at 261—Chapter 49. When adopted, the department of cultural affairs' rules related to the program will be found in 223—Chapter 48.

Notwithstanding anything contained herein to the contrary, the department of cultural affairs shall not reserve tax credits under 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1, for applicants that do not have an approved Part 2 application and a tax credit reservation on or before June 30, 2014. Projects with approved Part 2 applications and provisional tax credit reservations on or before June 30, 2014, shall be governed by 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1; by 223—Chapter 48, Division I; and by rule 701—42.19(404A,422). ~~Projects for which Part 2 applications were approved and agreements entered into registered on or after June 30 July 1, 2014, but before August 15, 2016, shall be governed by 2014 Iowa Code chapter 404A as amended by 2014 Iowa Acts, House File 2453; by 223—Chapter 48, Division II; and by this rule. Projects registered on or after August 15, 2016, shall be governed by 2016 Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443; by 261—Chapter 49; and by rule 701—42.55(404A,422).~~

42.54(1) to 42.54(3) No change.

REVENUE DEPARTMENT[701](cont'd)

42.54(4) *Completion of the qualified rehabilitation project and claiming the tax credit on the Iowa return.* After the taxpayer completes a qualified rehabilitation project, the taxpayer will be issued a certificate of completion of the project from the department of cultural affairs if the project complies with the federal standards, as defined in rule 223—48.22(404A). After the department of cultural affairs and the department of revenue verify the taxpayer's eligibility for the tax credit, the department of cultural affairs shall issue a tax credit certificate.

a. Claiming the credit. For the taxpayer to claim the credit, the certificate must be included with the taxpayer's income tax return for the tax year in which the rehabilitation project is completed or ~~the year in which the certificate is issued, whichever is later~~ the income tax return for any tax year within the five years following the tax year of project completion. Taxpayers that elect to delay claiming the credit to a later tax year return as described in this paragraph are subject to the carryforward limitations described in paragraph 42.54(4) "d" below. The credit may be claimed on an amended return so long as the amended return is filed within the statute of limitations applicable to the tax year for which the amended tax return is being filed.

~~*a. b. Information required.*~~ *b. Information required.* The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, ~~and~~ the amount of the historic preservation and cultural and entertainment district tax credit, and, if applicable, an indication of whether the credit is nonrefundable (see paragraph 42.54(4) "c" below). In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.54(5). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, and the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary shall be provided with the certificate. ~~The tax credit certificate shall be included with the income tax return for the period in which the project was completed or in which the certificate is issued, whichever is later.~~

~~*b. c. Refund or carryforward Refundability.*~~ *c. Refund or carryforward Refundability.* ~~Any~~ A historic preservation and cultural and entertainment district tax credit in excess of the taxpayer's tax liability is fully refundable with interest computed under Iowa Code section 422.25. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year. To receive a refundable credit, the taxpayer must elect to receive the credit as refundable at the Part 3 stage of the application process administered by the department of cultural affairs. Once the taxpayer elects to receive a nonrefundable credit, the taxpayer cannot elect to change the credit to a refundable credit or vice versa. See department of cultural affairs' 223—Chapter 48. If the taxpayer is a transferee, the taxpayer may elect to receive the credit as refundable or nonrefundable when the taxpayer applies to the department of revenue for transfer of the tax credit as described in subrule 42.54(5).

d. Carryforward. If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 42.54(4) "b," the amount in excess of the taxpayer's tax liability may be carried forward for five years following the tax year in which the project is completed, or until it is depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer is first eligible to claim the credit. Regardless of whether the taxpayer elects to claim the tax credit on a tax return for a year that is later than the year of project completion as described in paragraph 42.54(4) "a," the taxpayer must utilize the entire credit within five years following the tax year of the project completion as described in this paragraph; any credit amount that is not utilized within the five-year carryforward period is forfeited. The five-year carryforward limitation does not apply if the taxpayer elects to receive a refundable credit, the excess of which may be credited to future tax years as an overpayment.

e. e. Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity or beneficiaries of an estate or trust. A partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro rata share of earnings of the partnership, limited liability company or S corporation. For an individual claiming a tax credit

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of an estate or trust, the amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the estate or trust.

42.54(5) *Transfer of the historic preservation and cultural and entertainment district tax credit.* The historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, for any tax year the original transferor could have claimed the tax credit. ~~Any credit in excess of the transferee's tax liability is not refundable.~~ Transferees must elect to receive either a refundable or nonrefundable tax credit. Once the transferee elects to receive a nonrefundable credit, the transferee cannot elect to change the credit to a refundable credit or vice versa. A tax credit certificate of less than \$1,000 shall not be transferable.

a. Transfer process—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement that contains the transferee's name, address and tax identification number, the amount of the tax credit being transferred, an election to receive either a refundable or nonrefundable tax credit, and the amount of all consideration provided in exchange for the tax credit and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the tax credit transferee shall describe the nature of the nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The tax credit transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The certificate must have the same information required for the original tax certificate and must have the same expiration date as the original tax credit certificate. The transferee may not claim a tax credit until a replacement certificate identifying the transferee as the proper holder has been issued.

b. Consideration. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

c. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than \$1,000.

d. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in paragraph 42.54(4) "d" shall apply.

42.54(6) No change.

This rule is intended to implement Iowa Code chapter 404A as amended by 2014 2016 Iowa Acts, House File 2453 2443, and Iowa Code section 422.11D.

ITEM 2. Adopt the following **new** rule 701—42.55(404A,422):

701—42.55(404A,422) Historic preservation and cultural and entertainment district tax credit for projects registered on or after August 15, 2016. The economic development authority is authorized by the general assembly to award tax credits for a percentage of the qualified rehabilitation expenditures on

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a qualified rehabilitation project as described in the historic preservation and cultural and entertainment district tax credit program, Iowa Code chapter 404A. The program is administered by the economic development authority with the assistance of the department of cultural affairs and the department of revenue. The general assembly has mandated that the economic development authority, the department of cultural affairs and the department of revenue adopt rules as necessary to administer Iowa Code chapter 404A. In general, the department of revenue is responsible for administering tax credit transfers and processing and auditing tax credits claimed on returns. For the economic development authority's rules on the credit program, see 261—Chapter 49. For the department of cultural affairs' rules on the credit program, see 223—Chapter 48.

42.55(1) Program transition. 2016 Iowa Acts, House File 2443, made several changes to the credit program, including transferring primary responsibility for the program's administration from the department of cultural affairs to the economic development authority. Projects registered prior to August 15, 2016, remain under the purview of the department of cultural affairs, with assistance from the department of revenue. For department of revenue rules related to projects registered prior to August 15, 2016, see rules 701—42.54(404A,422) and 701—42.19(404A,422).

42.55(2) Application, registration, and agreement for the historic preservation and cultural and entertainment district tax credit. For rules on the application, registration, and agreement process, see economic development authority rules, 261—Chapter 49.

42.55(3) Computation of the amount of the historic preservation and cultural and entertainment district tax credit. The amount of the historic preservation and cultural and entertainment district tax credit is a maximum of 25 percent of the qualified rehabilitation expenditures verified by the economic development authority following project completion, up to the amount specified in the agreement between the taxpayer and the economic development authority. For more information on the credit computation, see economic development authority rules, 261—Chapter 49. The amount remains subject to audit by the department of revenue when the credit is claimed on the taxpayer's tax return.

42.55(4) Qualified rehabilitation expenditures. "Qualified rehabilitation expenditures" means the same as defined in Iowa Code section 404A.1(6) and rule 261—49.5(404A) of economic development authority rules. In the event of an audit, the department of revenue evaluates whether expenditures comply with the agreement between the economic development authority and the eligible taxpayer, as well as with applicable statutes and rules, including Internal Revenue Code Section 47 and its related regulations.

42.55(5) Completion of the qualified rehabilitation project and claiming the tax credit. After the economic development authority verifies the taxpayer's eligibility for the tax credit, the economic development authority shall issue a tax credit certificate. For more information on credit certificate issuance, see economic development authority rules, 261—Chapter 49.

a. Claiming the credit. For the taxpayer to claim the credit, the certificate must be included with the taxpayer's income tax return for the tax year in which the rehabilitation project is completed or the income tax return for any year within the five years following the year of project completion. Taxpayers that elect to delay claiming the credit to a later year's return as described in this paragraph are subject to the carryforward limitations described in paragraph 42.55(5) "d" below. The credit may be claimed on an amended return so long as the amended return is filed within the statute of limitations applicable to the tax year for which the amended tax return is being filed.

b. Information required. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, the amount of the historic preservation and cultural and entertainment district tax credit, and, if applicable, an indication of whether the credit is nonrefundable (see paragraph 42.55(5) "c" below). In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.55(6). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, and the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary shall be provided with the certificate.

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c. Refundability. A historic preservation and cultural and entertainment district tax credit in excess of the taxpayer's tax liability is fully refundable with interest computed under Iowa Code section 422.25. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year. To receive a refundable credit, the taxpayer must elect to receive the credit as refundable at the Part 3 stage of the application process administered by the economic development authority. See the economic development authority's rule 261—49.15(404A). Once the taxpayer elects to receive a nonrefundable credit, the taxpayer cannot elect to change the credit to a refundable credit or vice versa. If the taxpayer is a transferee, the taxpayer may elect to receive the credit as refundable when the taxpayer applies to the department of revenue for transfer of the tax credit as described in subrule 42.55(6).

d. Carryforward. If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 42.55(5)“b,” the amount in excess of the taxpayer's tax liability may be carried forward for five years following the tax year in which the project is completed, or until it is depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer is first eligible to claim the credit. Regardless of whether the taxpayer elects to claim the tax credit on a tax return for a year that is later than the year of project completion as described in paragraph 42.55(5)“a,” the taxpayer must utilize the entire credit within five years following the tax year of the project completion as described in this paragraph; any credit amount that is not utilized within the five-year carryforward period is forfeited. The five-year carryforward limitation does not apply if the taxpayer elects to receive a refundable credit, the excess of which may be credited to future tax years as an overpayment.

e. Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity or beneficiaries of an estate or trust. A partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro rata share of earnings of the partnership, limited liability company or S corporation. For an individual claiming a tax credit of an estate or trust, the amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the estate or trust.

42.55(6) Transfer of the historic preservation and cultural and entertainment district tax credit. The historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, for any tax year that the original transferor could have claimed the tax credit. Transferees must elect to receive either a refundable or nonrefundable tax credit. Once the transferee elects to receive a nonrefundable credit, the transferee cannot elect to change the credit to a refundable credit or vice versa. A tax credit certificate of less than \$1,000 shall not be transferable.

a. Transfer process—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement that contains the transferee's name, address and tax identification number, the amount of the tax credit being transferred, an election to receive either a refundable or nonrefundable tax credit, and the amount of all consideration provided in exchange for the tax credit and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the tax credit transferee shall describe the nature of the nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The tax credit transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners,

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members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The certificate must have the same information required for the original tax credit certificate and must have the same expiration date as the original tax credit certificate. The transferee may not claim a tax credit until a replacement certificate identifying the transferee as the proper holder has been issued.

b. Consideration. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

c. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than \$1,000.

d. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in paragraph 42.55(4) “d” shall apply.

42.55(7) Appeals. Challenges to an action by the department of revenue related to tax credit transfers, the claiming of tax credits, tax credit revocation, or repayment or recovery of tax credits must be brought pursuant to 701—Chapter 7.

This rule is intended to implement Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443, and Iowa Code section 422.11D.

ITEM 3. Amend rule 701—52.47(404A,422) as follows:

701—52.47(404A,422) Historic preservation and cultural and entertainment district tax credit for projects with ~~Part 2 applications approved~~ registered on or after July 1, 2014, and agreements entered into on or after July 1, 2014 and before August 15, 2016. ~~The~~ For projects registered before August 15, 2016, the department of cultural affairs is authorized by the general assembly to award tax credits for a percentage of the qualified rehabilitation expenditures on a qualified rehabilitation project as described in the historic preservation and cultural and entertainment district tax credit program, Iowa Code chapter 404A. The program is administered by the department of cultural affairs with the assistance of the department of revenue. The general assembly has mandated that the department of cultural affairs and the department of revenue adopt rules to jointly administer Iowa Code chapter 404A. In general, the department of cultural affairs is responsible for evaluating whether projects comply with the prescribed standards for rehabilitation while the department of revenue is responsible for evaluating whether projects comply with the tax aspects of the program.

2014 Iowa Acts, House File 2453, amended the historic preservation and cultural and entertainment district tax credit program effective July 1, 2014. The department of revenue’s provisions for projects with Part 2 applications approved and tax credits reserved prior to July 1, 2014, are found in rule 701—52.18(404A,422). The department of revenue’s provisions for projects ~~with Part 2 applications approved~~ registered on or after July 1, 2014, and with agreements entered into on or after July 1, 2014 and before August 15, 2016, are found in this rule. The department of cultural affairs’ rules related to this program may be found at 223—Chapter 48. ~~Division I of 223—Chapter 48 applies to projects with reservations approved prior to July 1, 2014. Division II of 223—Chapter 48 applies to projects with Part 2 applications approved on or after July 1, 2014, and agreements entered into on or after July 1, 2014.~~

2016 Iowa Acts, House File 2443, amended the program and transferred primary responsibility for its administration to the economic development authority effective August 15, 2016. Effective August 15, 2016, the program is administered by the economic development authority with the assistance of the department of cultural affairs and the department of revenue. The department of revenue’s provisions for projects registered on or after August 15, 2016, are found in rule 701—52.48(404A,422). The economic development authority’s rules related to the program may be found at 261—Chapter 49. When adopted, the department of cultural affairs’ rules related to the program will be found in 223—Chapter 48.

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Notwithstanding anything contained herein to the contrary, the department of cultural affairs shall not reserve tax credits under 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1, for applicants that do not have an approved Part 2 application and a tax credit reservation on or before June 30, 2014. Projects with approved Part 2 applications and provisional tax credit reservations on or before June 30, 2014, shall be governed by 2013 Iowa Code chapter 404A as amended by 2013 Iowa Acts, chapter 112, section 1; by 223—Chapter 48, Division I; and by rule 701—52.18(404A,422). ~~Projects for which Part 2 applications were approved and agreements entered into registered on or after June 30 July 1, 2014, but before August 15, 2016, shall be governed by 2014 Iowa Acts, House File 2453; by 223—Chapter 48, Division II; and by this rule. Projects registered on or after August 15, 2016, shall be governed by 2016 Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443; by 261—Chapter 49; and by rule 701—52.48(404A,422).~~

52.47(1) to 52.47(3) No change.

52.47(4) *Completion of the qualified rehabilitation project and claiming the tax credit on the Iowa return.* After the taxpayer completes a qualified rehabilitation project, the taxpayer will be issued a certificate of completion of the project from the department of cultural affairs if the project complies with the federal standards, as defined in rule 223—48.22(404A). After the department of cultural affairs and the department of revenue verify the taxpayer's eligibility for the tax credit, the department of cultural affairs shall issue a tax credit certificate.

a. Claiming the credit. For the taxpayer to claim the credit, the certificate must be included with the taxpayer's corporation income tax return for the tax year in which the rehabilitation project is completed ~~or the year in which the certificate is issued, whichever is later~~ the corporation income tax return for any tax year within the five years following the tax year of project completion. Taxpayers that elect to delay claiming the credit to a later tax year return as described in this paragraph are subject to the carryforward limitations described in paragraph 52.47(4) "d" below. The credit may be claimed on an amended return so long as the amended return is filed within the statute of limitations applicable to the tax year for which the amended return is being filed.

~~*a. b. Information required.*~~ The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, ~~and~~ the amount of the historic preservation and cultural and entertainment district tax credit, and, if applicable, an indication of whether the credit is nonrefundable (see paragraph 52.47(4) "c" below). In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 52.47(5). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, and the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary shall be provided with the certificate. ~~The tax credit certificate shall be included with the income tax return for the period in which the project was completed or in which the certificate is issued, whichever is later.~~

~~*b. c. Refund or carryforward Refundability.*~~ Any A historic preservation and cultural and entertainment district tax credit in excess of the taxpayer's tax liability is fully refundable with interest computed under Iowa Code section 422.25. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year. To receive a refundable credit, the taxpayer must elect to receive the credit as refundable at the Part 3 stage of the application process administered by the department of cultural affairs. See department of cultural affairs' 223—Chapter 48. Once the taxpayer elects to receive a nonrefundable credit, the taxpayer cannot select to change the credit to a refundable credit or vice versa. If the taxpayer is a transferee, the taxpayer may elect to receive the credit as refundable or nonrefundable when the taxpayer applies to the department of revenue for transfer of the tax credit as described in subrule 52.47(5).

d. Carryforward. If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 52.47(4) "b," the amount in excess of the taxpayer's tax liability may be carried forward for five years following the tax year in which the project is completed, or until it is depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer is first eligible to claim the credit.

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Regardless of whether the taxpayer elects to claim the tax credit on a tax return for a year that is later than the year of project completion as described in paragraph 52.47(4) "a," the taxpayer must utilize the entire credit within five years of project completion as described in this paragraph; any credit amount that is not utilized within the five-year carryforward period is forfeited. The five-year carryforward limitation does not apply if the taxpayer elects to receive a refundable credit, the excess of which may be credited to future tax years as an overpayment.

e. e. Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity or beneficiaries of an estate or trust. A partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro rata share of earnings of the partnership, limited liability company or S corporation. For an individual claiming a tax credit of an estate or trust, the amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the estate or trust.

52.47(5) Transfer of the historic preservation and cultural and entertainment district tax credit. The historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, for any tax year the original transferor could have claimed the tax credit. ~~Any credit in excess of the transferee's tax liability is not refundable.~~ Transferees must elect to receive either a refundable or nonrefundable tax credit. Once the transferee elects to receive a nonrefundable credit, the transferee cannot elect to change the credit to a refundable credit or vice versa. A tax credit certificate of less than \$1,000 shall not be transferable.

a. Transfer process—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement that contains the transferee's name, address and tax identification number, the amount of the tax credit being transferred, an election to receive either a refundable or nonrefundable tax credit, and the amount of all consideration provided in exchange for the tax credit and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the tax credit transferee shall describe the nature of the nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The tax credit transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The certificate must have the same information required for the original tax certificate and must have the same expiration date as the original tax credit certificate. The transferee may not claim a tax credit until a replacement certificate identifying the transferee as the proper holder has been issued.

b. Consideration. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

c. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than \$1,000.

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d. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year the original transferor could have claimed the tax credit. The carryforward limitations described in paragraph 52.47(4) “d” shall apply.

52.47(6) No change.

This rule is intended to implement Iowa Code chapter 404A as amended by ~~2014~~ 2016 Iowa Acts, House File ~~2453~~ 2443, and Iowa Code section ~~422.11D~~ 422.33.

ITEM 4. Adopt the following **new** rule 701—52.48(404A,422):

701—52.48(404A,422) Historic preservation and cultural and entertainment district tax credit for projects registered on or after August 15, 2016. The economic development authority is authorized by the general assembly to award tax credits for a percentage of the qualified rehabilitation expenditures on a qualified rehabilitation project as described in the historic preservation and cultural and entertainment district tax credit program, Iowa Code chapter 404A. The program is administered by the economic development authority with the assistance of the department of cultural affairs and the department of revenue. The general assembly has mandated that the economic development authority, the department of cultural affairs and the department of revenue adopt rules as necessary to administer Iowa Code chapter 404A. In general, the department of revenue is responsible for administering tax credit transfers and processing and auditing tax returns that include tax credits claimed on returns. For the economic development authority’s rules on the credit program, see 261—Chapter 49. For the department of cultural affairs’ rules on the credit program, see 223—Chapter 48.

52.48(1) Program transition. 2016 Iowa Acts, House File 2443, made several changes to the credit program, including transferring primary responsibility for the program’s administration from the department of cultural affairs to the economic development authority. Projects registered prior to August 15, 2016, remain under the purview of the department of cultural affairs, with assistance from the department of revenue. For department of revenue rules related to projects registered prior to August 15, 2016, see rules 701—52.18(404A,422) and 701—52.47(404A,422).

52.48(2) Application, registration, and agreement for the historic preservation and cultural and entertainment district tax credit. For rules on the application, registration, and agreement process, see economic development authority rules, 261—Chapter 49.

52.48(3) Computation of the amount of the historic preservation and cultural and entertainment district tax credit. The amount of the historic preservation and cultural and entertainment district tax credit is a maximum of 25 percent of the qualified rehabilitation expenditures verified by the economic development authority following project completion, up to the amount specified in the agreement between the taxpayer and the economic development authority. For more information on the credit computation, see economic development authority rules, 261—Chapter 49. The amount remains subject to audit by the department of revenue when the credit is claimed on the taxpayer’s tax return.

52.48(4) Qualified rehabilitation expenditures. “Qualified rehabilitation expenditures” means the same as defined in Iowa Code section 404A.1(6) and rule 261—49.5(404A) of economic development authority rules. In the event of an audit, the department of revenue evaluates whether expenditures comply with the agreement between the economic development authority and the eligible taxpayer, as well as with applicable statutes and rules, including Internal Revenue Code Section 47 and its related regulations.

52.48(5) Completion of the qualified rehabilitation project and claiming the tax credit. After the economic development authority verifies the taxpayer’s eligibility for the tax credit, the economic development authority shall issue a tax credit certificate. For more information on credit certificate issuance, see economic development authority rules, 261—Chapter 49.

a. Claiming the credit. For the taxpayer to claim the credit, the certificate must be included with the taxpayer’s corporation income tax return for the tax year in which the rehabilitation project is completed or the corporation income tax return for any year within the five years following the year of project completion. Taxpayers that elect to delay claiming the credit to a later year’s return as described in this paragraph are subject to the carryforward limitations described in paragraph 52.48(5) “d” below.

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The credit may be claimed on an amended return so long as the amended return is filed within the statute of limitations applicable to the tax year for which the amended tax return is being filed.

b. Information required. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, the amount of the historic preservation and cultural and entertainment district tax credit, and, if applicable, an indication of whether the credit is nonrefundable (see paragraph 52.48(5) "c" below). In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 52.48(6). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, and the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary shall be provided with the certificate.

c. Refundability. A historic preservation and cultural and entertainment district tax credit in excess of the taxpayer's tax liability is fully refundable with interest computed under Iowa Code section 422.25. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year. To receive a refundable credit, the taxpayer must elect to receive the credit as refundable at the Part 3 stage of the application process administered by the economic development authority. See the economic development authority's rule 261—49.15(404A). Once the taxpayer elects to receive a nonrefundable credit, the taxpayer cannot elect to change the credit to a refundable credit or vice versa. If the taxpayer is a transferee, the taxpayer may elect to receive the credit as refundable or nonrefundable when the taxpayer applies to the department of revenue for transfer of the tax credit as described in subrule 52.48(6).

d. Carryforward. If the taxpayer elects to receive a nonrefundable historic preservation and cultural and entertainment district tax credit as described in paragraph 52.48(5) "b," the amount in excess of the taxpayer's tax liability may be carried forward for five years following the tax year in which the project is completed, or until it is depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer is first eligible to claim the credit. Regardless of whether the taxpayer elects to claim the tax credit on a tax return for a year that is later than the year of project completion as described in paragraph 52.48(5) "a," the taxpayer must utilize the entire credit within five years following the tax year of the project completion as described in this paragraph; any credit that is not utilized within the five-year carryforward period is forfeited. The five-year carryforward limitation does not apply if the taxpayer elects to receive a refundable credit, the excess of which may be credited to future tax years as an overpayment.

e. Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity or beneficiaries of an estate or trust. A partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro rata share of earnings of the partnership, limited liability company or S corporation. For an individual claiming a tax credit of an estate or trust, the amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the estate or trust.

52.48(6) Transfer of the historic preservation and cultural and entertainment district tax credit. The historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, for any tax year that the original transferor could have claimed the tax credit. Transferees must elect to receive either a refundable or nonrefundable tax credit. Once the transferee elects to receive a nonrefundable credit, the transferee cannot elect to change the credit to a refundable credit or vice versa. A tax credit certificate of less than \$1,000 shall not be transferable.

a. Transfer process—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement that contains the transferee's name, address and tax identification number, the amount of the tax credit being transferred, an election to receive either a refundable or nonrefundable tax credit, and

REVENUE DEPARTMENT[701](cont'd)

the amount of all consideration provided in exchange for the tax credit and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the tax credit transferee shall describe the nature of the nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The tax credit transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue the replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the historic preservation and cultural and entertainment district tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The certificate must have the same information required for the original tax certificate and must have the same expiration date as the original tax credit certificate. The transferee may not claim a tax credit until a replacement certificate identifying the transferee as the proper holder has been issued.

b. Consideration. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

c. Unlimited number of transferees and subsequent transfers. There is no limitation on the number of transferees to whom the tax credit may be transferred. There is no limitation on the number of times that the credit may be retransferred by a transferee. The transferor may divide the credit into multiple credits of alternate denominations so long as the resulting credits are for amounts of no less than \$1,000.

d. Carryforward limitations on transferees. The transferee may use the amount of the transferred tax credit for any tax year that the original transferor could have claimed the tax credit. The carryforward limitations described in paragraph 52.48(4) “d” shall apply.

52.48(7) Appeals. Challenges to an action by the department of revenue related to tax credit transfers, the claiming of tax credits, tax credit revocation, or repayment or recovery of tax credits must be brought pursuant to 701—Chapter 7.

This rule is intended to implement Iowa Code chapter 404A as amended by 2016 Iowa Acts, House File 2443, and Iowa Code section 422.33.

ITEM 5. Amend rule 701—58.10(404A,422) as follows:

701—58.10(404A,422) Historic preservation and cultural and entertainment district tax credit. For tax years beginning on or after January 1, 2001, a historic preservation and cultural and entertainment district tax credit, subject to the availability of the credit, may be claimed against a taxpayer’s Iowa franchise tax liability for 25 percent of the qualified rehabilitation costs to the extent the costs were incurred for the rehabilitation of eligible property in Iowa. For information related to projects with Part 2 applications approved and tax credits reserved prior to July 1, 2014, see rule 701—52.18(404A,422). For information related to projects with Part 2 applications approved registered on or after July 1, 2014, and agreements entered into on or after July 1, 2014 before August 15, 2016, see rule 701—52.47(404A,422). See For information related to projects registered on or after August 15, 2016, see rule 701—52.48(404A,422). For projects registered before August 15, 2016, see also the administrative rules for the historic preservation and cultural and entertainment district tax credit for the historical division of the department of cultural affairs under 223—Chapter 48. ~~Division I of 223—Chapter 48 applies to projects with Part 2 applications approved and tax credits reserved prior to July 1, 2014. Division II of 223—Chapter 48 applies to projects with Part 2 applications approved on or after July 1, 2014, and agreements entered into on or after July 1, 2014. For projects registered on~~

REVENUE DEPARTMENT[701](cont'd)

or after August 15, 2016, see also the administrative rules for the historic preservation and cultural and entertainment district tax credit for the economic development authority under 261—Chapter 49.

This rule is intended to implement Iowa Code chapter 404A as amended by ~~2014~~ 2016 Iowa Acts, House File ~~2453~~ 2443, and Iowa Code section 422.60.

ARC 2800C**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action**

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 605, “License Issuance,” and Chapter 630, “Nonoperator’s Identification,” Iowa Administrative Code.

The proposed amendments make changes to comply with 2016 Iowa Acts, Senate File 2187, section 1, which amended Iowa Code section 321.189. The proposed amendments:

- Streamline the process of obtaining a veteran designation on a driver’s license or nonoperator’s identification card and allow a licensee or cardholder to submit DD form 214 or Department Form 432035. For members of the national guard and reserve forces, the DD form 214 must indicate that the individual was honorably discharged after serving a minimum aggregate (total) of 90 days of active duty for purposes other than training. If the individual was a member of the national guard or reserve forces and has a discharge document other than a DD form 214, the individual must receive certification of veteran status from the Iowa Department of Veterans Affairs prior to applying to the Department for a license or nonoperator’s identification card with a veteran designation.

- Provide that the Department may consult with and defer to the Iowa Department of Veterans Affairs regarding what constitutes a properly completed DD form 214 and veteran status in general.

- Provide for cancellation of the license or card based on error or fraud. The amendments also provide that a duplicate license or card may be issued without a veteran designation at no cost if the license or card was issued in error as long as the license or card was not issued as a result of fraud.

- Update the affected implementation sentences.

These rules do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.

2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.

4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Operations and Finance Division, 800 Lincoln Way, Ames, Iowa 50010; e-mail: tracy.george@dot.iowa.gov.

5. Be received by the rules administrator no later than November 29, 2016.

A meeting to hear requested oral presentations is scheduled for Thursday, December 1, 2016, at 10 a.m. at the Iowa Department of Transportation’s Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

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

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

TRANSPORTATION DEPARTMENT[761](cont'd)

These amendments are intended to implement Iowa Code section 321.189 as amended by 2016 Iowa Acts, Senate File 2187.

The following amendments are proposed.

ITEM 1. Amend subrule 605.2(7) as follows:

605.2(7) *Voluntary markings.* Upon the request of the licensee, the department shall indicate on the driver's license any of the following:

- a. ~~the~~ The presence of a medical condition;
- b. ~~that~~ That the licensee is a donor under the uniform anatomical gift law;
- c. ~~that~~ That the licensee has in effect a medical advance directive;
- d. ~~that~~ That the licensee is hearing impaired or deaf; ~~or,~~
- e. ~~that~~ That the licensee is a veteran.

(1) To be eligible for a veteran designation, the licensee must be an honorably discharged veteran of the armed forces of the United States, the national guard or reserve forces. A licensee who requests a veteran designation shall submit Form 432035, properly completed by the licensee and a designee of the Iowa department of veterans affairs, or the licensee shall present certification of release or discharge from active duty, DD form 214, to the department indicating that the licensee was honorably discharged from active duty. A licensee who was a member of the national guard or reserve forces and who applies directly to the department must present a DD form 214 which indicates that the licensee was honorably discharged after serving for at least a minimum aggregate (total) of 90 days of active duty service for purposes other than training. A licensee who was a member of the national guard or reserve forces and who has a discharge document other than a DD form 214 must have the licensee's eligibility for a veteran designation determined by a designee of the Iowa department of veterans affairs and shall apply to the department for a veteran designation by submitting Form 432035, properly completed by the licensee and a designee of the Iowa department of veterans affairs.

(2) The department may consult with and defer to the Iowa department of veterans affairs regarding what constitutes a properly completed DD form 214 and veteran status in general.

(3) If the department denies issuance of a license with a veteran designation upon presentation of the DD form 214 to the department, the licensee may obtain a license with a veteran designation if the licensee submits Form 432035, properly completed by the licensee and a designee of the Iowa department of veterans affairs.

(4) If the department issues a veteran designation in error or as the result of fraud on the part of the licensee, the driver's license with a veteran designation shall be canceled, and a duplicate license without the designation may be issued to the licensee. There shall be no charge to issue a duplicate license if the license was issued in error, unless the error was the result of fraud on the part of the licensee.

ITEM 2. Amend rule **761—605.2(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 142C.3 ~~and,~~ section 321.189 as amended by 2016 Iowa Acts, Senate File 2187, section 1, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

ITEM 3. Amend paragraph **605.11(2)“j”** as follows:

j. Replacement to add a veteran designation to the license. To be eligible for a veteran designation, the licensee must be an honorably discharged veteran of the armed forces of the United States. A licensee who requests a veteran designation shall submit Form 432035, properly completed by the licensee and a designee of the Iowa department of veterans affairs. comply with the requirements of paragraph 605.2(7)“e.”

ITEM 4. Amend rule **761—605.11(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.189 as amended by 2016 Iowa Acts, Senate File 2187, section 1, 321.195 and 321.208, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 5. Amend subrule 630.2(4) as follows:

630.2(4) Upon the request of the cardholder, the department shall indicate on the nonoperator’s identification card any of the following:

- a. ~~the~~ The presence of a medical condition;
- b. ~~that~~ That the cardholder is a donor under the uniform anatomical gift law;
- c. ~~that~~ That the cardholder has in effect a medical advance directive;
- d. ~~that~~ That the cardholder is hearing impaired or deaf; ~~or,~~
- e. ~~that~~ That the cardholder is a veteran.

(1) To be eligible for a veteran designation, the cardholder must be an honorably discharged veteran of the armed forces of the United States, the national guard or reserve forces. A cardholder who requests a veteran designation shall submit Form 432035, properly completed by the licensee cardholder and a designee of the Iowa department of veterans affairs, or the cardholder shall present certification of release or discharge from active duty, DD form 214, to the department indicating that the cardholder was honorably discharged from active duty. A cardholder who was a member of the national guard or reserve forces and who applies directly to the department must present a DD form 214 which indicates that the cardholder was honorably discharged after serving for at least a minimum aggregate (total) of 90 days of active duty service for purposes other than training. A cardholder who was a member of the national guard or reserve forces and who has a discharge document other than a DD form 214 must have the cardholder’s eligibility for a veteran designation determined by a designee of the Iowa department of veterans affairs and shall apply to the department for a veteran designation by submitting Form 432035, properly completed by the cardholder and a designee of the Iowa department of veterans affairs.

(2) The department may consult with and defer to the Iowa department of veterans affairs regarding what constitutes a properly completed DD form 214 and veteran status in general.

(3) If the department denies issuance of a nonoperator’s identification card with a veteran designation upon presentation of the DD form 214 to the department, the cardholder may obtain a card with a veteran designation if the cardholder submits Form 432035, properly completed by the cardholder and a designee of the Iowa department of veterans affairs.

(4) If the department issues a veteran designation in error or as the result of fraud on the part of the cardholder, the nonoperator’s identification card with a veteran designation shall be canceled, and a duplicate card without the designation may be issued to the cardholder. There shall be no charge to issue a duplicate card if the card was issued in error, unless the error was the result of fraud on the part of the cardholder.

ITEM 6. Amend **761—Chapter 630**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 321.189 as amended by 2016 Iowa Acts, Senate File 2187, section 1, 321.190, 321.195, 321.216, 321.216A, 321.216B and 321.216C, the REAL ID Act of 2005 (49 U.S.C. Section 30301 note), and 6 CFR Part 37.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

November 1, 2015 — November 30, 2015	4.25%
December 1, 2015 — December 31, 2015	4.00%
January 1, 2016 — January 31, 2016	4.25%
February 1, 2016 — February 29, 2016	4.25%
March 1, 2016 — March 31, 2016	4.00%
April 1, 2016 — April 30, 2016	3.75%
May 1, 2016 — May 31, 2016	4.00%

USURY(cont'd)

June 1, 2016 — June 30, 2016	3.75%
July 1, 2016 — July 31, 2016	3.75%
August 1, 2016 — August 31, 2016	3.75%
September 1, 2016 — September 30, 2016	3.50%
October 1, 2016 — October 31, 2016	3.50%
November 1, 2016 — November 30, 2016	3.75%

ARC 2811C

CITY FINANCE COMMITTEE[545]

Adopted and Filed

Pursuant to the authority of Iowa Code section 384.15, the City Finance Committee hereby amends Chapter 2, "Budget Amendments and Fund Transfers," Iowa Administrative Code.

This amendment to subrule 2.5(5) reflects a change in calculating a surplus balance in city utility and enterprise funds according to Governmental Accounting Standards Board (GASB) Statement No. 68.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2687C** on August 31, 2016.

The Department received one comment during the comment period requesting that language be added to ensure that the transfers do not violate Iowa Code section 388.10(1)(a)(4), which prohibits use of other city utility surpluses to support a city-owned telecommunications utility. The City Finance Committee finds that this amendment is in compliance with the Iowa Code. This amendment is identical to that published under Notice of Intended Action.

The City Finance Committee adopted this amendment on October 10, 2016.

This amendment will not necessitate additional expenditures by political subdivisions or agencies or by entities which contract with political subdivisions or small businesses.

A waiver provision is not included.

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

The Committee does not intend to grant waivers to these rules.

This amendment is intended to implement Iowa Code chapter 384.

This amendment will become effective December 14, 2016.

The following amendment is adopted.

Amend subrule 2.5(5) as follows:

2.5(5) City utility fund and city enterprise fund. Any governing body of a city utility, combined utility system, city enterprise, or combined city enterprise which has a surplus in its fund may transfer such surpluses to any other city fund, except the emergency fund, by resolution of the appropriate governing body. For the purposes of this subrule, ~~a:~~

a. A surplus may exist only after all required transfers have been made to any restricted accounts in accordance with the terms and provisions of any revenue bonds or loan agreements relating to the utility or enterprise fund.

b. A surplus shall be defined as the cash balance in the operating account or the unrestricted ~~retained earnings~~ net position calculated in accordance with GAAP, after adding back the net pension and other postemployment benefits liabilities and the related deferred inflows of resources and deducting the related deferred outflows of resources, in excess of:

~~a. (1)~~ The amount of the expenses of disbursements for operating and maintaining the utility or enterprise for the preceding three months, and;

~~b. (2)~~ The amount necessary to make all required transfers to restricted accounts for the succeeding three months.

[Filed 10/10/16, effective 12/14/16]

[Published 11/9/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/16.

ARC 2792C**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2(1)“a,” the Board of Educational Examiners hereby amends Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

This amendment reflects the requirement for the Board to adopt rules as a result of recent legislative changes to Iowa Code section 272.28. Language has been added to allow additional educational settings to be used as evidence of successful teaching experience required to achieve a standard teaching license.

This amendment was published under Notice of Intended Action in the August 31, 2016, Iowa Administrative Bulletin as **ARC 2689C**. A public hearing was held on September 21, 2016. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice of Intended Action.

This amendment is not subject to waiver, as it is required by statute.

The Board of Educational Examiners adopted this amendment on October 7, 2016.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code sections 272.2(1)“a” and 272.28 as amended by 2016 Iowa Acts, Senate File 2323.

This amendment will become effective December 14, 2016.

The following amendment is adopted.

Amend rule 282—13.7(272) as follows:

282—13.7(272) Specific requirements for a standard license. A standard license valid for five years may be issued to an applicant who:

1. Meets the general requirements set forth in rule 282—13.5(272), and
2. Shows evidence of successful completion of a state-approved mentoring and induction program by meeting the Iowa teaching standards as determined by a comprehensive evaluation and two years’ successful teaching experience within the applicant’s approved endorsement area(s). In lieu of completion of an Iowa state-approved mentoring and induction program, the applicant must provide evidence of three years’ successful teaching experience ~~in an Iowa nonpublic school or three years’ successful teaching experience in an out-of-state K-12 educational setting.~~ within the applicant’s approved endorsement area(s) at any of the following:

- An accredited nonpublic school in this state.
- A preschool program approved by the United States Department of Health and Human Services.
- Preschool programs at school districts approved to participate in the preschool program under Iowa Code chapter 256C.
- Shared visions programs receiving grants from the child development coordinating council under Iowa Code section 256A.3.
- Preschool programs receiving moneys from the school ready children grants account of the early childhood Iowa fund created in Iowa Code section 256I.11.
- An out-of-state PK-12 educational setting.

[Filed 10/13/16, effective 12/14/16]

[Published 11/9/16]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/16.

ARC 2793C**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2(1)“a,” the Board of Educational Examiners hereby amends Chapter 13, “Issuance of Teacher Licenses and Endorsements,” and Chapter 22, “Authorizations,” Iowa Administrative Code.

These amendments reflect the requirement for the board to adopt rules as a result of recent legislative changes to Iowa Code section 272.31. Language has been added to allow for the issuance of a transitional coaching authorization. The Board has also added language requiring coaches to obtain certified CPR training.

The amendments were published under Notice of Intended Action in the August 31, 2016, Iowa Administrative Bulletin as **ARC 2690C**. A public hearing was held on September 21, 2016. No one attended the public hearing. The Board received three supportive written comments from the American Heart Association, the Iowa Medical Society, and the Iowa Athletic Trainers’ Society. These amendments are identical to those published under Notice of Intended Action.

The amendments regarding CPR certification are subject to waiver pursuant to 282—Chapter 6. The amendments regarding the transitional coaching authorization are not subject to waiver, as they are required by statute.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code section 272.2(1)“a” and section 272.31 as amended by 2016 Iowa Acts, House File 228.

These amendments will become effective December 14, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 13.28(29) as follows:

13.28(29) Athletic coach. K-12. An applicant for the coaching endorsement must hold a teacher’s license with one of the teaching endorsements.

a. No change.

b. *Program requirements.*

(1) to (4) No change.

(5) Successful completion of the concussion training approved by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union, and

(6) A current certificate of CPR training.

ITEM 2. Amend rule 282—22.1(272) as follows:

282—22.1(272) Coaching authorization. A coaching authorization allows an individual to coach any sport in a middle school, junior high school, or high school.

22.1(1) No change.

22.1(2) Requirements. Applicants for the coaching authorization shall have completed the following requirements:

a. *Credit hours.* Applicants must complete credit hours in the following areas:

(1) to (6) No change.

(7) Successful completion of CPR training as verified by a current certificate.

b. and *c.* No change.

22.1(3) No change.

22.1(4) Renewal. The authorization may be renewed upon application and verification of successful completion of:

a. Renewal activities. Applicants for renewal of a coaching authorization must:

(1) to (3) No change.

(4) Provide a current certificate of CPR training.

b. No change.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

22.1(5) and 22.1(6) No change.

22.1(7) *Transitional coaching authorization.*

a. Application process. Any person interested in the transitional coaching authorization shall submit a complete application verifying the requirements listed below. Application materials are available from the board of educational examiners online at <http://www.boee.iowa.gov/>.

b. Requirements. Applicants for the transitional coaching authorization shall have completed each of the following requirements:

(1) Verification that the applicant has not completed the coursework required for a coaching authorization.

(2) Verification of an offer of a coaching position by a school or a consortium of schools that will additionally verify that:

1. No fully authorized coaching candidates were found after a diligent search,

2. The transitional coach will be supervised by a licensed athletic director, administrator, or other practitioner serving in a supervisory role during the first two weeks of employment, and

3. The supervisor will evaluate the performance of the transitional coach using an evaluation form available on the school's Web site.

(3) Successful completion of an approved shortened course of training related to the code of professional rights and responsibilities, practices, and ethics specifically developed for transitional coaches.

(4) Successful completion of an approved child and dependent adult abuse mandatory reporter training course.

(5) Successful completion of a nationally recognized concussion in youth sports training course.

(6) Verification that the applicant has attained a minimum age of 21 years.

(7) Verification of completion of the background check requirements set forth in rule 282—13.1(272).

c. Validity. The transitional coaching authorization shall be valid for no more than one year and shall be valid only in the school or consortium of schools making the offer of the coaching position.

d. Renewal. The transitional coaching authorization is nonrenewable.

e. Revocation and suspension. Criteria of professional practice and rules of the board of educational examiners shall apply to holders of a transitional coaching authorization. An ethics complaint may be filed if a practitioner begins coaching a sport without current concussion training.

[Filed 10/13/16, effective 12/14/16]

[Published 11/9/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/16.

ARC 2798C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 459.103 and 459A.104, the Environmental Protection Commission (Commission) hereby amends Chapter 65, "Animal Feeding Operations," Iowa Administrative Code.

The purpose of the amendments to the animal feeding operation rules is to:

1. Adopt changes due to recent legislative action as follows:

2012 Iowa Acts, Senate File 2172: This legislation exempts swine farrowing and gestating operations from the definition of "qualified confinement feeding operation" and the operating requirements associated with this type of facility if the swine farrowing and gestating operations meet this definition solely because they added replacement breeding swine as defined in Iowa Code section 459.102(46).

2012 Iowa Acts, House File 2292: This legislation allows fish production facilities the option to operate as confinement feeding operations or as facilities regulated by the wastewater regulations.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

2013 Iowa Acts, House File 512: This legislation allows confinement feeding operations to discontinue use of buildings, without dismantling the livestock production components of the buildings, in order to meet the definition of a small animal feeding operation (SAFO).

2015 Iowa Acts, House File 583: This legislation allows animal truck wash facilities to meet animal feeding operations regulations for design, construction and operation. It also incorporates by reference the applicable federal National Pollutant Discharge Elimination System (NPDES) permit requirements for open feedlot operations, as had previously been done in statute for confinement feeding operations.

2. Allow solids from open feedlot operations to be regulated by the Iowa Department of Agriculture and Land Stewardship (IDALS) as bulk dry animal nutrient products (Iowa Code chapter 200A).

3. Provide better clarification of requirements in rules and rescind unnecessary and outdated rules, lists and Internet addresses. The amendments will implement a portion of the five-year rules review plan that the Department of Natural Resources (Department) is carrying out to accomplish the requirements of Iowa Code section 17A.7(2).

Some of the changes designed to provide clarification of the rule requirements include: (1) a revised version of the definition of “public use area” in an effort to better define the term; (2) an updated listing of Iowa lakes (Table 2 of Chapter 65) to ensure that all the lakes are accounted for and properly protected through the facility-siting requirements; (3) clarification regarding which structures are to be used for measuring separation distances; (4) clarification of the scope of any landowner waiver of a separation distance; and (5) additional language regarding NPDES permit requirements to be consistent with the federal rule.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 13, 2016, as **ARC 2496C**. Public hearings were held on May 23, 2016, in Windsor Heights, Iowa; on May 24, 2016, in Carroll, Iowa; on May 25, 2016, in Spencer, Iowa; on May 26, 2016, in Mason City, Iowa; on May 31, 2016, in Ainsworth, Iowa; and on June 3, 2016, in Calmar, Iowa. Public comments were received and considered. A responsiveness summary has been prepared and is available at: <http://www.iowadnr.gov/Environmental-Protection/Land-Quality/Animal-Feeding-Operations/AFO-Rules-Regulations>.

As a result of the written and oral comments, the following change has been made to the amendments as published in the Notice of Intended Action:

The mailing address and telephone number for the owner and contact person for a confinement feeding operation will not be removed from the requirements to be submitted with a manure management plan. In Item 44 of the Notice of Intended Action, deletion of this information from the rule was proposed. In light of the comments received, the Commission decided to leave this required information in subparagraphs 65.17(1)“c”(1) and (2) and, therefore, did not adopt the proposed amendments in Item 44 of the Notice. Subsequent items have been renumbered accordingly.

After analysis and review of this rule making, the Commission has determined that most of the amendments will have no impact on private sector jobs; however, there are some changes that may have a positive financial impact. The complete jobs impact statement is available from the Department upon request.

These amendments are intended to implement Iowa Code sections 459.102, 459.103, 459.301, 459.312A, and 459.320 and Iowa Code chapter 459A.

These amendments shall become effective on December 14, 2016.

The following amendments are adopted.

ITEM 1. Rescind rule 567—65.1(459,459B) and adopt the following **new** rule in lieu thereof:

567—65.1(459,459B) Definitions and incorporation by reference. In addition to the definitions in Iowa Code sections 455B.101, 455B.171 and 459.102 and in 567—Chapter 60, the following definitions shall apply to Division I of this chapter:

65.1(1) Definitions.

“*Abandoned confinement feeding operation structure*” means the confinement feeding operation structure has been razed, removed from the site of a confinement feeding operation, filled in with earth, or converted to uses other than a confinement feeding operation structure so that it cannot be used as a confinement feeding operation structure without significant reconstruction.

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“Adjacent—air quality” means, for the purpose of determining separation distance requirements pursuant to 567—65.11(459,459B), that two or more confinement feeding operations are adjacent if they have animal feeding operation structures that are separated at their closest points by less than the following:

1. 1,250 feet for a confinement feeding operation having an animal unit capacity of less than 1,250 animal units for swine maintained as part of a farrowing and gestating operation, less than 2,700 animal units for swine maintained as part of a farrow-to-finish operation, less than 4,000 animal units for cattle maintained as part of a cattle operation, or less than 3,000 animal units for any other confinement feeding operation, or for a confinement feeding operation consisting of dry bedded confinement feeding operation structures.

2. 1,500 feet for a confinement feeding operation having an animal unit capacity of 1,250 or more but less than 2,000 animal units for swine maintained as part of a swine farrowing and gestating operation, 2,700 or more but less than 5,400 animal units for swine maintained as part of a farrow-to-finish operation, 4,000 or more but less than 6,500 animal units for cattle maintained as part of a cattle operation, or for any other confinement feeding operation having an animal unit capacity of 3,000 or more but less than 5,000 animal units.

3. 2,500 feet for a confinement feeding operation having an animal unit capacity of 2,000 or more animal units for swine maintained as part of a swine farrowing and gestating operation, 5,400 or more animal units for swine maintained as part of a farrow-to-finish operation, or 6,500 or more animal units for cattle maintained as part of a cattle operation, or for any other confinement feeding operation with 5,000 or more animal units.

4. The distances in “1” to “3” above shall only be used to determine that two or more confinement feeding operations are adjacent if at least one confinement feeding operation structure was constructed on or after March 21, 1996.

5. To determine if two or more confinement feeding operations are adjacent, for the purpose of determining the separation distance requirements, the animal unit capacity of each individual operation shall be used. If two or more confinement feeding operations do not have the same animal unit capacity, the greater animal unit capacity shall be used to determine the separation distance.

6. Dry manure that is stockpiled within a distance of 1,250 feet from another stockpile shall be considered part of the same stockpile.

“Adjacent—water quality” means, for the purpose of determining the construction permit requirements pursuant to 567—65.7(459,459B) and manure management plan requirements pursuant to 567—65.16(459,459B), that two or more confinement feeding operations are adjacent if they have confinement feeding operation structures that are separated at their closest points by less than the following:

1. 1,250 feet for confinement feeding operations having a combined animal unit capacity of less than 1,000 animal units.

2. 2,500 feet for confinement feeding operations having a combined animal unit capacity of 1,000 or more animal units.

3. The distances in “1” and “2” above shall only be used to determine that two or more confinement feeding operations are adjacent if at least one confinement feeding operation structure is constructed or expanded on or after May 21, 1998.

“Aerobic structure” means an animal feeding operation structure other than an egg washwater storage structure which relies on aerobic bacterial action which is maintained by the utilization of air or oxygen and which includes aeration equipment to digest organic matter. Aeration equipment shall be used and shall be capable of providing oxygen at a rate sufficient to maintain an average of 2 milligrams per liter dissolved oxygen concentration in the upper 30 percent of the depth of manure in the structure at all times.

“Agricultural drainage well” means a vertical opening to an aquifer or permeable substratum which is constructed by any means including but not limited to drilling, driving, digging, boring, augering, jetting, washing, or coring and which is capable of intercepting or receiving surface or subsurface drainage water from land directly or by a drainage system.

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“Agricultural drainage well area” means an area of land where surface or subsurface water drains into an agricultural drainage well directly or through a drainage system connecting to the agricultural drainage well.

“Alluvial aquifer area” means an area underlaid by sand or gravel aquifers situated beneath flood plains along stream valleys and includes alluvial deposits associated with stream terraces and benches, contiguous windblown sand deposits, and glacial outwash deposits.

“Alluvial soils” means soils formed in materials deposited by moving water.

“Anaerobic lagoon” means an unformed manure storage structure if the primary function of the structure is to store and stabilize manure, the structure is designed to receive manure on a regular basis, and the structure’s design waste loading rates provide that the predominant biological activity is anaerobic. An anaerobic lagoon does not include the following:

1. A runoff control basin or a settled open feedlot effluent basin which collects and stores only precipitation-induced runoff from an open feedlot operation.
2. An anaerobic treatment system that includes collection and treatment facilities for all off gases.

“Animal” means cattle, swine, horses, sheep, chickens, turkeys, goats, fish, or ducks.

“Animal capacity” means the maximum number of animals which the owner or operator will confine in an animal feeding operation at any one time. In a confinement feeding operation, the animal capacity of all confinement buildings will be included in the determination of the animal capacity of the operation, unless the building has been abandoned in accordance with the definition of “abandoned confinement feeding operation structure.”

“Animal feeding operation” means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for 45 days or more in any 12-month period, and all structures used for the storage of manure from animals in the operation. Except as required for an NPDES permit required pursuant to the Act, an animal feeding operation does not include a livestock market. Open feedlots and confinement feeding operations are considered to be separate animal feeding operations.

1. For purposes of water quality regulation, Iowa Code section 459.301 provides that two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common area or system for manure disposal. For purposes of the air quality-related separation distances in Iowa Code section 459.202, Iowa Code section 459.201 provides that two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common system for manure storage. The distinction is due to regulation of animal feeding operations for water quality purposes under the Act. 40 CFR 122.23 sets out the requirements for an animal feeding operation and requires that two or more animal feeding operations under common ownership be considered a single operation if they adjoin each other or if they use a common area or system for disposal of wastes. However, this federal regulation does not control regulation of animal feeding operations for the purposes of the separation distances in Iowa Code section 459.202, and therefore the definition is not required by federal law to include common areas for manure disposal.

2. To determine if two or more animal feeding operations are deemed to be one animal feeding operation, the first test is whether the animal feeding operations are under common ownership or management. If they are not under common ownership or management, they are not one animal feeding operation. For purposes of water quality regulation, the second test is whether the two animal feeding operations are adjacent or utilize a common area or system for manure disposal. If the two operations are not adjacent and do not use a common area or system for manure disposal, they are not one animal feeding operation. For purposes of the separation distances in Iowa Code section 459.202, the second test is whether the two animal feeding operations are adjacent or utilize a common system for manure storage. If the two operations are not adjacent and do not use the same system for manure storage, they are not one animal feeding operation.

3. A common area or system for manure disposal includes, but is not limited to, use of the same manure storage structure, confinement feeding operation structure, egg washwater storage structure, stockpile, permanent manure transfer piping system or center pivot irrigation system. A common area or

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system for manure disposal does not include manure application fields included in a manure management plan or anaerobic digesters.

“Animal feeding operation structure” means a confinement building, manure storage structure, dry bedded confinement feeding operation structure, or egg washwater storage structure.

“Animal unit” means a unit of measurement based upon the product of multiplying the number of animals of each category by a special equivalency factor, as follows:

1. Slaughter and feeder cattle	1.000
2. Immature dairy cattle	1.000
3. Mature dairy cattle	1.400
4. Butcher or breeding swine weighing more than 55 pounds	0.400
5. Swine weighing 15 pounds or more but not more than 55 pounds	0.100
6. Sheep or lambs	0.100
7. Goats	0.100
8. Horses	2.000
9. Turkeys weighing 7 pounds or more	0.018
10. Turkeys weighing less than 7 pounds	0.0085
11. Broiler or layer chickens weighing 3 pounds or more	0.010
12. Broiler or layer chickens weighing less than 3 pounds	0.0025
13. Ducks	0.040
14. Fish	0.001

“Animal unit capacity” means a measurement used to determine the maximum number of animal units that may be maintained as part of an animal feeding operation at any one time, including as provided in Iowa Code sections 459.201 and 459.301. For dry bedded confinement feeding operations, “animal unit capacity” means the maximum number of animal units which the owner or operator confines in a dry bedded confinement feeding operation at any one time, including the animal unit capacity of all dry bedded confinement feeding operation buildings that are used to house cattle or swine in the dry bedded confinement feeding operation.

“Animal weight capacity” means the sum of the average weight of all animals in a confinement feeding operation when the operation is at full animal capacity. For confinement feeding operations with only one species, the animal weight capacity is the product of multiplying the animal capacity by the average weight during a production cycle. For operations with more than one species, the animal weight capacity of the operation is the sum of the animal weight capacities for all species.

EXAMPLE 1. Bill wants to construct a confinement feeding operation with two confinement buildings and an earthen manure storage basin. The capacity of each building will be 900 market hogs. The hogs enter the building at 40 pounds and leave at 250 pounds. The average weight during the production cycle is then 145 pounds for this operation. The animal weight capacity of the operation is 145 pounds multiplied by 1,800 for a total of 261,000 pounds.

EXAMPLE 2. Howard is planning to build a confinement feeding operation with eight confinement buildings and an egg washwater storage lagoon. The capacity of each building will be 125,000 laying hens. The hens enter the building at around 2.5 pounds and leave at around 3.5 pounds. The average weight during the production cycle for these laying hens is 3.0 pounds. Manure will be handled in dry form. The animal weight capacity of the operation is 3.0 pounds multiplied by 1,000,000 for a total of 3,000,000 pounds.

EXAMPLE 3. Carol has an animal feeding operation with four confinement buildings with below floor formed concrete manure storage tanks and one open feedlot. One confinement building is a farrowing building with a capacity of 72 sows. One confinement building is a nursery building with a capacity of 1,450 pigs. The open feedlot contains 425 sows. Two of the confinement buildings are finishing

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buildings with a capacity of 1,250 market hogs. The farrowing building contains 72 sows at an average weight of 400 pounds for an animal weight capacity of 28,800 pounds. The nursery building contains 1,450 pigs with an average weight over the production cycle of 25 pounds for an animal weight capacity of 36,250 pounds. The two finishing buildings contain 2,500 market hogs (combined) with an average weight over the production cycle of 150 pounds for an animal weight capacity of 375,000 pounds. The total animal weight capacity of the confinement feeding operation is 440,050 pounds. The weights of the animals in open lots are not included in the calculation of the animal weight capacity of the confinement feeding operation.

“Applicant” means the person applying for a construction permit or an NPDES permit for a confinement feeding operation.

“Bedding” means crop, vegetation, or forage residue or similar materials placed in a dry bedded confinement building for the care of animals.

“Business” means a commercial enterprise.

“Cemetery” means a space held for the purpose of permanent burial, entombment or interment of human remains that is owned or managed by a political subdivision or private entity, or a cemetery regulated pursuant to Iowa Code chapter 523I. A cemetery does not include a pioneer cemetery where there have been six or fewer burials in the preceding 50 years.

“Church” means a religious institution.

“Commercial enterprise” means a building which is used as a part of a business that manufactures goods, delivers services, or sells goods or services, which is customarily and regularly used by the general public during the entire calendar year and which is connected to electric, water, and sewer systems. A commercial enterprise does not include a farm operation.

“Commercial manure service” means a sole proprietor or business association engaged in the business of transporting, handling, storing, or applying manure for a fee.

“Commercial manure service representative” means a manager, employee, agent, or contractor of a commercial manure service, if the person is engaged in transporting, handling, storing, or applying manure on behalf of the service.

“Common management” means significant control by an individual of the management of the day-to-day operations of each of two or more confinement feeding operations. “Common management” does not include control over a contract livestock facility by a contractor as defined in Iowa Code section 202.1.

“Common ownership” means the ownership of an animal feeding operation as a sole proprietor, or a majority ownership interest held by a person, in each of two or more animal feeding operations as a joint tenant, tenant in common, shareholder, partner, member, beneficiary, or other equity interest holder. The majority ownership interest is a common ownership interest when it is held directly, indirectly through a spouse or dependent child, or both.

“Complete application” means an application that is complete and approvable when all necessary questions on the application forms have been completed, the application is signed and all applicable portions of the application, including the application form and required attachments, have been submitted.

“Confinement feeding operation” means an animal feeding operation in which animals are confined to areas which are totally roofed and includes every animal feeding operation that is not an “open feedlot operation” as defined in 567—65.100(459A).

“Confinement feeding operation building” or *“confinement building”* means a building used in conjunction with a confinement feeding operation to house animals.

“Confinement feeding operation structure” means an animal feeding operation structure that is part of a confinement feeding operation.

“Confinement site” means a site where there is located a manure storage structure which is part of a confinement feeding operation, other than a small animal feeding operation.

“Confinement site manure applicator” means a person, other than a commercial manure service or a commercial manure service representative, who applies manure on land if the manure originates from a manure storage structure.

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“*Construction approval letter*” means a written document of the department to acknowledge that the preconstruction submittal requirements of 567—65.9(459,459B) have been met for a confinement feeding operation that is not required to obtain a construction permit pursuant to 567—65.7(459,459B).

“*Construction design statement*” means a document required to be submitted by a confinement feeding operation prior to constructing a formed manure storage structure, other than a small animal feeding operation, but that does not meet the threshold engineering requirements pursuant to 567—65.1(459,459B).

“*Construction permit*” means a written approval of the department to construct, modify or alter the use of an animal feeding operation structure as provided in subrule 65.7(1).

“*Controlling interest*” means ownership of a confinement feeding operation as a sole proprietor or a majority ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary, or other equity interest holder. The majority ownership interest is a controlling interest when it is held directly, indirectly through a spouse or dependent child, or both. The majority ownership interest must be a voting interest or otherwise control management of the confinement feeding operation.

“*Covered*” means organic or inorganic material, placed upon an animal feeding operation structure used to store manure, which significantly reduces the exchange of gases between the stored manure and the outside air. Organic materials include, but are not limited to, a layer of chopped straw, other crop residue, or a naturally occurring crust on the surface of the stored manure. Inorganic materials include, but are not limited to, wood, steel, aluminum, rubber, plastic, or Styrofoam. The materials shall shield at least 90 percent of the surface area of the stored manure from the outside air. Cover shall include an organic or inorganic material which current scientific research shows reduces detectable odor by at least 75 percent. A formed manure storage structure directly beneath a floor where animals are housed in a confinement feeding operation is deemed to be covered.

“*Critical public area*” means land that is owned or managed by the federal government, by the department, or by a political subdivision and that has unique scenic, cultural, archaeological, scientific, or historic significance or contains a rare or valuable ecological system. Critical public areas include:

- State wildlife and waterfowl refuges listed in 571—subrules 52.1(2) and 52.1(3);
- Recreation areas, state parks, state parks managed by another governmental agency, and state preserves as listed in 571—61.2(461A);
- County parks and recreation areas as provided in subrule 65.1(2);
- National wildlife refuges listed as follows: Union Slough National Wildlife Refuge, DeSoto National Wildlife Refuge, Boyer Chute National Wildlife Refuge, Upper Mississippi River National Wildlife and Fish Refuge, Driftless Area National Wildlife Refuge, Neal Smith National Wildlife Refuge, and Port Louisa National Wildlife Refuge;
- National monuments and national historic sites listed as follows: Effigy Mounds National Monument and Herbert Hoover National Historic Site;
- Parks in Iowa that are under the federal jurisdiction listed with the United States Army Corps of Engineers as provided in subrule 65.1(2).

“*Cropland*” means any land suitable for use in agricultural production including, but not limited to, feed, grain and seed crops, fruits, vegetables, forages, sod, trees, grassland, pasture and other similar crops.

“*Deep well*” means 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.

“*Designated area*” means a known sinkhole, abandoned well, unplugged agricultural drainage well, agricultural drainage well cistern, agricultural drainage well surface tile inlet, drinking water well, designated wetland, or water source. “Designated area” does not include a terrace tile inlet or surface tile inlet other than an agricultural drainage well surface tile inlet.

“*Designated wetland*” means land designated as a protected wetland by the United States Department of the Interior or the department, including but not limited to a protected wetland as defined in Iowa Code section 456B.1, if the land is owned and managed by the federal government or

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the department. However, a designated wetland does not include land where an agricultural drainage well has been plugged causing a temporary wetland or land within a drainage district or levee district. Designated wetlands in the state are listed in the department's "Designated Wetlands in Iowa" (see subrule 65.1(2), Incorporation by reference).

"Discontinued animal feeding operation" means an animal feeding operation whose structures have been abandoned or whose use has been discontinued as evidenced by the removal of all animals and the owner or operator has no immediate plans to repopulate.

"Discontinued animal feeding operation structure" means an animal feeding operation structure that has been abandoned or whose use has been discontinued as evidenced by the removal of all animals from the structure and the owner or operator has no immediate plans to repopulate.

"Document" means any form required to be processed by the department under this chapter regulating animal feeding operations, including but not limited to applications or related materials for permits as provided in Iowa Code section 459.303, manure management plans as provided in Iowa Code section 459.312, comment or evaluation by a county board of supervisors considering an application for a construction permit, the department's analysis of the application including using and responding to a master matrix pursuant to Iowa Code section 459.304, and notices required under those sections.

"Dry bedded confinement feeding operation" means a confinement feeding operation in which cattle or swine are confined to areas which are totally roofed and in which all manure is stored as dry bedded manure. Unless specifically stated otherwise, all requirements in Division I of this chapter do apply to dry bedded confinement feeding operations.

"Dry bedded confinement feeding operation structure" means a dry bedded confinement feeding operation building or a dry bedded manure storage structure.

"Dry bedded manure" means manure from cattle or swine that meets all of the following requirements:

1. The manure does not flow perceptibly under pressure.
2. The manure is not capable of being transported through a mechanical pumping device designed to move a liquid.
3. The manure contains bedding.

"Dry bedded manure confinement feeding operation building" or *"building"* means a building used in conjunction with a confinement feeding operation to house cattle or swine and in which any manure from the animals is stored as dry bedded manure.

"Dry bedded manure storage structure" means a covered or uncovered structure, other than a building, used to store dry bedded manure originating from a confinement feeding operation.

"Dry manure" means manure which meets all of the following conditions:

1. The manure does not flow perceptibly under pressure.
2. The manure is not capable of being transported through a mechanical pumping device designed to move a liquid.
3. The constituent molecules of the manure do not flow freely among themselves but may show a tendency to separate under stress.

"Dry manure" includes manure marketed as a bulk dry animal nutrient product that is stored 1,250 feet or less from the confinement animal feeding structure from which it originated.

"Earthen manure storage basin" means an earthen cavity, either covered or uncovered, which, on a regular basis, receives manure discharges from a confinement feeding operation if accumulated manure from the basin is completely removed at least once each year.

"Earthen waste slurry storage basin" means an uncovered and exclusively earthen cavity which, on a regular basis, receives manure discharges from a confinement animal feeding operation if accumulated manure from the basin is completely removed at least twice each year and which was issued a permit, constructed or expanded on or after July 1, 1990, but prior to May 31, 1995.

"Educational institution" means a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade 12 and served by local school districts, accredited or approved nonpublic schools, area educational agencies, community colleges, institutions

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of higher education under the control of the state board of regents, and accredited independent colleges and universities.

“Egg washwater storage structure” means an aerobic or anaerobic structure used to store the wastewater resulting from the washing and in-shell packaging of eggs. It does not include a structure also used as a manure storage structure.

“Enforcement action” means an action against a person with a controlling interest in a confinement feeding operation initiated by the department or the attorney general to enforce the provisions of Iowa Code chapter 459 or rules adopted pursuant to the chapter. An enforcement action begins when the attorney general institutes proceedings in district court pursuant to Iowa Code section 455B.112. An enforcement action is pending until final resolution of the action by satisfaction of a court order, for which all judicial appeal rights are exhausted, expired, or waived.

“Family member” means a person related to another person as parent, grandparent, child, grandchild, sibling, or a spouse of such related person.

“Formed manure storage structure” means a covered or uncovered impoundment used to store manure from an animal feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials. Similar materials may include, but are not limited to, plastic, rubber, fiberglass, or other synthetic materials. Materials used in a formed manure storage structure shall have the structural integrity to withstand expected internal and external load pressures.

“Freeboard” means the difference in elevation between the liquid level and the confinement feeding operation structure’s overflow level.

“Frozen ground” means soil that is impenetrable due to frozen soil moisture but does not include soil that is only frozen to a depth of two inches or less.

“Grassed waterway” means a natural or constructed channel that is shaped or graded to required dimensions and established in suitable vegetation for the stable conveyance of runoff.

“Highly erodible land” means a field that has one-third or more of its acres or 50 acres, whichever is less, with soils that have an erodibility index of eight or more, as determined by rules promulgated by the United States Department of Agriculture.

“Human sanitary waste” means wastewater derived from domestic uses including bathroom and laundry facilities generating wastewater from toilets, baths, showers, lavatories and clothes washing.

“Incidental” means a duty which is secondary or subordinate to a primary job or function.

“Incorporation” means a soil tillage operation following the surface application of manure which mixes the manure into the upper four inches or more of soil.

“Indemnity fund” means the manure storage indemnity fund created in Iowa Code section 459.501.

“Injection” means the application of manure into the soil surface using equipment that discharges it beneath the surface.

“Interest” means ownership of a confinement feeding operation as a sole proprietor or a 10 percent or more ownership interest held by a person in a confinement feeding operation as a joint tenant, tenant in common, shareholder, partner, member, beneficiary, or other equity interest holder. The ownership interest is an interest when it is held directly, indirectly through a spouse or dependent child, or both.

“Internet” means the federated international system that is composed of allied electronic communication networks linked by telecommunication channels, that uses standardized protocols, and that facilitates electronic communication services, including but not limited to use of the World Wide Web; the transmission of electronic mail or messages; the transfer of files and data or other electronic information; and the transmission of voice, image, and video.

“Karst terrain” means land having karst formations that exhibit surface and subterranean features of a type produced by the dissolution of limestone, dolomite, or other soluble rock and characterized by closed depressions, sinkholes, or caves. If a 25-foot vertical separation distance can be maintained between the bottom of an unformed manure storage structure and limestone, dolomite, or other soluble rock, then the structure is not considered to be in karst terrain.

“Liquid manure” means manure that meets all of the following requirements:

1. The manure flows perceptibly under pressure.

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2. The manure is capable of being transported through a mechanical pumping device designated to move a liquid.

3. The constituent molecules of the liquid manure flow freely among themselves and show a tendency to separate under stress.

Liquid manure that is frozen or partially frozen is included in this definition.

“Livestock market” means any place where animals are assembled from two or more sources for public auction, private sale, or on a commission basis, which is under state or federal supervision, including a livestock sale barn or auction market, if such animals are kept for ten days or less.

“Long-term stockpile location” means an area where a person stockpiles manure for more than a total of six months in any two-year period.

“Low-pressure irrigation system” means spray irrigation equipment which discharges manure from a maximum height of 9 feet in a downward direction, and which utilizes spray nozzles which discharge manure at a maximum pressure of 25 pounds per square inch.

“Major water source” means a water source that is a lake, reservoir, river or stream located within the territorial limits of the state, or any marginal river area adjacent to the state, if the water source is capable of supporting a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding. Major water sources in the state are listed in Table 1 and Table 2 at the end of this chapter.

“Manager” means a person who is actively involved in the operation of the service and makes management decisions in the operation of a commercial manure service.

“Man-made manure drainage system” means a drainage ditch, flushing system, or other drainage device which was constructed by human beings and is used for the purpose of transporting manure.

“Manure” means animal excreta or other commonly associated wastes of animals including, but not limited to, bedding, litter, or feed losses. Manure does not include wastewater resulting from the washing and in-shell packaging of eggs. For the purposes of NPDES permitting, “manure” includes manure, bedding, compost and raw materials or other materials commingled with manure or set aside for disposal.

“Manure storage structure” means a formed manure storage structure, an unformed manure storage structure or a dry bedded manure storage structure. A manure storage structure does not include an egg washwater storage structure. An animal truck wash facility may be part of a confinement feeding operation. An animal truck wash effluent structure may be the same as a manure storage structure that is part of the confinement feeding operation, so long as the primary function of such impoundment is to collect and store both effluent from the animal truck wash facility and manure from the confinement feeding operation.

“New animal feeding operation” means an animal feeding operation whose construction was begun after July 22, 1987, or whose operation is resumed after having been discontinued for a period of 12 months or more.

“NPDES permit” means a written permit of the department, pursuant to the National Pollutant Discharge Elimination System (NPDES) program, to authorize and regulate the operation of a CAFO. “CAFO” means the same as defined in 567—65.100(459A).

“NRCS” means United States Department of Agriculture Natural Resources Conservation Services.

“One hundred year flood plain” means the land adjacent to a major water source, if there is at least a 1 percent chance that the land will be inundated in any one year, according to calculations adopted by rules adopted pursuant to Iowa Code section 459.103. In making the calculations, the department shall consider available maps or data compiled by the Federal Emergency Management Agency.

“Owner” means the person who has legal or equitable title to the property where the confinement feeding operation is located or the person who has legal or equitable title to the confinement feeding operation structures. “Owner” does not include a person who has a lease to use the land where the confinement feeding operation is located or to use the confinement feeding operation structures.

“Permanent vegetation cover” means land which is maintained in perennial vegetative cover consisting of grasses, legumes, or both, and includes, but is not limited to, pastures, grasslands or forages.

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“Professional engineer” means a person engaged in the practice of engineering as defined in Iowa Code section 542B.2 who is issued a certificate of licensure as a professional engineer pursuant to Iowa Code section 542B.17.

“Public thoroughfare” means a road, street, or bridge that is constructed or maintained by the state or a political subdivision.

“Public use area” means that portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time. Facilities include, but are not limited to, picnic grounds, campgrounds, cemeteries, lodges and cabins, shelter houses, playground equipment, swimming beaches at lakes, and fishing docks, fishing houses, fishing jetties or fishing piers at lakes. It does not include a highway, road right-of-way, parking areas, recreational trails or other areas where the public passes through, but does not congregate or remain in the area for significant periods of time.

“Public water supply” (also referred to as a system or a water system) means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the supplier of water and used primarily in connection with such system, and (2) any collection (including wells) or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water supply system is either a “community water system” or a “noncommunity water system.”

“Q100,” as defined in 567—70.2(455B,481A), means a flood having a 1 percent chance of being equaled or exceeded in any one year as determined by the department.

“Qualified confinement feeding operation” means a confinement feeding operation which has an animal unit capacity of:

1. 5,333 or more for animals other than swine as part of a farrowing and gestating operation or farrow-to-finish operation or cattle as part of a cattle operation.
2. 2,500 or more for a swine farrowing and gestating operation, not including replacement breeding swine if the following apply:
 - The replacement breeding swine are raised at the confinement feeding operation; and
 - The replacement breeding swine are used in the farrowing and gestation operation.
3. 5,400 or more for a swine farrow-to-finish operation.
4. 8,500 or more for a confinement feeding operation maintaining cattle.

“Qualified stockpile cover” means a barrier impermeable to precipitation that is used to protect a stockpile from precipitation.

“Qualified stockpile structure” means a building or roofed structure that is all of the following:

1. Impermeable to precipitation.
2. Constructed using wood, steel, aluminum, vinyl, plastic, or other similar materials.
3. Constructed with walls or other means to prevent precipitation-induced surface runoff from contacting the stockpile.

“Release” means an actual, imminent or probable discharge of manure from an animal feeding operation structure to surface water, groundwater, drainage tile line or intake, or to a designated area resulting from storing, handling, transporting or land-applying manure.

“Religious institution” means a building in which an active congregation is devoted to worship.

“Research college” means an accredited public or private college or university, including but not limited to a university under control of the state board of regents as provided in Iowa Code chapter 262, or a community college under the jurisdiction of a board of directors for a merged area as provided in Iowa Code chapter 260C, if the college or university performs research or experimental activities regarding animal agriculture or agronomy.

“Residence” means a house or other building, including all structures attached to the building, not owned by the owner of the animal feeding operation, which meets all of the following criteria at the location of the intended residence:

1. Used as a place of habitation for humans on a permanent and frequent basis.

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2. Not readily mobile.
3. Connected to a permanent source of electricity, a permanent private water supply or a public water supply system and a permanent domestic sewage disposal system including a private, semipublic or public sewage disposal system.

4. Assessed and taxed as real property.

If a house or other building has not been occupied by humans for more than six months in the last two years, or if a house or other building has been constructed or moved to its current location within six months, the owner of the intended residence has the burden of proving that the house or other building is a residence. Paragraph "3" shall not apply to a house or other building inhabited by persons who are exempt from the compulsory education standards of Iowa Code section 299.24 and whose religious principles or tenets prohibit the use of the utilities listed.

"Restricted spray irrigation equipment" means spray irrigation equipment which disperses manure through an orifice at a rate of 80 pounds per square inch or more.

"School" means an educational institution.

"Seasonal high-water table" means the part of the soil profile closest to the soil surface that becomes saturated (usually in the spring) as observed in a monitoring well or determined by recognition of soil redoxomorphic features.

NOTE: "Redoxomorphic features" refers to the gleying or mottling or both that occur under saturated conditions within the soil profile.

"Secondary containment barrier" means a structure used to retain accidental manure overflow from a manure storage structure.

"Shallow well" means 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.

"Small animal feeding operation" means an animal feeding operation which has an animal unit capacity of 500 or fewer animal units.

"Snow-covered ground" means soil covered by one inch or more of snow or soil covered by one-half inch or more of ice.

"Spray irrigation equipment" means mechanical equipment used for the aerial application of manure, if the equipment receives manure from a manure storage structure during application via a pipe or hose connected to the structure, and includes a type of equipment customarily used for aerial application of water to aid the growing of general farm crops.

"Stockpile" means dry manure or dry bedded manure originating from a confinement feeding operation that is stored at a particular location outside a confinement feeding operation building or a manure storage structure.

"Stockpile dry bedded manure" means to store dry bedded manure outside a dry bedded manure confinement feeding operation building or a dry bedded manure storage structure.

"Stockpile dry manure" means to create or add to a dry manure stockpile.

"Surface water drain tile intake" means an opening to a drain tile, including intake pipes and French drains, which allows surface water to enter the drain tile without filtration through the soil profile.

"Swine farrow-to-finish operation" means a confinement feeding operation in which porcine animals are produced and in which a primary portion of the phases of the production cycle is conducted at one confinement feeding operation. Phases of the production cycle include, but are not limited to, gestation, farrowing, growing and finishing. At a minimum, farrowing, growing, and finishing shall be conducted at the operation with a majority of the pigs farrowed at the site finished to market weight in order to qualify as a farrow-to-finish operation.

"Thoroughfare" means a road, street, bridge or highway open to the public and constructed or maintained by the state or a political subdivision.

"Threshold requirements for an engineer" means the limits, pursuant to Iowa Code section 459.303, which require that the design of a formed manure storage structure or egg washwater storage structure be prepared and signed by a professional engineer licensed in the state of Iowa or by an engineer working

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for the NRCS. A confinement feeding operation that utilizes a formed manure storage structure meets threshold requirements for an engineer if any of the following apply:

1. A confinement feeding operation with an animal unit capacity of 1,250 or more animal units for swine maintained as part of a swine farrowing and gestating operation.
2. A confinement feeding operation with an animal unit capacity of 2,750 or more animal units for swine maintained as part of a swine farrow-to-finish operation.
3. A confinement feeding operation with an animal unit capacity of 4,000 or more animal units for cattle maintained as part of a cattle operation.
4. Any other confinement feeding operation with an animal unit capacity of 3,000 or more animal units.

“Unformed manure storage structure” means a covered or uncovered impoundment used to store manure, other than a formed manure storage structure, which includes an anaerobic lagoon, aerobic structure, or earthen manure storage basin.

“Water of the state” means any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

“Water source” means a lake, river, reservoir, creek, stream, ditch, or other body of water or channel having definite banks and a bed with water flow, except lakes or ponds without outlet to which only one landowner is riparian.

“Water well” means an excavation that is drilled, cored, bored, augered, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for groundwater, monitoring groundwater, utilizing the geothermal properties of the ground, or extracting water from or injecting water into the aquifer. “Water well” does not include an open ditch or drain tiles or an excavation made for obtaining or prospecting for oil, natural gas, minerals, or products mined or quarried.

“Wetted perimeter” means the outside edge of land where the direct discharge of manure occurs from spray irrigation equipment.

65.1(2) Incorporation by reference. The text of the following incorporated materials is not included in Division I of this chapter. The materials listed below are hereby made a part of Division I of this chapter. For material subject to change, only the specific version specified in this subrule is incorporated. Any amendment or revision to a reference document is not incorporated until this subrule has been amended to specify the new version.

a. *“Act”* means the federal Water Pollution Control Act as amended through January 1, 2015, 33 U.S.C. Chapter 26;

b. *“AFO Siting Atlas”* means a tool to assist in determining potential building sites that meet regulatory requirements. The AFO Siting Atlas is located on the department’s Web site;

c. *“CFR”* or *“Code of Federal Regulations”* means the federal administrative rules adopted by the United States in effect as of January 1, 2015;

d. County Parks and Recreation Areas listed in Iowa’s County Conservation System Guide to Outdoor Adventure at <http://www.mycountyparks.com/GuideBook/Iowa/index.html> as shown on December 14, 2016;

e. Parks in Iowa under the federal jurisdiction of the United States Army Corps of Engineers listed on the United States Army Corps of Engineers’ Web site at <http://www.recreation.gov/campgroundDirectoryListByAgencyID.do?contractCode=NRSO&agencyID=70902> as shown on December 14, 2016;

f. Designated Wetlands in Iowa – effective date August 23, 2006, located on the department’s Web site; and

g. Emergency spill line telephone number is (515)725-8694.

ITEM 2. Amend subparagraph **65.2(3)“d”(2)** as follows:

(2) Applicable NPDES requirements pursuant to the ~~federal Water Pollution Control Act, 33 U.S.C. Ch. 26, and 40 CFR Pts. 122 and 412 Act.~~

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ITEM 3. Amend paragraph **65.2(9)“a”** as follows:

a. Notification. A person storing, handling, transporting, or land-applying manure from a confinement feeding operation who becomes aware of a release shall notify the department of the occurrence of release as soon as possible but not later than six hours after the onset or discovery of the release by contacting the ~~department at (515)281-8694~~ department’s spill line. The local police department or the office of the sheriff of the affected county shall also be contacted within the same time period if the spill involves a public roadway and public safety could be threatened. Reports made pursuant to this rule shall be confirmed in writing as provided in 65.2(9)“c.”

ITEM 4. Amend paragraph **65.3(3)“h”** as follows:

h. Setback requirements for confinement feeding operations with NPDES permits. For confinement feeding operations with NPDES permits, the following is adopted by reference: 40 CFR 412.4(a), (b) and (c)(5) ~~as amended through July 30, 2012.~~

ITEM 5. Amend subrule 65.3(4), introductory paragraph, as follows:

65.3(4) *Surface application of liquid manure on frozen or snow-covered ground.* A person who applies liquid manure on frozen or snow-covered ground shall comply with applicable NPDES requirements pursuant to the ~~federal Water Pollution Control Act, 33 U.S.C. Chapter 26, and 40 CFR Parts 122 and 412, Act~~ and also shall comply with the following requirements:

ITEM 6. Amend subparagraph **65.3(4)“c”(1)** as follows:

(1) An immediate need to apply manure in order to comply with the manure retention requirement of subrule 65.2(3) caused by the improper design or management of the manure storage structure, including but not limited to a failure to properly account for the volume of the manure to be stored. Based on the restrictions described in paragraphs 65.3(4)“a” and “b” and the possibility that the ground could be snow-covered and frozen for the entire period of December 21 to April 1, an operation should not plan to apply liquid manure during that time period. Confinement feeding operations with manure storage structures constructed after May 26, 2009, and without alternatives to manure application must have sufficient storage capacity to retain manure generated from December 21 to April 1 under normal circumstances in order to properly account for the volume of manure to be stored. For ~~the winters of 2010-2011 through 2014-2015 only,~~ confinement feeding operations that have no manure storage structures constructed after May 26, 2009, the department will accept insufficient manure storage capacity as a reason for emergency application in the notification required in 65.3(4)“d”(1).

ITEM 7. Amend rule 567—65.6(459,459B) as follows:

567—65.6(459,459B) Concentrated animal feeding operations; NPDES permits. Iowa Code subsection 459.311(2) requires a confinement feeding operation that is a concentrated animal feeding operation as defined in 40 CFR 122.23(b) to comply with applicable NPDES permit requirements pursuant to rules adopted by the commission. The following regulations ~~as amended through July 30, 2012,~~ are adopted by reference:

- 40 CFR 122.21, application for a permit.
- 40 CFR 122.23, concentrated animal feeding operations.
- 40 CFR 122.42(e), additional conditions applicable to specified categories of NPDES permits.
- 40 CFR 122.63(h), minor modification of permits.
- 40 CFR Part 412, concentrated animal feeding operations (CAFO) point source category.

ITEM 8. Adopt the following **new** paragraph **65.7(2)“d”**:

d. A construction permit is not required for a confinement feeding operation that exclusively confines fish and elects to comply with the permitting requirements of Iowa Code section 455B.183.

ITEM 9. Amend subrule 65.7(4) as follows:

65.7(4) *Construction permit application plan review criteria.* Review of plans and specifications submitted with a construction permit application shall be conducted to determine the potential of the proposed manure control system to achieve the level of manure control being required of the confinement feeding operation. In conducting this review, applicable criteria contained in federal law, state law,

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these rules, ~~Natural Resources Conservation Service~~ NRCS design standards and specifications unless inconsistent with federal or state law or these rules, and U.S. Department of Commerce precipitation data shall be used. If the proposed facility plans are not adequately covered by these criteria, applicable criteria contained in current technical literature shall be used.

ITEM 10. Amend subrule 65.7(5) as follows:

65.7(5) Expiration of construction permits. A construction permit issued ~~prior to June 15, 2005, shall expire if construction, as defined in rule 567—65.8(459,459B), is not begun within one year of the date of issuance and shall expire on June 15, 2012, if construction is not completed by June 14, 2012.~~ A construction permit issued on or after June 15, 2005, shall expire if construction, as defined in rule 567—65.8(459,459B), is not begun within one year and completed within four years of the date of issuance. The director may grant an extension of time to begin or complete construction if it is necessary or justified, upon showing of such necessity or justification to the director, unless a person who has an interest in the proposed operation is the subject of a pending enforcement action or a person who has a controlling interest in the proposed operation has been classified as a habitual violator. If a permitted site has not completed all proposed permitted structures within the four-year limit, then the approved animal unit capacity in the construction permit shall be lowered to be equal to what was constructed and the department shall issue a construction permit amendment for what was constructed.

ITEM 11. Amend subrule 65.7(7) as follows:

65.7(7) Confinement feeding operations required to obtain a construction approval letter. A person planning to construct a confinement feeding operation, other than a small animal feeding operation as defined in rule 567—65.1(459,459B) or other than an operation required to obtain a construction permit pursuant to subrule 65.7(1), shall obtain from the department a construction approval letter as provided in subrule 65.9(3) prior to beginning construction of a formed manure storage structure or a confinement building. The construction approval letter shall expire if construction, as defined in subrule 65.8(1), is not begun within one year and completed within four years of the date of the construction approval letter.

ITEM 12. Amend paragraph **65.7(8)“a”** as follows:

a. A person shall not construct a confinement feeding operation structure in the one hundred year flood plain. A person shall not begin construction of a confinement feeding operation structure located on alluvial soil until the department issues a declaratory order pursuant to subrule 65.7(9) that the proposed location is not in the one hundred year flood plain. The AFO Siting Atlas may be a tool used to assist in the one hundred year flood plain and alluvial soil determinations.

ITEM 13. Amend subrule 65.7(9), introductory paragraph, as follows:

65.7(9) Declaratory orders and flood plain determinations. A person shall not construct a confinement feeding operation structure in the one hundred year flood plain. The AFO Siting Atlas may be a tool used to assist in the one hundred year flood plain and alluvial soil determinations. If the location of any proposed confinement feeding operation structure contains soils classified as alluvial determined pursuant to subrule 65.9(4), the owner shall petition the department for a declaratory order or a determination that the confinement feeding operation structure is not in the one hundred year flood plain. To be considered complete, the petition shall include all information necessary, pursuant to 567—Chapters 70 to 76, for the department to determine: (1) if the confinement feeding operation is proposed to be located on a one hundred year flood plain; (2) if a flood plain development permit for the operation is required; and (3) if a flood plain development permit may be issued if one is required. This information may include land surveys to determine elevations of the land within the footprint of the planned operation as well as flood plain and channel geometry. The petition for a declaratory order or determination shall be submitted to the department according to either of the following:

ITEM 14. Amend rule 567—65.8(459,459B) as follows:

567—65.8(459,459B) Construction. For purposes of these rules:

65.8(1) Construction of an animal feeding operation structure begins or an animal feeding operation structure is constructed when any of the following occurs:

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a. Excavation for a proposed animal feeding operation structure, ~~or excavation for footings, or filling or compacting of the soil or soil amendments~~ for a proposed animal feeding operation structure.

b. and *c.* No change.

65.8(2) Construction does not begin upon occurrence of any of the following:

a. and *b.* No change.

c. General earth moving for leveling ~~or compacting~~ at the site.

d. No change.

65.8(3) Prohibition on construction.

a. to *c.* No change.

d. A confinement feeding operation structure shall not be constructed on the one hundred year flood plain in a major water source. Placing fill material on flood plain land to elevate the land above the one hundred year flood level will not be considered as removing the land from the one hundred year flood plain for the purpose of this paragraph. ~~In addition,~~ A person shall not construct a confinement feeding operation structure on a flood plain outside of a major water source, as provided in 567—71.13(455B) until the department issues a flood plain development permit pursuant to 567—Chapters 70 to 76.

e. A person shall not construct a confinement feeding operation structure on land that contains alluvial soils, according to the Soil Survey published by the ~~Natural Resources Conservation Service of the United States Department of Agriculture~~ NRCS, and determined according to subrule 65.9(4), unless the person has received a declaratory order or a determination from the department ~~of natural resources~~ that the proposed location of the structure is not on the one hundred year flood plain, pursuant to subrule 65.7(9).

f. No change.

ITEM 15. Amend subrule 65.9(1) as follows:

65.9(1) *Construction permit application.* Application for a construction permit for a confinement feeding operation shall be made on a form provided by the department. The application shall include all of the information required in the form ~~and should be submitted to the department at least 120 days prior to the date the proposed construction is scheduled to begin.~~ At the time the department receives a complete application, the department shall make a determination regarding the approval or denial of the permit in accordance with subrule 65.10(5). A construction permit application for a confinement feeding operation shall be filed as instructed on the form and shall include the following:

a. to *e.* No change.

f. Engineering documents. A confinement feeding operation that utilizes an unformed manure storage structure, an egg washwater storage structure or a formed manure storage structure at an operation that meets the threshold requirements for an engineer as defined in 567—65.1(459,459B) shall include an engineering report, construction plans and specifications. The engineering report, construction plans and specifications must be prepared and signed by a licensed professional engineer or by ~~a USDA Natural Resources Conservation Service (NRCS) an NRCS~~ an NRCS qualified staff person, must detail the proposed structures, and must include a statement certifying that the manure storage structure complies with the requirements of Iowa Code chapter 459. In addition, a qualified soils or groundwater professional, licensed professional engineer or NRCS qualified staff shall submit a hydrogeologic report on soil corings in the area of the unformed manure storage structure or egg washwater storage structure as described in subrules 65.15(6) to 65.15(13).

g. to *s.* No change.

ITEM 16. Amend subrule 65.9(4) as follows:

65.9(4) *Alluvial One hundred year flood plain or alluvial soils submittal requirements.* Prior to beginning construction or expansion of a confinement feeding operation, the person planning the construction shall determine whether the proposed confinement feeding operation structure will be located in soils classified as alluvial as defined in 567—65.1(459,459B) and pursuant to paragraph 65.8(3) “*e.*” The alluvial soils determination shall be obtained ~~by using the AFO Siting Atlas located at the department’s official Web site or by consulting a qualified department staff person, a soils professional normally engaged in the practice of soil investigation, or NRCS qualified staff.~~ The AFO

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Siting Atlas may be a tool used to assist in the alluvial soil determination. The one hundred year flood plain information or the alluvial soils determination shall be submitted to the department according to the following:

a. If the proposed location is not in the one hundred year flood plain or alluvial soils, the person planning the construction shall submit a printed map ~~from the AFO Siting Atlas~~ clearly showing the location of each proposed confinement feeding operation structure or a written statement from qualified department staff, a soils professional normally engaged in the practice of soil investigation or NRCS qualified staff, with the construction permit application documents as required in subrule 65.9(1) or with the construction design statement as required in subrule 65.9(3) if a construction permit is not required.

b. If one hundred year flood plain information is not available and the proposed location is in alluvial soils, the person planning the construction shall petition the department for a declaratory order or a determination according to procedures required in subrule 65.7(9). It is recommended that the person planning the construction consult with qualified department staff before petitioning for a declaratory order or a determination. The department's determination indicating that the location is not in the one hundred year flood plain and a copy of the department's flood plain development permit pursuant to 567—Chapters 70 to 76, if required, must be submitted with the construction permit application documents pursuant to subrule 65.9(1). If a construction permit is not required pursuant to subrule 65.7(1), the department's declaratory order indicating that the location is not in the one hundred year flood plain and a copy of the department's flood plain development permit pursuant to 567—Chapters 70 to 76, if required, must be submitted when a construction design statement is filed pursuant to subrules 65.9(3) and 65.9(6).

ITEM 17. Amend subrule 65.9(5), introductory paragraph, as follows:

65.9(5) Karst terrain submittal requirements. Prior to beginning construction of a confinement feeding operation, the person planning the construction shall determine whether the proposed confinement feeding operation structure will be located in karst terrain, as defined in 567—65.1(459,459B). The karst terrain determination shall be obtained by ~~using the AFO Siting Atlas located at the department's official Web site or by consulting a qualified department staff person, a soils professional normally engaged in the practice of soil investigation or NRCS qualified staff.~~ The AFO Siting Atlas may be a tool used to assist in the karst terrain determination. The results of the karst terrain determination shall be submitted to the department according to the following:

ITEM 18. Amend subrule 65.9(7), introductory paragraph, as follows:

65.9(7) Professional engineer design certification. In lieu of a construction design statement prior to beginning construction of a formed manure storage structure, a confinement feeding operation, other than a small animal feeding operation, that is below the threshold requirements for an engineer pursuant to 567—65.1(459,459B) may file with the department a professional engineer design certification and design plans signed by a professional engineer licensed in the state of Iowa or an NRCS qualified staff person. The professional engineer design certification shall be site-specific and shall be filed on a form provided by the department as follows:

ITEM 19. Amend paragraph **65.9(8)“a”** as follows:

a. If a manure storage structure stores liquid or semi-liquid manure, the secondary containment barrier design shall include engineering drawings prepared and signed by a professional engineer licensed in the state of Iowa or an NRCS qualified staff person. For purposes of this subrule only, semiliquid manure means manure that contains a percentage of dry matter that results in manure too solid for pumping, but too liquid for stacking.

ITEM 20. Amend paragraph **65.10(2)“a,”** introductory paragraph, as follows:

a. *Public notice.* The county board of supervisors shall publish a notice that the board has received the construction permit application in a newspaper having general circulation in the county. The county board shall publish the notice as soon as possible but no later than 14 days after receiving ~~the permit application~~ instructions from the department that a complete application has been received. The notice shall include all of the following:

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ITEM 21. Amend subparagraph **65.10(3)“b”(1)** as follows:

(1) In completing the master matrix, the board shall not score criteria on a selective basis. The board must score all criteria which are part of the master matrix according to the terms and conditions relating to construction as specified in the application or commitments for manure management that are to be incorporated into a manure management plan as provided in Iowa Code section 459.312 ~~as amended by 2009 Iowa Acts, Senate File 432, section 2.~~

ITEM 22. Amend subrule 65.10(5) as follows:

65.10(5) Determination by the department. The department must receive the county board of supervisors' comments or evaluation for approval or disapproval of an application for a construction permit not later than 30 days following the applicant's delivery of ~~the~~ a complete application to the department. Regardless of whether the department receives comments or an evaluation by a county board of supervisors, the department must render a determination or a preliminary determination to approve or disapprove an application for a construction permit within 60 days following the applicant's delivery of ~~an~~ a complete application to the department. However, the applicant may deliver a notice requesting a continuance. Upon receipt of a notice, the time required for the county or department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days after the department's receipt of the notice. The applicant may submit more than one notice. However, the department may terminate an application if no action is required by the department for one year following delivery of the application to the board. The department may also provide for a continuance when it considers the application. The department shall provide notice to the applicant and the board of the continuance. The time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days. However, the department shall not provide for more than one continuance. If review of the application is delayed because the application is incomplete, and the applicant fails to supply requested information within a reasonable time prior to the deadline for action on the application, the permit may be denied and a new application will be required if the applicant wishes to proceed.

The department will approve or disapprove an application as follows:

a. If the county board of supervisors does not submit a construction evaluation resolution to the department, fails to submit an adopted recommendation, submits only comments, or fails to submit comments, the department shall approve the application if the application meets the requirements of this chapter and Iowa Code ~~chapter~~ chapters 455B, 459, 459A and 459B. The department will disapprove the application if it does not meet such requirements.

b. If the board of supervisors for the county in which the confinement feeding operation is proposed to be constructed has filed a county construction evaluation resolution and submits an adopted recommendation to approve the construction permit application, which may be based on a satisfactory rating produced by the master matrix, to the department, the department shall preliminarily approve an application for a construction permit if the department determines that the application meets the requirements of this chapter and Iowa Code ~~chapter~~ chapters 455B, 459, 459A and 459B. The department shall preliminarily disapprove an application that does not satisfy the requirements of this chapter and Iowa Code ~~chapter~~ chapters 455B, 459, 459A and 459B regardless of the adopted recommendation of the board of supervisors. The department shall consider any timely filed comments made by the board as provided in this subrule to determine if an application meets the requirements of this chapter and Iowa Code ~~chapter~~ chapters 455B, 459, 459A and 459B.

c. If the board submits to the department an adopted recommendation to disapprove an application for a construction permit that is based on a rating produced by the master matrix, the department shall first determine if the application meets the requirements of this chapter and Iowa Code ~~chapter~~ chapters 455B, 459, 459A and 459B. The department shall preliminarily disapprove an application that does not satisfy the requirements of this chapter and Iowa Code ~~chapter~~ chapters 455B, 459, 459A and 459B, regardless of any result produced by using the master matrix. If the application meets the requirements of this chapter and Iowa Code ~~chapter~~ chapters 455B, 459, 459A and 459B, the department shall conduct an independent evaluation of the application using the master matrix. The department shall preliminarily

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approve the application if it achieves a satisfactory rating according to the department's evaluation. The department shall preliminarily disapprove the application if it produces an unsatisfactory rating regardless of whether the application satisfies the requirements of this chapter and Iowa Code ~~chapter~~ chapters 455B, 459, 459A and 459B. The department shall consider any timely filed comments made by the board as provided in this subrule to determine if an application meets the requirements of this chapter and Iowa Code ~~chapter~~ chapters 455B, 459, 459A and 459B.

ITEM 23. Amend paragraph **65.10(7)“a”** as follows:

a. A county board of supervisors that has submitted an adopted recommendation to the department may contest the department's preliminary decision to approve or disapprove an application for permit by filing a written demand for a hearing before the commission. Due to the need for expedited scheduling, the county board of supervisors shall, as soon as possible but not later than 14 days following receipt of the department's notice of preliminary decision, notify the ~~chief of the department's water quality bureau by facsimile transmission to (515)281-8895~~ department in writing that the board intends to file a demand for hearing. The demand for hearing shall be sent to ~~Director, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319,~~ the director of the department and must be postmarked no later than 30 days following the board's receipt of the department's notice of preliminary decision.

ITEM 24. Amend paragraph **65.10(8)“a”** as follows:

a. *Applicant demand for hearing before the commission.* Due to the need for expedited scheduling, the applicant shall, as soon as possible but not later than 14 days following receipt of the department's notice of preliminary decision, notify the ~~chief of the department's water quality bureau by facsimile transmission to (515)281-8895~~ department in writing that the applicant intends to file a demand for hearing. The demand for hearing shall be sent to ~~Director, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319,~~ the director of the department and must be postmarked no later than 30 days following the applicant's receipt of the department's notice of preliminary decision. If the county board of supervisors has filed a demand for hearing, the times for facsimile notification and filing a demand for hearing are extended an additional 3 business days. It is the responsibility of the applicant to communicate with the department to determine if a county demand for hearing has been filed. The demand for hearing shall include a statement setting forth all of the applicant's reasons why the application for permit should be approved or disapproved, including legal briefs and all supporting documentation, and a further statement indicating whether an oral presentation before the commission is requested.

ITEM 25. Amend subrule 65.10(10) as follows:

65.10(10) Complaint investigations. Complaints of violations of Iowa Code ~~chapter~~ chapters 455B, 459, 459A and 459B and this rule, which are received by the department or are forwarded to the department by a county, following a county board of supervisors' determination that a complainant's allegation constitutes a violation, shall be investigated by the department if it is determined that the complaint is legally sufficient and an investigation is justified.

a. No change.

b. A complaint is legally sufficient if it contains adequate information to investigate the complaint and if the allegation constitutes a violation, without investigating whether the facts supporting the allegation are true or untrue, of rules adopted by the department, Iowa Code ~~chapter~~ chapters 455B, 459, 459A and 459B or environmental standards in regulations subject to federal law and enforced by the department.

c. to i. No change.

ITEM 26. Amend subrule 65.11(9), introductory paragraph, as follows:

65.11(9) Measurement of separation distances. Except as provided in paragraph 65.11(9)“f,” the distance between confinement feeding operation structures and locations or objects from which separation is required shall be measured horizontally by standard survey methods between the closest point of the location or object (not a property line) and the closest point of the confinement feeding

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operation structure. The department may require that a separation distance be measured and certified by a licensed land surveyor, a professional engineer licensed in the state of Iowa, or ~~USDA Natural Resources Conservation Service (NRCS)~~ NRCS qualified staff in cases where the department cannot confirm a separation distance. For purposes of this subrule, structure shall not include areas that do not house animals or store manure or litter.

ITEM 27. Amend subrule 65.12(1) as follows:

65.12(1) *Exemptions to separation distance requirements from a residence, business, church, school and public use area.* As specified in Iowa Code section 459.205 ~~as amended by 2009 Iowa Acts, House File 735, section 4,~~ the separation distances required from residences, businesses, churches, schools and public use areas specified in Iowa Code ~~section sections~~ 459.202 and section 459.204B ~~as amended by 2009 Iowa Acts, House File 735, section 3,~~ and required in subrules 65.11(1), 65.11(2) and 65.11(7), including Tables 6 to 6d at the end of this chapter, shall not apply to the following:

a. No change.

b. A confinement feeding operation structure which is constructed or expanded, if the titleholder of the land benefiting from the distance separation requirement executes a written waiver with the titleholder of the land where the structure, stockpile or qualified stockpile structure is located, under such terms and conditions that the parties negotiate. The waiver shall be specific to the construction or expansion project for which it is submitted. The waiver may include specific language to include future projects or expansions. The written waiver becomes effective only upon the recording of the waiver in the office of the recorder of deeds of the county in which the benefited land is located. The benefited land is the land upon which is located the residence, business, church, school or public use area from which separation is required. The filed waiver shall preclude enforcement by the department of the separation distance requirements of Iowa Code section 459.202. A copy of the recorded waiver shall be submitted with the construction design statement pursuant to subrule 65.9(3) if a construction permit is not required or as part of the construction permit application documents pursuant to subrule 65.9(1).

c. and d. No change.

ITEM 28. Amend subrule 65.12(2), introductory paragraph, as follows:

65.12(2) *Exemptions to separation distance requirements from public thoroughfares.* As specified in Iowa Code section 459.205 ~~as amended by 2009 Iowa Acts, House File 735, section 4,~~ the separation required from thoroughfares specified in Iowa Code section 459.202 and summarized in Tables 6 to 6d at the end of this chapter shall not apply to any of the following:

ITEM 29. Amend subrule 65.12(6), introductory paragraph, as follows:

65.12(6) *Exemption to separation distance requirements from cemeteries.* As specified in Iowa Code section 459.205 ~~as amended by 2009 Iowa Acts, House File 735, section 4,~~ the separation distance required between a confinement feeding operation structure and a cemetery shall not apply if any of the following apply:

ITEM 30. Amend subrule 65.12(8) as follows:

65.12(8) *Exemptions to prohibition on one hundred year flood plain construction and separation distance requirements from water sources, major water sources, known sinkholes, agricultural drainage wells and designated wetlands—replacement formed manure storage structures.* As specified in Iowa Code section 459.310, subsection 4, a separation distance required in subrules 65.11(3) and 65.11(4) or the prohibition against construction of a confinement feeding operation structure on a one hundred year flood plain as provided in paragraph 65.8(3) “e” shall not apply to a confinement feeding operation that includes a confinement feeding operation structure that was constructed prior to March 1, 2003, if any of the following apply:

a. One or more unformed manure storage structures that are part of the confinement feeding operation are replaced with one or more formed manure storage structures on or after April 28, 2003, and all of the following apply:

(1) to (4) No change.

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(5) The replacement formed manure storage structure meets or exceeds the requirements of Iowa Code section 459.307 ~~as amended by 2009 Iowa Acts, House File 735, section 7, and subrule 65.15(14).~~

b. A replacement formed manure storage structure that is part of the confinement feeding operation is constructed on or after April 28, 2003, pursuant to a variance granted by the department. In granting the variance, the department shall make a finding of all of the following:

(1) No change.

(2) The replacement formed manure storage structure complies with standards adopted pursuant to Iowa Code section 459.307 ~~as amended by 2009 Iowa Acts, House File 735, section 7, and subrule 65.15(14).~~

(3) No change.

ITEM 31. Amend paragraph **65.15(1)“b”** as follows:

b. Drainage tile lines discovered within the projected site of an unformed manure storage structure and within 50 feet of the projected structure's liquid surface at the high water level shall be removed and rerouted to at least 50 feet beyond the projected structure's liquid surface at the high water level. Drainage tile lines installed at the time of construction to lower a groundwater table may remain where located, provided that the tile lines are outside of the proposed berm. ~~A device to allow monitoring of the water in the drainage tile lines installed to lower the groundwater table and a device to allow shutoff of the drainage tile lines shall be installed if the drainage tile lines do not have a surface outlet accessible on the property where the unformed manure storage structure is located.~~ All other drainage tile lines discovered shall be rerouted, capped, or plugged with concrete, Portland cement concrete grout or similar materials.

ITEM 32. Amend subrule 65.15(2), introductory paragraph, as follows:

65.15(2) *Drainage tile removal around an existing manure storage structure.* The owner of an aerobic structure, anaerobic lagoon or earthen manure storage basin or earthen waste slurry storage basin, other than an egg washwater storage structure, that is part of a confinement feeding operation with a construction permit granted before March 20, 1996, but after December 31, 1992, shall inspect ~~by March 20, 1997,~~ for drainage tile lines as provided in this subrule, and all applicable records of known drainage tiles shall be examined. The owner of an aerobic structure, anaerobic lagoon, earthen manure storage basin or earthen waste slurry storage basin, other than an egg washwater storage structure, that is part of a confinement feeding operation with a construction permit granted before January 1, 1993, but after May 31, 1985, shall ~~have an inspection conducted by July 1, 2000,~~ inspect for drainage tiles as provided in this subrule, and all applicable records of known drainage tiles shall be examined. Drainage tile lines shall not be installed within the separation distance provided in paragraph 65.15(1)“b” once the basin has been constructed.

ITEM 33. Amend paragraph **65.15(7)“b”** as follows:

b. Permanent artificial lowering of groundwater table.

(1) Unformed structures. The groundwater table around an unformed manure storage structure or earthen egg washwater storage structure may be artificially lowered to levels required in paragraph 65.15(7)“a” by using a gravity flow tile drainage system or other permanent nonmechanical system for artificial lowering of the groundwater table. Detailed engineering and soil drainage information shall be provided with a construction permit application for an unformed manure storage structure or earthen egg washwater storage structure ~~to confirm the adequacy of the proposed permanent system to provide the required drainage without materially increasing the seepage potential of the site if a drainage system for artificially lowering the groundwater table will be installed.~~ Drainage tiles shall not be located closer than 6 feet horizontally from the structure's liquid surface at maximum operating depth. (See 65.15(1)“b” for monitoring and shutoff requirements for drainage tile lines installed to lower the groundwater table.) The level to which the groundwater table will be lowered will be considered to represent the seasonal high-water table. If a drainage tile around the perimeter of the basin is installed a minimum of two feet below the top of the basin liner to artificially lower the seasonal high-water table, the top of the basin's liner may be a maximum of four feet below the seasonal high-water table which existed prior to installation of the perimeter tile system. Drainage tile lines shall be installed between the outside of the

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proposed toe of the berm and within 25 feet of the outside of the toe of the berm. Drainage tile lines shall be placed in a vertical trench and encased in granular material which extends upward to the level of the seasonal high-water table which existed prior to installation of the perimeter tile system. A device to allow monitoring of the water in the drainage tile lines installed to lower the groundwater table and a device to allow shutoff of the drainage tile lines shall be installed if the drainage tile lines do not have a surface outlet accessible on the property where the unformed manure storage structure is located.

(2) Formed structures. For a formed manure storage structure or a formed egg washwater storage structure, partially or completely constructed below the normal soil surface, a tile drainage system or other permanent system for artificial lowering of groundwater levels shall be installed around the structure if the groundwater table is above the bottom of the structure. (See ~~65.15(1)“b”~~ 65.15(7)“b”(1) for monitoring and shutoff requirements for drainage tile lines installed to lower the groundwater table.)

ITEM 34. Amend paragraph **65.15(7)“c”** as follows:

c. Determination of groundwater table. For purposes of this rule, groundwater table is the seasonal high water table determined by a licensed professional engineer, a groundwater professional certified pursuant to 567—Chapter 134, or qualified staff from the department or ~~Natural Resources Conservation Service (NRCS)~~ NRCS. If a construction permit is required, the department must approve the groundwater table determination.

(1) Current groundwater levels shall be measured using at least one of the following for either formed or unformed structures:

1. Temporary monitoring wells. ~~Each of the three~~ A minimum of three temporary monitoring wells shall be developed according to ~~567—subrule 110.11(8)~~ installed. The top of the well screen shall be within 5 feet of the ground surface. Each well shall be extended to at least 2 feet below the bottom of the liner of an unformed manure storage structure, or to at least 2 feet below the footings of a formed manure storage structure.

- Unformed structures. For an unformed manure storage structure, each monitoring well may be installed in the existing boreholes resulting from the corings required in subrule 65.15(6).

- Formed structures. For a formed manure storage structure, at least three temporary monitoring wells shall be installed as close as possible to three corners of the structure, with one of the wells close to the corner of deepest excavation. If the formed structure is circular, the three monitoring wells shall be equally spaced and one well shall be placed at the point of deepest excavation.

2. Test pits. The department may allow use of test pits in lieu of temporary monitoring wells if seasonal variation in climatic patterns, soil and geologic conditions prevent accurate determination of the seasonal high water table or prior to the construction of an unformed manure storage structure liner to ensure that the required separation distance to the groundwater table is being met. The bottom of each test pit shall be at least 2 feet below the floor of the manure storage structure or egg washwater storage structure. Each pit shall be allowed to remain open and unaltered for a minimum of seven days for viewing by the department or NRCS qualified staff for the determination of soil characteristics and related groundwater influence. Adequate protection (temporary berms and covers) shall be provided to prevent surface runoff from entering the test pits. One test pit shall be located in each corner and one in the center of the proposed manure control structure, unless otherwise specified by the department. Test pits shall be backfilled and compacted to achieve the seepage loss as outlined in subrule 65.15(11). A description of the materials present in the test pit shall be documented by all of the following:

- Digital photos;
- Description of soils including mottling;
- Construction specifications; and
- Weather conditions both prior to and during the period in which test pits are open.

(2) No change.

ITEM 35. Amend subrule 65.15(11) as follows:

65.15(11) Seals for unformed manure storage structures and unformed egg washwater storage structures. An unformed manure storage structure or egg washwater storage structure shall be sealed such that seepage loss through the seal is as low as practically possible. ~~The percolation rate shall not~~

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exceed 1/16 inch per day at the design depth of the structure. Following construction of the structure, the results of a testing program which indicates the adequacy of the seal shall be provided to this department in writing prior to start-up of a permitted operation.

ITEM 36. Amend subrule 65.15(14), introductory paragraph, as follows:

65.15(14) Concrete standards. A formed manure storage structure which is constructed of concrete on or after March 24, 2004, that is part of a confinement feeding operation other than a small animal feeding operation shall meet the following minimum standards. For the purpose of this subrule, a "PE" is a professional engineer licensed in the state of Iowa and an "NRCS engineer" is an engineer working for the ~~USDA Natural Resources Conservation Service (NRCS)~~ NRCS. (CAVEAT: These standards are not intended to address other site-related engineering and construction considerations beyond the department's jurisdiction.)

ITEM 37. Amend paragraph 65.15(14)"a"(2)"11" as follows:

11. All walls shall be formed with rigid forming systems and shall not be earth-formed. Form ties shall be nonremovable to provide a liquid-tight structure. No conduits or pipes shall be installed through an outside wall below the maximum liquid level of the structure.

ITEM 38. Amend paragraph 65.15(14)"a"(2)"14" as follows:

14. Backfilling of the walls shall not start until the floor slats or permanent bracing ~~have~~ has been installed and grouted. Backfilling shall be performed with material free of vegetation, large rocks or debris.

ITEM 39. Amend subparagraphs 65.15(14)"c"(1), (2) and (5) as follows:

(1) In an area that exhibits karst terrain or an area that drains into a known sinkhole, a PE, NRCS qualified staff or a qualified organization shall submit a soil exploration study based on the results from soil borings or test pits to determine the vertical separation between the bottom of the formed structure and limestone, dolomite, or other soluble rock. A minimum of two soil borings ~~or two test pits~~, equally spaced within each formed structure; or two test pits located within 5 feet of the outside of the formed structure are required. After soil exploration is completed, each soil boring and test pit shall be properly plugged with concrete grout, bentonite, or similar materials.

(2) A minimum 5-foot layer of low permeability soil (1×10^{-6} cm/sec) or rock between the bottom of a formed manure storage structure and limestone, dolomite, or other soluble rock is required if the formed manure storage structure is not designed by a PE or NRCS qualified staff.

(5) Backfilling shall not start until the floor slats have been placed or permanent bracing has been installed and grouted, and shall be performed with material free of vegetation, large rocks, or debris.

ITEM 40. Amend paragraph 65.15(17)"a" as follows:

a. A secondary containment barrier shall consist of a structure surrounding or downslope of a manure storage structure and shall be designed according to either of the following:

(1) If the manure storage structure is used to store liquid or semiliquid manure, the secondary containment barrier shall be designed to contain 120 percent of the volume of manure stored above the manure storage structure's final grade or 50 percent of the volume of manure stored belowground or partially belowground, whichever is greater. Engineering drawings prepared by a professional engineer licensed in Iowa or NRCS qualified staff must be submitted according to procedures set forth in subrule 65.9(8) and must show compliance with 65.15(17)"a" to "d" or "e." If the containment barrier does not surround the manure storage structure, upland drainage must be diverted. For purposes of this subrule only, semiliquid manure means manure that contains a percentage of dry matter that results in manure too solid for pumping, but too liquid for stacking.

(2) If the manure storage structure is used for the storage of only dry manure, the secondary containment barrier shall be designed to contain at least 10 percent of the volume of manure stored. Detailed drawings prepared by the owner or a representative must be submitted according to procedures set forth in subrule 65.9(8) and must show compliance with 65.15(17)"a" to "~~d~~" "c" or "e." If the containment barrier does not surround the manure storage structure, upland drainage must be diverted.

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Any dry manure retained by the secondary containment barrier shall be removed and properly disposed of within 14 days.

ITEM 41. Adopt the following **new** paragraph **65.15(17)“f”**:

f. In lieu of the construction of the secondary containment barrier, the manure control structure can be designed to retain the manure and direct the manure back into the storage structure.

ITEM 42. Amend subrule 65.16(1) as follows:

65.16(1) In accordance with Iowa Code section 459.312 ~~as amended by 2009 Iowa Acts, Senate File 432, section 2,~~ the following persons are required to submit manure management plans to the department, including an original manure management plan and an updated manure management plan, as required by this rule:

a. to e. No change.

f. An animal feeding operation otherwise required to submit an updated manure management plan and pay an annual compliance fee may make an election to be considered a small animal feeding operation for purposes of filing updated manure management plans and annual compliance fees if the confinement feeding operation maintains an animal unit capacity of 500 or fewer animal units. The election shall automatically terminate when more than 500 animal units are housed at the confinement feeding operation at any one time. If the confinement feeding operation exceeds more than 500 animal units, a manure management plan shall be submitted.

ITEM 43. Amend rule 567—65.17(459,459B), introductory paragraph, as follows:

567—65.17(459,459B) Manure management plan content requirements. All manure management plans are to be submitted on forms or electronically as prescribed by the department. The plans shall include all of the information specified in Iowa Code section 459.312 ~~as amended by 2009 Iowa Acts, Senate File 432, section 2,~~ and as described below.

ITEM 44. Rescind paragraph **65.17(4)“c”**.

ITEM 45. Amend subparagraph **65.17(6)“a”(1)** as follows:

(1) Soil survey interpretation record. The plan shall include a map showing soil map units for the fields where manure will be applied. The optimum crop yield for each field shall be determined by using the weighted average of the soil interpretation record yields for the soils on the cropland where the manure is to be applied. Soil interpretation records from ~~the Natural Resources Conservation Service NRCS~~ shall be used to determine yields based on soil map units.

ITEM 46. Amend subrule 65.17(13), introductory paragraph, as follows:

65.17(13) Record keeping. Records shall be maintained by the owner of a confinement feeding operation who is required to submit a manure management plan. ~~This recorded information shall be maintained for three years following the year of application or for the length of the crop rotation, whichever is greater.~~ Records shall be maintained for five years following the year of application or for the length of the crop rotation, whichever is greater. Records shall be maintained at the site of the confinement feeding operation or at a residence or office of the owner or operator of the facility within 30 miles of the site. Records to demonstrate compliance with the manure management plan shall include the following:

ITEM 47. Amend subrule 65.17(16), introductory paragraph, as follows:

65.17(16) Soil sampling requirements for fields where the phosphorus index must be used. Soil samples shall be obtained from each field in the manure management plan ~~at least once every four years,~~ and the soil samples shall be four years old or less. Each soil sample shall be analyzed for phosphorus and pH. The soil sampling protocol shall meet all of the following requirements:

ITEM 48. Amend subrule 65.17(17), introductory paragraph, as follows:

65.17(17) Use of the phosphorus index. Manure application rates shall be determined in conjunction with the use of the Iowa Phosphorus Index as specified by ~~the USDA Natural Resources Conservation Service (NRCS) NRCS~~ Iowa Technical Note No. 25.

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ITEM 49. Amend paragraphs **65.17(17)“b”** and **“e”** as follows:

b. When sheet and rill erosion is calculated for the phosphorus index, the soil type used for the calculation shall be the most erosive soil map unit that is at least 10 percent of the total field area. ~~Effective September 15, 2010, in~~ In all original and complete manure management plans submitted to the department for approval, the dominant critical soil map unit consistent with NRCS conservation planning guidelines shall be used to calculate sheet and rill erosion for the phosphorus index. (See NRCS Technical Note No. 29).

e. For an original manure management plan, previous soil sampling data that does not meet the requirements of subrule 65.17(16) may be used in the phosphorus index if the data is four years old or less. In the case of fields for which soil sampling data is used that does not meet the requirements of subrule 65.17(16), the fields must be soil-sampled according to the requirements of subrule 65.17(16) no more than one year after the original manure management plan is approved and a new manure management plan shall be submitted with the results of the new samples.

ITEM 50. Rescind and reserve subrule **65.17(20)**.

ITEM 51. Amend paragraph **65.19(4)“a”** as follows:

a. Certification term. Certification for a commercial manure service and commercial manure service representative shall be for a period of one year and shall expire on March 1 of each year. Certification for a confinement site manure applicator shall be for a period of three years and shall expire on December 31 of the third year. ~~After June 30, 2001, the~~ The expiration dates of confinement site manure applicator certifications that currently expire on a date other than December 31 are automatically extended to December 31 of the year the certification expires.

ITEM 52. Amend rule 567—65.21(459,459B) as follows:

567—65.21(459,459B) Transfer of legal responsibilities or title. If title or legal responsibility for a permitted confinement feeding operation and its confinement feeding operation structure is transferred, the person to whom title or legal responsibility is transferred shall be subject to all terms and conditions of the construction permit and these rules. The person to whom the construction permit was issued and the person to whom title or legal responsibility is transferred shall notify the department of the transfer of legal responsibility or title of the operation within 30 days of the transfer. Within 30 days of receiving a written request from the department, the person to whom legal responsibility is transferred shall submit to the department all information needed to modify the construction permit to reflect the transfer of legal responsibility. A person who has been classified as a habitual violator under Iowa Code section 459.604 shall not acquire legal responsibility or a controlling interest to any additional permitted confinement feeding operations for the period that the person is classified as a habitual violator. A person who has an interest in a confinement feeding operation that is the subject of a pending enforcement action shall not acquire legal responsibility or an interest to any additional permitted confinement feeding operations for the period that the enforcement action is pending.

ITEM 53. Rescind rule 567—65.100(455B,459,459A) and adopt the following new rule in lieu thereof:

567—65.100(459A) Definitions and incorporation by reference. In addition to the definitions in Iowa Code sections 455B.101, 455B.171 and 459A.102, the following definitions shall apply to Division II of this chapter:

65.100(1) Definitions.

“Abandoned” means an open feedlot operation structure that has been razed, removed from the site of an open feedlot operation, filled in with earth, or converted to uses other than an open feedlot operation structure so that it cannot be used as an open feedlot operation structure without significant reconstruction.

“Adjacent.” Two or more open feedlot operations are defined as adjacent if both of the following occur:

1. At least one open feedlot operation structure is constructed on or after July 17, 2002.

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2. An open feedlot operation structure which is part of one open feedlot operation is separated by less than 1,250 feet from an open feedlot operation structure which is part of the other open feedlot operation.

“Alternative technology settled open feedlot effluent control system” or “AT system” means use of an open feedlot effluent control technology other than a conventional runoff containment system to control and dispose of settled open feedlot effluent. The department may allow an open feedlot operation covered by the NPDES permit application requirements of 567—65.102(459A) or 567—65.103(455B,459A) to use an AT system, provided the open feedlot operation satisfactorily demonstrates the AT system will provide an equivalent level of performance to that achieved by a runoff containment system that is designed and operated as required by statute, 567—subrule 62.4(12) and Division II of this chapter. Demonstration of equivalent performance must include submitting results of computer modeling which compares the predicted performance of the proposed system with that of a conventional runoff containment system over the same period. The specific requirements which must be met for an open feedlot operation to qualify for use of an AT system and the information which must be submitted to the department are outlined in rule 567—65.110(459A).

Design requirements have been established for two types of AT systems. These are a vegetative infiltration basin (VIB) followed by a vegetative treatment area (VTA) and a stand-alone vegetative treatment area (VTA). If other AT systems are developed that meet the equivalent performance standard established under EPA’s CAFO rules, the department will consider their acceptance on a case-by-case basis.

“Animal” means cattle, swine, horses, sheep, chickens, turkeys, goats, fish, or ducks.

“Animal capacity” means the maximum number of animals which the owner or operator will confine in an open feedlot operation at any one time.

“Animal feeding operation” or “AFO” means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for 45 days or more in any 12-month period, and all structures used for the storage of manure from animals in the operation. Except as required for an NPDES permit required pursuant to the Act, an animal feeding operation does not include a livestock market.

“Animal unit” means a unit of measurement based upon the product of multiplying the number of animals of each category by a special equivalency factor, as follows:

1. Slaughter and feeder cattle	1.000
2. Immature dairy cattle	1.000
3. Mature dairy cattle	1.400
4. Butcher or breeding swine weighing more than 55 pounds	0.400
5. Swine weighing 15 pounds or more but not more than 55 pounds.	0.100
6. Sheep or lambs	0.100
7. Horses	2.000
8. Turkeys weighing 7 pounds or more.	0.018
9. Turkeys weighing less than 7 pounds	0.0085
10. Broiler or layer chickens weighing 3 pounds or more	0.010
11. Broiler or layer chickens weighing less than 3 pounds.	0.0025
12. Goats	0.100
13. Ducks	0.040
14. Fish	0.001

“Animal unit capacity” means a measurement used to determine the maximum number of animal units that may be maintained as part of an open feedlot operation. Only for purposes of determining whether an open feedlot operation must obtain an NPDES permit, the animal unit capacity of the animal

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feeding operation shall include the animal unit capacities of both the open feedlot operation and the confinement feeding operation if all of the following occur:

1. The animals in the open feedlot operation and the confinement feeding operation are all in the same category of animals as used in the definitions of “large CAFO” and “medium CAFO” in 40 CFR Part 122.

2. The closest open feedlot operation structure is separated by less than 1,250 feet from the closest confinement feeding operation structure.

3. The open feedlot operation and the confinement feeding operation are under common ownership or management.

“*Common management*” means significant control by an individual of the management of the day-to-day operations of each of two or more open feedlot operations. “Common management” does not include control over a contract livestock facility by a contractor as defined in Iowa Code section 202.1.

“*Common ownership*” means to hold an interest in each of two or more open feedlot operations as any of the following:

1. A sole proprietor.

2. A joint tenant or tenant in common.

3. A holder of a majority equity interest in a business association as defined in Iowa Code section 202B.102, including as a shareholder, partner, member, beneficiary, or other equity interest holder.

An interest in an open feedlot operation under “2” or “3” above is a common ownership interest when it is held directly or indirectly through a spouse or dependent child, or both.

“*Concentrated animal feeding operation*” or “*CAFO*” means an AFO that is defined as a large CAFO, a medium CAFO, or a designated CAFO.

“*Deep well*” means 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.

“*Designated area*” means a known sinkhole, or a cistern, abandoned well, unplugged agricultural drainage well, agricultural drainage well surface tile inlet, drinking water well, designated wetland, lake, or water source. A designated area does not include a terrace tile inlet or surface tile inlet other than an agricultural drainage well surface tile inlet.

“*Designated CAFO*” means an AFO that has been designated as a CAFO pursuant to rule 567—65.103(455B,459A).

“*Discontinued open feedlot operation*” means an open feedlot operation in which the open feedlot operation structures have been abandoned or the use of the open feedlot operation structures has been discontinued as evidenced by the removal of all animals, and the owner or operator has no immediate plans to repopulate the structures.

“*Feed storage runoff basin*” means a covered or uncovered impoundment with the primary function to collect and store runoff from a feed storage area.

“*Formed settled open feedlot effluent basin*” means a settled open feedlot effluent basin which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials. Similar materials may include, but are not limited to, plastic, rubber, fiberglass, or other synthetic materials. Materials used in a formed settled open feedlot effluent basin shall have the structural integrity to withstand expected internal and external load pressures.

“*Karst terrain*” means land having karst formations that exhibit surface and subterranean features of a type produced by the dissolution of limestone, dolomite, or other soluble rock and characterized by closed depressions, sinkholes, losing streams, or caves. If a 25-foot vertical separation distance can be maintained between the bottom of an open feedlot operation structure and limestone, dolomite, or other soluble rock, then the structure is not considered to be in karst terrain.

“*Livestock market*” means any place where animals are assembled from two or more sources for public auction, private sale, or on a commission basis, which is under state or federal supervision, including a livestock sale barn or auction market, if such animals are kept for ten days or less.

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“*Manure*” means animal excreta or other commonly associated wastes of animals including, but not limited to, bedding, compost, litter, feed losses, raw materials or other materials commingled with manure or set aside for disposal.

“*NPDES permit*” means a written permit of the department pursuant to the National Pollutant Discharge Elimination System (NPDES) program, to authorize and regulate the operation of a CAFO.

“*Nutrient management plan*” or “*NMP*” means a plan which provides for the management of manure, process wastewater, settled open feedlot effluent, settleable solids, open feedlot effluent, animal truck wash effluent, including the application of effluent, as provided in 567—65.112(459A).

“*Open feedlot*” means a lot, yard, corral, building, or other area used to house animals in conjunction with an open feedlot operation.

“*Open feedlot effluent*” means a combination of manure, precipitation-induced runoff, or other runoff from an open feedlot before its settleable solids have been removed. If an open feedlot operation structure or animal truck wash effluent structure contains effluent from both an open feedlot operation and an animal truck wash facility, the animal truck wash effluent shall be deemed to be open feedlot effluent.

“*Open feedlot effluent basin*” means an open feedlot basin which does not settle solids before the effluent goes to the basin.

“*Open feedlot operation*” means an unroofed or partially roofed animal feeding operation if crop, vegetation, or forage growth or residue is not maintained as part of the animal feeding operation during the period that animals are confined in the animal feeding operation. “Open feedlot operation” includes a “partially roofed animal feeding operation” as defined in this rule.

Iowa Code section 459A.103 provides that two or more open feedlot operations under common ownership or management are deemed to be a single open feedlot operation if they are adjacent or utilize a common area or system for open feedlot effluent disposal. To determine if two or more open feedlot operations are deemed to be one open feedlot operation, the first test is whether the open feedlot operations are under common ownership or management. If they are not under common ownership or management, they are not one open feedlot operation. The second test is whether the two open feedlot operations are adjacent or utilize a common area or system for open feedlot effluent disposal. If the two operations are not adjacent and do not use a common area or system for open feedlot effluent disposal, they are not one open feedlot operation.

“*Open feedlot operation structure*” means an open feedlot, a settled open feedlot effluent basin, a solids settling facility, or an AT system. “Open feedlot operation structure” does not include a manure storage structure as defined in Iowa Code section 459.102.

“*Owner*” means the person who has title to the property where the animal feeding operation or the animal truck wash facility is located or the person who has title to the animal feeding operation structures or the animal truck wash effluent structure which is part of an animal truck wash facility. “Owner” does not include a person who has a lease to use the land where the animal feeding operation or the animal truck wash facility is located or to use the animal feeding operation structures or the animal truck wash effluent structure which is part of an animal truck wash facility.

“*Partially roofed animal feeding operation*” means an animal feeding operation in which the animals have unrestricted access from any attached roofed structure and the square footage of the unroofed area is at least 10 percent of the square footage of any attached roofed area.

“*Permanent vegetation cover*” means land which is maintained in perennial vegetation cover consisting of grasses, legumes, or both, and includes, but is not limited to, pastures, grasslands or forages.

“*Process wastewater*” means water directly or indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing of pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts, including manure, litter, feed, milk, eggs or bedding.

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“Production area” means that part of an AFO that includes the area in which animals are confined, the manure storage area, the raw materials storage area, egg washing and egg processing facilities, and the waste containment areas. The area in which animals are confined includes, but is not limited to, open lots, housed lots, feedlots, stall barns, free stall barns, milk rooms, milking centers, cow yards, barnyards, medication pens, walkers, animal walkways, confinement houses, and stables. The manure storage area includes, but is not limited to, lagoons, solids settling facilities, settled open feedlot effluent basins, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials. The waste containment area includes, but is not limited to, settling basins and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any area used in the storage, handling, treatment, or disposal of mortalities.

“Professional engineer” means a person engaged in the practice of engineering as defined in Iowa Code section 542B.2 who is issued a certificate of licensure as a professional engineer pursuant to Iowa Code section 542B.17.

“Release” means an actual, imminent or probable discharge of process wastewater, manure, open feedlot effluent, settled open feedlot effluent, or settleable solids from an open feedlot operation structure to surface water, groundwater, or an actual, imminent or probable discharge directly to a drainage tile line or intake resulting from storing, handling, transporting or land-applying process wastewater, manure, open feedlot effluent, settled open feedlot effluent or settleable solids.

“Settleable solids,” “scraped solids,” or *“solids”* means that portion of the effluent that meets all the following requirements:

1. The solids do not flow perceptibly under pressure.
2. The solids are not capable of being transported through a mechanical pumping device designed to move a liquid.
3. The constituent molecules of the solids do not flow freely among themselves but do show the tendency to separate under stress.

“Settled open feedlot effluent” means a combination of manure, precipitation-induced runoff, or other runoff originating from an open feedlot after its settleable solids have been removed.

“Settled open feedlot effluent basin” or *“runoff control basin”* means a covered or uncovered impoundment which is part of an open feedlot operation, if the primary function of the impoundment is to collect and store settled open feedlot effluent. An animal truck wash facility may be part of an open feedlot operation. An animal truck wash effluent structure may be the same as a settled open feedlot effluent basin that is part of the open feedlot operation, so long as the primary function of such impoundment is to collect and store effluent from both the animal truck wash facility and the open feedlot operation.

“Shallow well” means 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.

“Solids settling facility” means a basin, terrace, diversion, or other structure or solids removal method which is part of an open feedlot operation and which is designed and operated to remove settleable solids from open feedlot effluent. A “solids settling facility” does not include a basin, terrace, diversion, or other structure or solids removal method which retains the liquid portion of open feedlot effluent for more than seven consecutive days following a precipitation event.

“Stockpile” means any accumulation of manure, scraped solids, settleable solids or combination of manure and solids located outside of the open feedlot or animal truck wash facility or outside of an area that drains to an open feedlot or animal truck wash facility, where the scraped manure or solids are stored for less than six months.

“Unformed settled open feedlot effluent basin” means a settled open feedlot effluent basin, other than a formed settled open feedlot effluent basin.

“Vegetative infiltration basin” or *“VIB”* means an open feedlot operation structure in which settled open feedlot effluent is discharged into a relatively flat basin area which is bermed to prevent entry

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or discharge of surface water flows and is planted to permanent vegetation. An extensive tile system installed at a depth of three to five feet is used to collect infiltrated settled open feedlot effluent from the VIB and discharge it into a VTA for further treatment. As opposed to wetlands, which are designed to maintain a permanent water level, a VIB is designed to maximize water infiltration into the soil and thus normally will have standing water for only short periods of time. Removal of settleable solids is required prior to discharge of open feedlot effluent into the VIB. Soil suitability is essential to ensure adequate filtration and treatment of pollutants. Periodic harvesting of vegetation is required.

“*Vegetative treatment area*” or “*VTA*” means an open feedlot operation structure in which settled open feedlot effluent is discharged into areas which are level in one dimension and have a slight slope (less than 5 percent) in the other dimension and are planted to relatively dense permanent vegetation. Settled open feedlot effluent must be discharged evenly across the top width of the VTA and allowed to slowly flow downslope through the VTA. Level spreaders or other practices may be required to maintain even flow throughout the length of the VTA. Management to maintain a dense vegetation cover is required, as is periodic harvesting of vegetation.

“*Water of the state*” means any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

“*Water well*” means an excavation that is drilled, cored, bored, augered, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for groundwater, monitoring groundwater, utilizing the geothermal properties of the ground, or extracting water from or injecting water into the aquifer. “*Water well*” does not include an open ditch or drain tiles or an excavation made for obtaining or prospecting for oil, natural gas, minerals, or products mined or quarried.

“*Waters of the United States*” means the same as defined in 40 CFR 122.2.

65.100(2) Incorporation by reference. The text of the following incorporated materials is not included in Division II of this chapter. The materials listed below are hereby made a part of Division II of this chapter. For material subject to change, only the specific version specified in this subrule is incorporated. Any amendment or revision to a reference document is not incorporated until this subrule has been amended to specify the new version.

a. “*Act*” means the federal Water Pollution Control Act as amended through January 1, 2015, 33 U.S.C. Chapter 26;

b. “*AFO Siting Atlas*” means a tool to assist in determining potential building sites that meet regulatory requirements. The AFO Siting Atlas is located on the department’s Web site;

c. “*CFR*” or “*Code of Federal Regulations*” means the federal administrative rules adopted by the United States in effect as of January 1, 2015;

d. Designated Wetlands in Iowa – effective date August 23, 2006, located on the department’s Web site; and

e. Spill line telephone number is (515)725-8694.

ITEM 54. Amend rule 567—65.101(459A), introductory paragraph, as follows:

567—65.101(459A) Minimum open feedlot effluent control requirements and reporting of releases. An open feedlot operation shall provide for the management of manure, process wastewater, settled open feedlot effluent, settleable solids, scraped solids, and open feedlot effluent by using an open feedlot control method as provided in subrules 65.101(1) to 65.101(8). A release shall be reported to the department as provided in subrule 65.101(9).

ITEM 55. Amend subrules 65.101(2) and 65.101(3) as follows:

65.101(2) This subrule shall apply to an open feedlot operation which has obtained an NPDES permit pursuant to 567—65.102(455B,459A) or 567—65.103(455B,459A).

a. An open feedlot operation may discharge manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent into any waters of the United States due to a precipitation event, if ~~any of the following apply:~~

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~~(1) For an open feedlot operation that houses cattle, other than veal calves, the operation is designed, constructed, operated, and maintained to comply with the requirements of 567—subrule 62.4(12) and not to discharge manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent resulting from precipitation events less than or equal to the 25-year, 24-hour precipitation event into any waters of the United States 40 CFR Part 412.~~

~~(2) For an open feedlot operation that houses veal calves, swine, chickens, or turkeys, the operation is designed, constructed, operated, and maintained not to discharge manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent resulting from precipitation events less than or equal to the 100-year, 24-hour precipitation event into any waters of the United States.~~

b. No change.

65.101(3) An open feedlot operation which has an animal unit capacity of 1,000 animal units or more, or an open feedlot operation which is a large CAFO, or a medium CAFO₂, ~~as defined in rule 567—65.100(455B,459,459A)~~ or a designated CAFO₂, ~~pursuant to rule 567—65.103(455B,459A)~~ shall not discharge manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent from an open feedlot operation structure or production area into any waters of the United States, unless the discharge is pursuant to an NPDES permit. The control of manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent originating from the open feedlot operation may be accomplished by the use of a solids settling facility, settled open feedlot effluent basin, AT system, or any other open feedlot effluent control structure or practice approved by the department. The department may require the diversion of surface drainage prior to contact with an open feedlot operation structure. Settleable solids shall be settled from open feedlot effluent before the effluent enters a settled open feedlot effluent basin or AT system.

ITEM 56. Amend subrules 65.101(6), 65.101(8) and 65.101(9) as follows:

65.101(6) Land application.

a. and *b.* No change.

c. CAFOs.

(1) No change.

(2) Setback requirements for open feedlot operations with NPDES permits. For open feedlot operations with NPDES permits, the following is adopted by reference: 40 CFR 412.4(a), (b) and (c)(5) ~~as amended through July 30, 2012.~~

65.101(8) Stockpiling of scraped ~~manure~~ solids and settleable solids. Stockpiles of ~~manure~~ solids scraped from open feedlot operations and stockpiles of settleable solids shall comply with the following requirements.

a. to e. No change.

65.101(9) A release, as defined in rule 567—65.100(455B,459,459A), shall be reported to the department as provided in this subrule. This subrule does not apply to the land application of manure, process wastewater, open feedlot effluent, settled open feedlot effluent, scraped solids, or settleable solids in compliance with these rules, or to precipitation- or snowmelt-induced runoff from open feedlots in compliance with the minimum control requirements set forth in this rule.

a. Notification. A person storing, handling, transporting, or land-applying manure, process wastewater, open feedlot effluent, settled open feedlot effluent, scraped solids, or settleable solids from an open feedlot operation who becomes aware of a release shall notify the department of the occurrence of release as soon as possible but not later than six hours after the onset or discovery of the release by contacting the ~~department at (515)281-8694~~ department's spill line. The local police department or the office of the sheriff of the affected county shall also be contacted within the same time period if the release involves a public roadway and public safety could be threatened. Reports made pursuant to this rule shall be confirmed in writing as provided in 65.101(9) "*c.*"

b. No change.

c. Written report. The written report of a release shall be submitted at the request of the department within 30 days after the verbal report of the release and contain at a minimum the following information:

(1) to (6) No change.

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(7) The estimated or known volume of manure, process wastewater, open feedlot effluent, settled open feedlot effluent, scraped solids, or settleable solids allegedly released.

(8) to (12) No change.

d. and *e.* No change.

ITEM 57. Rescind rule 567—65.102(455B,459A) and adopt the following new rule in lieu thereof:

567—65.102(459A) Concentrated animal feeding operations; NPDES permits. Iowa Code subsection 459A.401(2) requires an open feedlot that is a concentrated animal feeding operation as defined in 40 CFR 122.23(b) to comply with applicable NPDES permit requirements pursuant to rules adopted by the commission. The following regulations are adopted by reference:

- 40 CFR 122.21, application for a permit.
- 40 CFR 122.23, concentrated animal feeding operations.
- 40 CFR 122.42(e), additional conditions applicable to specified categories of NPDES permits.
- 40 CFR 122.63(h), minor modification of permits.
- 40 CFR Part 412, concentrated animal feeding operations (CAFO) point source category.

ITEM 58. Amend subrules 65.104(3) and 65.104(4) as follows:

65.104(3) Expansion of existing animal feeding operations. A person intending to expand an existing animal feeding operation which, upon completion of the expansion, will be defined as a CAFO and if the operation discharges pollutants to waters of the United States shall apply for an NPDES permit at least 90 days prior to the scheduled expansion. Operation of the expanded portion of the facility shall not begin until an NPDES permit has been obtained.

65.104(4) New animal feeding operations. A person intending to begin a new animal feeding operation which, upon completion, will be defined as a CAFO and if the operation discharges pollutants to waters of the United States shall apply for an NPDES permit at least 180 days prior to the date operation of the new animal feeding facility is scheduled. Operation of the new facility shall not begin until an NPDES permit has been obtained.

ITEM 59. Rescind and reserve subrule **65.104(6)**.

ITEM 60. Amend subrules 65.104(9) and 65.104(10) as follows:

65.104(9) Permit conditions. NPDES permits shall contain conditions required by 40 CFR Section 122.41 and conditions considered necessary by the department to ensure compliance with all applicable rules of the department, to ensure that the production area and land application areas are operated and maintained as required by Iowa law, to protect the public health and beneficial uses of waters of the United States, and to prevent water pollution from manure storage or application operations. Any more stringent conditions of 2005 Iowa Code Supplement chapter 459A, 567—subrule 62.4(12), and this chapter that apply to animal feeding operations shall govern. For CAFOs that maintain cattle, swine, or poultry, the following conditions shall be included:

a. Nutrient management plan. Open feedlot CAFOs shall comply with the requirements of 567—65.112(459A) and any additional nutrient management plan requirements for CAFOs in these rules by ~~December 31, 2006~~. CAFOs that seek to obtain coverage under an NPDES permit ~~issued after December 31, 2006~~, shall have a nutrient management plan developed and implemented upon the date of permit coverage.

b. and *c.* No change.

d. Minimum monitoring requirements for AT systems. During the first ~~two~~ five years of operation of an AT system, the following minimum monitoring will be required:

(1) to (4) No change.

e. Quarterly reporting requirements for large CAFOs with outside liquid impoundments. A permittee with outside liquid impoundments must submit quarterly reports by April 10, July 10, October 10, and January 10, following the respective calendar quarters, documenting daily precipitation, weekly impoundment liquid levels, volume of liquid removed from the impoundments, and the date, time, duration, and estimated volume of any overflow. Liquid levels must be obtained by observing a depth marker which clearly indicates the minimum capacity necessary to contain the runoff and direct

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precipitation of the 25-year, 24-hour precipitation event, ~~or the 100-year, 24-hour precipitation event as applicable pursuant to 65.101(2)“a.”~~

f. Annual reporting requirements for all CAFOs with systems other than AT systems. All permittees must submit an annual report to the department by January 10 of the following year. The annual report must include:

(1) to (4) No change.

(5) Summary of all manure, process wastewater, settled open feedlot effluent, settleable solids, or open feedlot effluent discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume; ~~and~~

(6) A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner;₂

(7) Actual crops planted and actual yield for the preceding 12 months; and

(8) Results of all samples of manure, litter and process wastewater for nitrogen and phosphorus content for manure, litter and process wastewater that was land-applied.

g. and h. No change.

65.104(10) Permit renewal.

a. No change.

b. Permits involving use of AT systems.

(1) ~~During the first two years of operation of an AT system, a permittee will be issued a two-year NPDES permit. Renewal of this a permit involving use of an AT system is contingent upon proper operation and maintenance of the AT system, submittal of all required records and reports, and demonstration that the AT system is providing an equivalent level of performance to that achieved by a containment system that is designed and operated as required by statute, 567—subrule 62.4(12) and Division II of this chapter.~~

(2) No change.

ITEM 61. Amend subrule 65.105(3) as follows:

65.105(3) Applications that cannot be approved. The department shall not approve an application for a construction permit unless the applicant submits all of the following:

a. No change.

b. An engineering report, construction plans, and specifications prepared by a professional engineer or ~~the Natural Resources Conservation Service of the United States Department of Agriculture~~ NRCS certifying that the construction design of the settled open feedlot effluent basin or AT system complies with the construction design standards required in Division II of this chapter ~~65~~.

ITEM 62. Amend subrule 65.105(4) as follows:

65.105(4) Plan review criteria; time for approval or disapproval.

a. Plan review criteria. Review of plans and specifications shall be conducted by the department to determine the potential of the settled open feedlot effluent basin or AT system to achieve the level of control being required of the open feedlot operation. Applicable criteria contained in federal law, state law, these rules, ~~Natural Resources Conservation Service~~ NRCS design standards and specifications, unless inconsistent with federal or state law or these rules, and United States Department of Commerce precipitation data will be used in the review of large CAFOs. If the proposed facility plans are not adequately covered by these criteria, applicable criteria contained in current technical literature shall be used. Medium CAFOs and designated CAFOs shall be evaluated using the department's professional judgment.

b. No change.

ITEM 63. Amend subrule 65.105(5) as follows:

65.105(5) Expiration of construction permits. The construction permit shall expire if construction, as defined in rule 567—65.106(459A), is not begun within one year and completed within three years of the date of issuance. ~~A construction permit issued prior to September 14, 2005, shall expire if construction, as defined in rule 567—65.106(459A), is not begun within one year of the date of issuance and shall expire on September 15, 2012, if construction is not completed by September 14, 2012. The~~

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director may grant an extension of time to begin or complete construction if it is necessary or justified, upon showing of such necessity or justification to the director.

ITEM 64. Amend subrule 65.106(2) as follows:

65.106(2) Construction does not begin upon occurrence of any of the following:

- a. Removal of trees, brush, or other vegetative growth.
- b. Construction of driveways or roads.
- c. General earth moving for leveling or ~~compacting~~ at the site.
- d. Installation of temporary utility services.

ITEM 65. Amend paragraph **65.107(2)“f”** as follows:

f. An engineering report, construction plans and specifications prepared by a professional engineer or by ~~Natural Resources Conservation Service~~ NRCS personnel for the settled open feedlot effluent basin or AT system.

ITEM 66. Amend rule 567—65.108(455B,459A) as follows:

567—65.108(455B,459A) Water well separation distances for open feedlot operations.

65.108(1) ~~Settled Unformed settled open feedlot effluent basins.~~ Settled Unformed settled open feedlot effluent basins shall be separated from water wells as follows:

- a. *Public wells.* 1,000 feet from shallow wells and 400 feet from deep wells;
- b. *Private wells.* 400 feet from both shallow wells and deep wells.

65.108(2) Open feedlots, solids settling facilities, formed settled open feedlot effluent basins, feed storage runoff control structures and AT systems. Open feedlots, solids settling facilities, formed settled open feedlot effluent basins, feed storage runoff control structures and AT systems shall be separated from water wells as follows: for both public wells and private wells, 200 feet from shallow wells and 100 feet from deep wells.

65.108(3) No change.

ITEM 67. Amend rule 567—65.109(459A) as follows:

567—65.109(459A) Settled open feedlot effluent basins—investigation, design and construction requirements. A settled open feedlot effluent basin required to be constructed pursuant to a construction permit issued pursuant to ~~2005 Iowa Code Supplement~~ section 459A.205 shall meet the design and construction requirements set forth in this rule.

65.109(1) No change.

65.109(2) *Soils and hydrogeologic report.* A settled open feedlot effluent basin required to be constructed pursuant to a construction permit issued pursuant to rule 567—65.105(459A) shall meet design standards as required by a soils and hydrogeologic report. The report shall be submitted with the construction permit application as provided in rule 567—65.107(459A). The report shall include all of the following:

a. and b. No change.

c. The results of a soils investigation conducted at a minimum of three locations within the area of the basin reflecting the continuous soil profile existing within the area of the basin. The soils investigation results shall be used in determining subsurface soil characteristics and groundwater elevation and direction of flow at the proposed site. The soils investigation shall be conducted and utilized as follows:

(1) to (3) No change.

(4) If located in karst terrain or potential karst terrain, at least one soil coring shall be taken to a minimum depth of 25 feet below the bottom elevation of the settled open feedlot effluent basin or into bedrock, whichever is shallower. ~~The department may accept information from the department's Geosam database in lieu of the coring. If bedrock is encountered, adequate investigation of the bedrock formation shall be made to determine if it consists of limestone, dolomite, or other soluble rock.~~

(5) to (7) No change.

65.109(3) *Hydrology.*

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a. Determination of groundwater table. For purposes of this rule, groundwater table is the seasonal high-water table determined by a professional engineer, a groundwater professional certified pursuant to 567—Chapter 134, or qualified staff from the department or ~~Natural Resources Conservation Service (NRCS)~~ NRCS. If a construction permit is required, the department must approve the groundwater table determination.

(1) and (2) No change.

b. and c. No change.

65.109(4) Karst terrain.

a. and b. No change.

c. Construction of an unformed settled open feedlot effluent basins basin is allowed in areas identified as karst terrain if site-specific geologic information is submitted documenting that 25 feet of suitable materials exist between the structure bottom and carbonated bedrock or limestone or dolomite.

65.109(5) No change.

65.109(6) Floodplain requirements.

a. Construction in floodplains. Open feedlot operation structures located on a floodplain or within a floodway of a river or stream may be required to obtain ~~DNR~~ department permits and provide protection from inundation by flood waters, as specified in 567—Chapters 71 and 72. If a proposed open feedlot operation structure is located in alluvial soils, then a floodplain determination or floodway elevation shall be requested from the department. The AFO Siting Atlas may be a tool used to assist in the floodplain and alluvial soil determinations.

b. Permits for dam construction. Open feedlot operation structures exceeding storage capacity or dam height thresholds may be required to obtain ~~DNR~~ department permits, as specified in 567—71.3(455B) and 567—72.3(455B).

65.109(7) and 65.109(8) No change.

65.109(9) Unformed basins containing confinement manure and open feedlot effluent. Unformed basins containing confinement manure and open feedlot effluent shall meet the confinement construction standards and separation distance requirements provided in Division I of this chapter. The unformed basin design shall ensure adequate storage for two feet of freeboard plus the open feedlot effluent resulting from a 25-year, 24-hour precipitation event. The unformed basin shall contain the annual manure generated from all confinement animals.

ITEM 68. Amend subrule 65.110(5), introductory paragraph, as follows:

65.110(5) Hydrology—groundwater table. For purposes of this rule, groundwater table is the seasonal high-water table determined by a professional engineer, a groundwater professional certified pursuant to 567—Chapter 134, or qualified staff from the department or ~~Natural Resources Conservation Service (NRCS)~~ NRCS. If a construction permit is required, the department must approve the groundwater table determination.

ITEM 69. Amend rule 567—65.111(459A) as follows:

567—65.111(459A) Construction certification.

65.111(1) The owner of an open feedlot operation who is issued a construction permit for a settled open feedlot effluent basin or AT system as provided in rule 567—65.105(459A) ~~on or after July 1, 2005,~~ shall submit to the department a construction certification from a professional engineer certifying all of the following:

a. The settled open feedlot effluent basin or AT system was constructed in accordance with the design plans submitted to the department as part of an application for a construction permit pursuant to rule 567—65.107(459A). If the actual construction deviates from the approved design plans, the construction certification shall identify all changes and certify that the changes were consistent with all applicable standards of these rules.

b. The settled open feedlot effluent basin or AT system was inspected by the professional engineer after completion of construction and before commencement of operation.

65.111(2) No change.

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ITEM 70. Amend rule 567—65.112(459A) as follows:

567—65.112(459A) Nutrient management plan requirements.

65.112(1) The owner of an open feedlot operation which has an animal unit capacity of 1,000 animal units or more or which is required to be issued an NPDES permit shall develop and implement a nutrient management plan meeting the requirements of this rule. The owner of an open feedlot operation that seeks to obtain or is required to be issued an NPDES permit ~~after December 31, 2006~~, shall develop and implement a nutrient management plan meeting the requirements of this rule no later than the date on which the NPDES permit becomes effective. For the purpose of this rule, requirements pertaining to open feedlot effluent also apply to settled open feedlot effluent and settleable solids.

65.112(2) to 65.112(7) No change.

65.112(8) A Except as provided in 65.112(8) “f,” a nutrient management plan shall include all of the following:

a. No change.
b. Information relating to the application of the manure, process wastewater and open feedlot effluent, including all of the following:

- (1) Nutrient levels concentration of the manure, process wastewater and open feedlot effluent.
- (2) No change.

c. If the application is on land other than land owned or rented for crop production by the owner of the open feedlot operation, the plan shall include a copy of each written agreement executed by the owner of the open feedlot operation and the landowner or the person renting the land for crop production where the manure, process wastewater or open feedlot effluent may be applied. The written agreement shall indicate the number of acres on which the manure, process wastewater or effluent may be applied and the length of the agreement.

d. and *e.* No change.

f. Sales of scraped solids or settleable solids licensed by the Iowa department of agriculture and land stewardship (IDALS). Open feedlot operations that will sell scraped solids or settleable solids as a bulk dry animal nutrient product under Iowa Code chapter 200A as regulated by IDALS may, in lieu of complying with this subrule for that portion of open feedlot effluent, submit to the department a copy of the operation’s site-specific IDALS license or documentation for any scraped solids or settleable solids that will be sold pursuant to Iowa Code chapter 200A, along with the department-approved nutrient management plan form for sales of scraped solids or settleable solids.

g. An open feedlot operation must submit a complete nutrient management plan using a new phosphorus index, including soil sampling as required in subrule 65.17(16), for each field in the nutrient management plan a minimum of once every five years, submitting the plan with the NPDES permit renewal application if the open feedlot operation has an NPDES permit.

65.112(9) No change.

65.112(10) Current nutrient management plan, record keeping and inspections.

a. No change.
b. *Record keeping.* Records shall be maintained by the owner of a an open feedlot operation who is required to submit a nutrient management plan. This recorded information shall be maintained for five years following the year of application or for the length of the crop rotation, whichever is greater. Records shall be maintained at the site of the open feedlot operation and shall be made available to the department upon request. Records to demonstrate compliance with the nutrient management plan shall include the following:

- (1) to (7) No change.

c. No change.

65.112(11) ~~Settled open feedlot effluent on land planted to soybeans. Effective May 14, 2013, the owner of an open feedlot operation that is required to submit a nutrient management plan shall not apply liquid manure, process wastewater or settled open feedlot effluent to land that is currently planted to soybeans or to land where the current crop has been harvested that will be planted to soybeans the next crop season. Not later than November 14, 2012, the commission shall review the available scientific~~

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~~evidence and determine whether any further or alternative action is necessary. The prohibition on applying liquid manure, process wastewater or settled open feedlot effluent shall not become effective unless the commission publishes a notice in the Iowa Administrative Bulletin confirming that it has reviewed the available scientific evidence and that the prohibition shall take effect on May 14, 2013.~~

ITEM 71. Amend rule 567—65.113(459A) as follows:

567—65.113(459A) Complaint investigations. Complaints of violations of Iowa Code chapter 455B₂ or 459, ~~or 2005 Iowa Code Supplement chapter 459A, or 459B~~ or these rules, which are received by the department or are forwarded to the department by a county, following a county board of supervisors' determination that a complainant's allegation constitutes a violation, shall be investigated by the department if it is determined that the complaint is legally sufficient and an investigation is justified.

65.113(1) No change.

65.113(2) A complaint is legally sufficient if it contains adequate information to investigate the complaint and if the allegation constitutes a violation, without an investigation of whether the facts supporting the allegation are true or untrue, of department rules, Iowa Code chapter 455B₂ or 459, ~~or 2005 Iowa Code Supplement chapter 459A, or 459B~~ or environmental standards in regulations subject to federal law and enforced by the department.

65.113(3) to 65.113(8) No change.

65.113(9) When a person who is a department official, an agent of the department, or a person accompanying the department official or agent enters the premises of an open feedlot operation, both of the following shall apply:

a. The person may enter at any reasonable time in and upon any private or public property to investigate any actual or possible violation of Iowa Code chapter 455B₂ or 459, ~~or 2005 Iowa Code Supplement chapter 459A, or 459B~~ or these rules. However, the owner or person in charge shall be notified.

(1) to (4) No change.

b. No change.

ITEM 72. Reserve rules **567—65.115** to **567—65.199** in Division II.

ITEM 73. Adopt the following **new** rules 567—65.200(459,459A) to 567—65.210(459,459A) and Division III title:

DIVISION III
ANIMAL TRUCK WASH FACILITIES

567—65.200(459,459A) Definitions and incorporation by reference. In addition to the definitions in Iowa Code sections 455B.101, 455B.171 and 459A.102, the following definitions shall apply to Division III of this chapter.

65.200(1) Definitions.

“Animal feeding operation” or *“AFO”* means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for 45 days or more in any 12-month period, and all structures used for the storage of manure from animals in the operation. Except as required for an NPDES permit required pursuant to the Act, an animal feeding operation does not include a livestock market.

“Animal truck wash effluent” means a combination of manure, washwater-induced runoff, or other runoff derived from an animal truck wash facility, which may include solids. Animal truck wash effluent shall not exceed the following metal concentrations: aluminum 10 mg/L, copper 0.4 mg/L, and iron 10 mg/L.

“Animal truck wash effluent structure” means an impoundment which is part of an animal truck wash facility, if the primary function of the impoundment is to collect and store animal truck wash effluent.

“Animal truck wash facility” means an operation engaged solely in washing single-unit trucks, truck-tractors, semitrailers, or trailers used to transport animals. An animal truck wash facility is considered to be part of an animal feeding operation if the animal truck wash facility and the animal

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feeding operation are under common ownership or management and the animal truck wash facility is located within 1,250 feet of the animal feeding operation.

“Common management” means significant control by an individual of the management of the day-to-day operations of two or more animal truck wash facilities or an animal truck wash facility and an animal feeding operation. “Common management” does not include control over a contract livestock facility by a contractor as defined in Iowa Code section 202.1.

“Formed animal truck wash effluent structure” means a covered or uncovered impoundment used to store effluent from an animal truck wash facility, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials.

“Karst terrain” means land having karst formations that exhibit surface and subterranean features of a type produced by the dissolution of limestone, dolomite, or other soluble rock and characterized by closed depressions, sinkholes, losing streams, or caves. If a 25-foot vertical separation distance can be maintained between the bottom of an animal truck wash facility and limestone, dolomite, or other soluble rock, then the structure is not considered to be in karst terrain.

“Manure” means animal excreta or other commonly associated wastes of animals including, but not limited to, bedding, compost, litter, feed losses, raw materials or other materials commingled with manure or set aside for disposal. If a manure storage structure or animal truck wash effluent structure contains both manure from a confinement feeding operation and animal truck wash effluent from an animal truck wash facility, the effluent shall be deemed to be manure.

“Manure storage structure” means a formed manure storage structure, an unformed manure storage structure or a dry bedded manure storage structure. A manure storage structure does not include an egg washwater storage structure. An animal truck wash facility may be part of a confinement feeding operation. An animal truck wash effluent structure may be the same as a manure storage structure that is part of the confinement feeding operation, so long as the primary function of such impoundment is to collect and store both effluent from the animal truck wash facility and manure from the confinement feeding operation.

“Nutrient management plan” or *“NMP”* means a plan which provides for the management of animal truck wash effluent, including the application of effluent, as provided in 567—65.208(459A).

“Open feedlot effluent” means a combination of manure, precipitation-induced runoff, or other runoff from an open feedlot before its settleable solids have been removed. If an open feedlot operation structure or animal truck wash effluent structure contains effluent from both an open feedlot operation and an animal truck wash facility, the animal truck wash effluent shall be deemed to be open feedlot effluent.

“Owner” means the person who has title to the property where the animal truck wash facility is located or the person who has title to the animal truck wash effluent structure which is part of an animal truck wash facility. “Owner” does not include a person who has a lease to use the land where the animal truck wash facility is located or to use the animal truck wash effluent structure which is part of an animal truck wash facility.

“Release” means an actual, imminent or probable discharge of process wastewater, manure, animal truck wash effluent, or settleable solids from an animal truck wash facility to surface water, groundwater, or an actual, imminent or probable discharge directly to a drainage tile line or intake resulting from storing, handling, transporting or land-applying process wastewater, manure, animal truck wash effluent or settleable solids.

“Settleable solids,” “scraped solids,” or *“solids”* mean that portion of animal truck wash effluent that meets all the following requirements:

1. The solids do not flow perceptibly under pressure.
2. The solids are not capable of being transported through a mechanical pumping device designed to move a liquid.
3. The constituent molecules of the solids do not flow freely among themselves but do show the tendency to separate under stress.

“Settled open feedlot effluent basin” or *“runoff control basin”* means a covered or uncovered impoundment which is part of an open feedlot operation, if the primary function of the impoundment

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is to collect and store settled open feedlot effluent. An animal truck wash facility may be part of an open feedlot operation. An animal truck wash effluent structure may be the same as a settled open feedlot effluent basin that is part of the open feedlot operation, so long as the primary function of such impoundment is to collect and store effluent from both the animal truck wash facility and the open feedlot operation.

“*Small animal truck wash facility*” means an animal truck wash facility, if all of the following apply:

1. The animal truck wash facility and all single-unit trucks, truck-tractors, semitrailers, or trailers that are washed at the facility are owned by the same person; and
2. The average total per-day volume of washwater used by the animal truck wash facility does not exceed 2,000 gallons as calculated on a monthly basis.

“*Stockpile*” means any accumulation of manure, scraped solids, settleable solids or combination of manure and solids located outside of the animal truck wash facility or outside of an area that drains to an animal truck wash facility, where the scraped manure or solids are stored for less than six months.

“*Unformed animal truck wash effluent structure*” means a covered or uncovered impoundment used to store animal truck wash effluent, other than a formed animal truck wash effluent structure.

“*Water of the state*” means any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

65.200(2) Incorporation by reference. The text of the following incorporated materials is not included in Division III of this chapter. The materials listed below are hereby made a part of Division III of this chapter. For material subject to change, only the specific version specified in this subrule is incorporated. Any amendment or revision to a reference document is not incorporated until this subrule has been amended to specify the new version.

- a. “*Act*” means the federal Water Pollution Control Act as amended through January 1, 2015, 33 U.S.C. Chapter 26;
- b. “*AFO Siting Atlas*” means a tool to assist in determining potential building sites that meet regulatory requirements. The AFO Siting Atlas is located on the department’s Web site;
- c. “*CFR*” or “*Code of Federal Regulations*” means the federal administrative rules adopted by the United States in effect as of January 1, 2015;
- d. Designated Wetlands in Iowa – effective date August 23, 2006, located on the department’s Web site; and
- e. Spill line telephone number is (515)725-8694.

567—65.201(459A) Minimum animal truck wash effluent control requirements and reporting of releases. An animal truck wash facility shall provide for the management of manure, process wastewater, settleable solids, scraped solids, and animal truck wash effluent by using the control method as provided in subrules 65.201(1) to 65.201(4). A release shall be reported to the department as provided in subrule 65.201(5).

65.201(1) No direct discharge of animal truck wash effluent shall be allowed from an animal truck wash facility into a publicly owned lake, a known sinkhole, or an agricultural drainage well.

65.201(2) Land application.

a. *General requirements.* Animal truck wash effluent shall be land-applied in a manner which will not cause pollution of surface water or groundwater. Land application of animal truck wash effluent shall not exceed one inch per hour, and land application shall cease immediately if runoff occurs. Land application of animal truck wash effluent shall be conducted on days when weather and soil conditions are suitable. Weather and soil conditions are normally considered suitable for animal truck wash effluent application if: (1) land application areas are not frozen or snow-covered; (2) temperatures during application are greater than 32 degrees Fahrenheit; and (3) precipitation has not exceeded the water holding capacity of the soil to accept the effluent application without the possibility of runoff. Application in accordance with the provisions of state law and the rules in this chapter shall be deemed as compliance with this requirement.

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b. Separation distances. A person shall not apply animal truck wash effluent on land located within 750 feet from a residence not owned by the titleholder of the land, unless one of the following apply:

(1) The animal truck wash effluent is land-applied by injection or incorporation on the same date as the animal truck wash effluent was land-applied.

(2) The titleholder of the land benefiting from the separation distance requirement executes a written waiver with the titleholder of the land where the animal truck wash effluent is applied.

(3) The animal truck wash effluent is from a small animal truck wash facility or an animal truck wash facility that is part of a small animal feeding operation.

65.201(3) The owner of an animal truck wash facility who discontinues the use of the facility shall remove and land-apply in accordance with state law all manure, process wastewater and animal truck wash effluent from the animal truck wash effluent structures as soon as practical but not later than six months following the date the animal truck wash facility is discontinued.

65.201(4) Stockpiling of scraped solids and settleable solids. Stockpiles of solids scraped from animal truck wash facilities and stockpiles of settleable solids shall comply with the following requirements:

a. Stockpiles must be land-applied in accordance with subrule 65.201(2) as soon as possible but not later than six months after they are established.

b. Stockpiles shall not be located within 400 feet from a designated area or, in the case of a high-quality water resource, within 800 feet.

c. Stockpiles shall not be located in grassed waterways or areas where water ponds or has concentrated flow.

d. Stockpiles shall not be located within 200 feet of a terrace tile inlet or surface tile inlet or known sinkhole unless the stockpile is located so that any runoff from the stockpile will not reach the inlet or sinkhole.

e. Stockpiles shall not be located on land having a slope of more than 3 percent unless methods, structures or practices are implemented to contain the stockpiled solids, including but not limited to hay bales, silt fences, temporary earthen berms, or other effective measures, and to prevent or diminish precipitation-induced runoff from the stockpiled solids.

65.201(5) A release, as defined in rule 567—65.200(459,459A), shall be reported to the department as provided in this subrule. This subrule does not apply to the land application of manure, process wastewater, animal truck wash effluent, scraped solids, or settleable solids in compliance with these rules.

a. Notification. A person storing, handling, transporting, or land-applying manure, process wastewater, animal truck wash effluent, scraped solids, or settleable solids from an animal truck wash facility who becomes aware of a release shall notify the department of the occurrence of release as soon as possible but not later than six hours after the onset or discovery of the release by contacting the department's spill line. The local police department or the office of the sheriff of the affected county shall also be contacted within the same time period if the release involves a public roadway and public safety could be threatened. Reports made pursuant to this rule shall be confirmed in writing as provided in 65.201(5)"c."

b. Verbal report. The verbal report of such a release should provide information on as many items listed in 65.201(5)"c" as available information will allow.

c. Written report. The written report of a release shall be submitted at the request of the department within 30 days after the verbal report of the release and contain at a minimum the following information:

(1) The approximate location of the alleged release (including at a minimum the quarter-quarter section, township and county in which the release occurred or was discovered).

(2) The time and date of onset of the alleged release, if known, and the time and date of the discovery of the alleged release.

(3) The time and date of the verbal report to the department of the release.

(4) The name, mailing address and telephone number of the person reporting the release.

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- (5) The name, mailing address and telephone number of any other person with knowledge of the event who can be contacted for further information.
 - (6) The source of the manure, process wastewater, animal truck wash effluent, scraped solids, or settleable solids allegedly released.
 - (7) The estimated or known volume of manure, process wastewater, animal truck wash effluent, scraped solids, or settleable solids allegedly released.
 - (8) The weather conditions at the time of the onset or discovery of the release.
 - (9) If known, the circumstances under which the alleged release occurred or exists (e.g., overflow, storage structure breach, equipment malfunction or breakdown, land runoff).
 - (10) The approximate location of the nearest stream or other water body which is or could be impacted by the alleged release, and the approximate location to the alleged release of any known tile intakes or tile lines which could be a direct conveyance to a surface water or groundwater.
 - (11) A description of any containment or remedial measures taken to minimize the impact of the release.
 - (12) Any information that may assist the department in evaluating the release.
- d. Reporting of subsequent findings.* All subsequent findings and laboratory results should be reported and submitted in writing to the department as soon as they become available.
 - e. Waiver of notification requirement.* A waiver from the notification requirement of paragraph "a" of this subrule may be granted by the department for a release to a specific drainage tile line or intake if sufficient information is provided to demonstrate that the drainage tile line or intake will not result in a discharge to a water of the state.

567—65.202(459,459A) Construction permits.

65.202(1) *Animal truck wash facilities required to obtain a construction permit.* An animal truck wash facility must obtain a construction permit prior to any of the following:

- a.* Constructing or expanding an animal truck wash effluent structure.
- b.* When the department has previously issued the animal truck wash facility a construction permit and the volume of the animal truck wash effluent would be more than the volume approved by the department in the previous construction permit.
- c.* When the animal truck wash facility is part of a confinement feeding operation and all of the following apply:
 - (1) The department has issued a construction permit or an NPDES permit for the confinement feeding operation or a letter approving a construction design statement for the confinement feeding operation in lieu of a construction permit.
 - (2) The animal truck wash effluent will be added to an existing manure storage structure resulting in a total stored volume greater than that approved in the construction permit or the construction design statement approval letter.
- d.* When the animal truck wash facility is part of an open feedlot operation and all of the following apply:
 - (1) The department has issued a construction permit or an NPDES permit for an open feedlot operation.
 - (2) The animal truck wash effluent will be added to an existing settled open feedlot effluent basin resulting in a total stored volume greater than that approved in the construction permit or NPDES permit.
- e.* When an animal truck wash facility is constructed or expanded as part of a small animal feeding operation that includes a manure storage structure and the animal truck wash effluent will be added to the manure storage structure.

65.202(2) *When a construction permit for an animal truck wash facility is not required.*

- a.* When a small animal truck wash facility is constructed or expanded.
- b.* When a small animal truck wash facility is part of a small animal feeding operation and the animal truck wash effluent is added to the manure storage structure.

65.202(3) *Construction permit applications that cannot be approved.* The department shall not approve an application for a construction permit unless the applicant submits all of the following:

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- a. A nutrient management plan as provided in rule 567—65.208(459A).
- b. An engineering report, construction plans, and specifications prepared by a professional engineer or NRCS certifying that the design of the animal truck wash effluent structure complies with the construction design standards required in Division III of this chapter.

65.202(4) Plan review criteria; time for approval or disapproval.

a. *Plan review criteria.* Review of plans and specifications shall be conducted by the department to determine the potential of the animal truck wash effluent structure to achieve the level of control being required of the animal truck wash facility. Applicable criteria contained in federal law, state law, these rules, NRCS design standards and specifications unless inconsistent with federal or state law or these rules will be used in this review. If the proposed facility plans are not adequately covered by these criteria, applicable criteria contained in current technical literature shall be used.

b. *Time for approval or disapproval.* The department shall approve or disapprove an application for a construction permit within 60 days after receiving the permit application. However, the applicant may deliver a notice requesting a continuance. Upon receipt of a notice, the time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days after the department's receipt of the notice. The applicant may submit more than one notice. If review of the application is delayed because the application is incomplete, and the applicant fails to supply requested information within a reasonable time prior to the deadline for action on the application, the permit may be denied and a new application will be required if the applicant wishes to proceed. The department may also provide for a continuance when it considers the application. The department shall provide notice to the applicant of the continuance. The time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than 30 days. However, the department shall not provide for more than one continuance.

65.202(5) Expiration of construction permits. The construction permit shall expire if construction, as defined in rule 567—65.203(459A), is not begun within one year and completed within three years of the date of issuance. The director may grant an extension of time to begin or complete construction if it is necessary or justified, upon showing of such necessity or justification to the director.

65.202(6) Revocation of construction permits. The department may suspend or revoke a construction permit, modify the terms or conditions of a construction permit, or refuse to renew a construction permit expiring according to subrule 65.202(5) if it determines that the operation of the animal truck wash facility constitutes a clear, present and impending danger to public health or the environment.

65.202(7) Permit prior to construction. An applicant for a construction permit shall notify the department prior to the start of construction for any animal truck wash facility. The applicant shall not begin construction of an animal truck wash facility until the person has been granted a permit for the construction by the department.

567—65.203(459A) Construction. For purposes of these rules:

65.203(1) Construction of an animal truck wash facility begins or an animal truck wash facility is constructed when any of the following occur:

- a. Excavation commences for a proposed animal truck wash facility or proposed expansion of an existing animal truck wash facility structure.
- b. Installation of forms for concrete for a proposed animal truck wash facility or the proposed expansion of an existing animal truck wash facility.
- c. Installation of piping for movement of animal truck wash effluent within or between animal truck wash facilities as proposed or proposed to be expanded.

65.203(2) Construction does not begin upon occurrence of any of the following:

- a. Removal of trees, brush, or other vegetative growth.
- b. Construction of driveways or roads.
- c. General earth moving for leveling at the site.
- d. Installation of temporary utility services.

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65.203(3) Separation distances for the construction or expansion of an animal truck wash effluent structure.

a. An animal truck wash effluent structure shall not be constructed or expanded within 1,250 feet from a residence not owned by the titleholder of the animal truck wash facility, a commercial enterprise, a bona fide religious institution, an educational institution, or a public use area.

b. An animal truck wash effluent structure shall not be constructed or expanded within 100 feet from a public thoroughfare.

c. Any separation distance required for a confinement feeding operation structure and a location or object specified in Table 6 for “Water Wells” and “Other Distances” at the end of this chapter shall also apply to the animal truck wash effluent structure and that same location or object.

d. An animal truck wash effluent structure shall not be constructed or expanded on land that is part of a one hundred year floodplain.

65.203(4) Exemptions to separation distances for the construction or expansion of an animal truck wash effluent structure.

a. Paragraph 65.203(3)“*a*” does not apply if a residence, educational institution, a bona fide religious institution, or commercial enterprise was constructed or expanded, or if the boundaries of a public use area were expanded, after the date that the animal truck wash facility was established. The date the animal truck wash facility was established is the date on which the animal truck wash facility commenced operating. A change in ownership or expansion of an animal truck wash facility shall not change the date of operation.

b. Paragraphs 65.203(3)“*a*” and “*b*” do not apply if the titleholder of the land benefiting from the separation distance requirement, including a person authorized by the titleholder, executes a written waiver with the owner of the animal truck wash effluent structure. The structure shall be constructed or expanded under such terms and conditions that the parties negotiate. The state or a political subdivision constructing or maintaining the public thoroughfare benefiting from the separation distance requirement may execute a written waiver with the titleholder of the land where the structure is located. The structure shall be constructed or expanded under such terms and conditions that the parties negotiate. The waiver shall be specific to the construction or expansion project for which it is submitted. The waiver may include specific language to include future projects or expansions.

c. Paragraphs 65.203(3)“*a*” and “*b*” shall not apply to small animal truck wash facilities.

d. Exemptions to separation distance requirements from water sources, major water sources, known sinkholes, agricultural drainage wells and designated wetlands and secondary containment.

As specified in Iowa Code section 459.310(3), the separation distance required from surface intakes, wellheads or cisterns of agricultural drainage wells, known sinkholes, water sources, major water sources and designated wetlands, specified in Iowa Code section 459.310 and summarized in Tables 6 to 6d at the end of this chapter, shall not apply to a farm pond or privately owned lake as defined in Iowa Code section 462A.2 or to an animal truck wash effluent structure constructed with a secondary containment barrier according to subrule 65.15(17). To qualify for this separation distance exemption, the design of the secondary containment barrier shall be filed in accordance with subrule 65.9(8) prior to beginning construction of the animal truck wash facility.

e. Paragraphs 65.203(3)“*c*” and “*d*” shall not apply to the replacement of an unformed animal truck wash effluent structure constructed prior to April 28, 2003, with a formed animal truck wash effluent structure. The capacity of a replacement animal truck wash effluent structure shall not exceed the amount required to store animal truck wash effluent for any 18-month period.

567—65.204(459A) Construction permit application. An animal truck wash facility required to obtain a construction permit in accordance with the provisions of 65.202(1) shall apply for the construction permit at least 90 days before the date that construction, installation, or modification is scheduled to start.

65.204(1) Conceptual design. Prior to submitting an application for a construction permit, the applicant may submit a conceptual design and site investigation report to the department for review and comment.

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65.204(2) Application for a construction permit for an animal truck wash facility shall be made on a form provided by the department. The application shall include all of the information necessary to enable the department to determine the potential of the proposed animal truck wash effluent structure to achieve the level of control required of the animal truck wash facility. A construction permit application shall include the following:

a. The name of the animal truck wash facility and the name of the owner of the animal truck wash facility, including the owner's mailing address and telephone number.

b. The name of the contact person for the animal truck wash facility, including the person's mailing address and telephone number.

c. The location of the animal truck wash facility.

d. A statement providing that the application is for any of the following:

(1) The construction or expansion of an animal truck wash effluent structure for an existing animal truck wash facility which is not expanding;

(2) The construction or expansion of an animal truck wash effluent structure for an existing animal truck wash facility which is expanding;

(3) The construction of an animal truck wash effluent structure for a proposed new animal truck wash facility.

e. An engineering report, construction plans, and specifications prepared by a professional engineer or by NRCS personnel.

(1) The engineering report must demonstrate that the storage capacity of the animal truck wash effluent structure is equal to or greater than the amount of effluent to be stored for any six-month period, in addition to two feet of freeboard for an unformed animal truck wash effluent structure or one foot of freeboard for a formed animal truck wash effluent structure.

(2) If an animal truck wash effluent structure is to be constructed on karst terrain, the engineering report must establish that the construction complies with the requirements of Iowa Code section 459A.404.

f. A report on the soil and hydrogeologic information for the site, as described in subrule 65.206(2).

g. Information including, but not limited to, maps, drawings and aerial photos that clearly show the location of all the following:

(1) The animal truck wash facility and all existing and proposed animal truck wash effluent structures.

(2) Any animal truck wash facility under common ownership or common management and located within 1,250 feet of the animal truck wash facility.

(3) Any public water supply system as defined in Iowa Code section 455B.171 or drinking water well which is located less than the distance from the animal truck wash facility required by rule 567—65.205(459A). Information shall also be provided as to whether the proposed animal truck wash effluent structure will meet all applicable separation distances.

567—65.205(459A) Water well separation distances for animal truck wash facilities.

65.205(1) *Unformed animal truck wash effluent structures.* Unformed animal truck wash effluent structures shall be separated from water wells as follows:

a. Public wells. 1,000 feet from shallow wells and 400 feet from deep wells;

b. Private wells. 400 feet from both shallow wells and deep wells.

65.205(2) *Formed animal truck wash effluent structures.* Formed animal truck wash effluent structures shall be separated from water wells as follows: for both public wells and private wells, 200 feet from shallow wells and 100 feet from deep wells.

65.205(3) *Variances.* Variances to this rule may be granted by the director if the petitioner complies with the procedures and criteria in 561—Chapter 10 and provides an alternative that is substantially equivalent to the rule or provides improved effectiveness or protection as required by the rule. Petition for a variance shall be made in writing at the time the construction permit application is submitted. The denial of a variance may be appealed to the commission.

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567—65.206(459A) Unformed animal truck wash effluent structure—investigation, design and construction requirements. An unformed animal truck wash effluent structure required to be constructed pursuant to a construction permit issued pursuant to Iowa Code section 459A.205 shall meet the design and construction requirements set forth in this rule.

65.206(1) Drainage tile investigation and removal. Prior to constructing an unformed animal truck wash effluent structure, the owner of the animal truck wash facility shall investigate the site for the animal truck wash effluent structure for a drainage tile line. The investigation shall be made by digging a core trench to a depth of at least six feet from ground level at the projected center of the berm of the animal truck wash effluent structure. A written record of the investigation shall be submitted as part of the construction certification required in 567—65.207(459A). If a drainage tile line is discovered, one of the following solutions shall be implemented:

a. The drainage tile line shall be rerouted around the perimeter of the unformed animal truck wash effluent structure at a distance of at least 25 feet horizontally separated from the outside toe of the berm of the unformed animal truck wash effluent structure. For an area of the unformed animal truck wash effluent structure where there is not a berm, the drainage tile line shall be rerouted at least 50 feet horizontally separated from the edge of the unformed animal truck wash effluent structure.

b. The drainage tile line shall be replaced with a nonperforated tile line under the unformed animal truck wash effluent structure floor. The nonperforated tile line shall be continuous and without connecting joints. There must be a minimum of three feet between the nonperforated tile line and the unformed animal truck wash effluent structure floor.

65.206(2) Soils and hydrogeologic report. An unformed animal truck wash effluent structure required to be constructed pursuant to a construction permit issued pursuant to rule 567—65.202(459A) shall meet design standards as required by a soils and hydrogeologic report. The report shall be submitted with the construction permit application as provided in rule 567—65.204(459A). The report shall include all of the following:

a. A description of the steps taken to determine the soils and hydrogeologic conditions at the proposed construction site, a description of the geologic units encountered, and a description of the effects of the soil and groundwater elevation and direction of flow on the construction and operation of the unformed animal truck wash effluent structure.

b. The subsurface soil classification of the site. A subsurface soil classification shall be based on ASTM international designation D 2487-92 or D 2488-90.

c. The results of a soils investigation conducted at a minimum of three locations within the area of the unformed animal truck wash effluent structure reflecting the continuous soil profile existing within the area of the unformed animal truck wash effluent structure. The soils investigation results shall be used in determining subsurface soil characteristics and groundwater elevation and direction of flow at the proposed site. The soils investigation shall be conducted and utilized as follows:

(1) By a qualified person ordinarily engaged in the practice of performing soils investigations.

(2) At locations that reflect the continuous soil profile conditions existing within the area of the proposed unformed animal truck wash effluent structure, including conditions found near the corners and the deepest point of the proposed unformed animal truck wash effluent structure. The soils investigation shall be conducted to a minimum depth of ten feet below the proposed bottom elevation of the unformed animal truck wash effluent structure.

(3) By methods which identify the continuous soil profile and do not result in mixing of soil layers. Soil corings using hollow-stem augers and other suitable methods may be used.

(4) If located in karst terrain or potential karst terrain, at least one soil coring shall be taken to a minimum depth of 25 feet below the bottom elevation of the unformed animal truck wash effluent structure or into bedrock, whichever is shallower.

(5) Soil corings may be used to determine current groundwater levels by completing the corings as temporary monitoring wells as provided in 65.206(3) “a”(1) and measuring the water levels in these wells no earlier than seven days after installation as provided in 65.206(3) “a”(2).

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(6) Upon abandonment of soil core holes, all soil core holes, including those developed as temporary water level monitoring wells, shall be plugged with concrete, Portland cement concrete grout, bentonite, or similar materials.

(7) If excavation methods are used in conducting the soils investigation, upon closure these excavations must be filled with suitable materials and adequately compacted to ensure they will not compromise the integrity of the unformed animal truck wash effluent structure liner.

65.206(3) Hydrology.

a. Determination of groundwater table. For purposes of this rule, the groundwater table is the seasonal high-water table determined by a professional engineer, a groundwater professional certified pursuant to 567—Chapter 134, or qualified staff from the department or NRCS. If a construction permit is required, the department must approve the groundwater table determination.

(1) Current groundwater levels shall be measured as provided in this subparagraph for an unformed animal truck wash effluent structure. Three temporary monitoring wells shall be installed. The top of the well screen shall be within five feet of the ground surface. Each well shall be extended to at least two feet below the proposed top of the liner of an unformed animal truck wash effluent structure or to at least two feet below the proposed bottom of the footings of a formed animal truck wash effluent structure. In addition, the wells must be installed as follows:

1. Unformed animal truck wash effluent structure. For an unformed animal truck wash effluent structure, the monitoring wells may be installed in the soil core holes developed as part of conducting the soils investigation required in paragraph 65.206(2) “c.”

2. Formed animal truck wash effluent structure. For a formed animal truck wash effluent structure, at least three temporary monitoring wells shall be installed as close as possible to three corners of the structure, with one of the wells close to the corner of deepest excavation. If the formed animal truck wash effluent structure is circular, the three monitoring wells shall be equally spaced and one well shall be placed at the point of deepest excavation.

(2) The seasonal high-water table shall be determined by considering all relevant data, including the groundwater levels measured in the temporary monitoring wells not earlier than seven days following installation, NRCS soil survey information, soil characteristics such as color and mottling, other existing water table data, and other pertinent information. If a drainage system for artificially lowering the groundwater table will be installed in accordance with the requirements of paragraph 65.206(3) “c,” the level to which the groundwater table will be lowered will be considered to represent the seasonal high-water table.

b. The unformed animal truck wash effluent structure shall be constructed with a minimum separation of two feet between the top of the liner of the unformed animal truck wash effluent structure and the seasonal high-water table.

c. If a drainage tile line around the perimeter of the basin is installed a minimum of two feet below the top of the unformed animal truck wash effluent structure liner to artificially lower the seasonal high-water table, the top of the unformed animal truck wash effluent structure’s liner may be a maximum of four feet below the seasonal high-water table which existed prior to installation of the perimeter tile system. The seasonal high-water table may be artificially lowered by gravity flow tile lines or other similar system. However, the following shall apply:

(1) Except as provided in subparagraph (2), an animal truck wash facility shall not use a nongravity mechanical system that uses pumping equipment.

(2) If the animal truck wash facility was constructed before July 1, 2005, the operation may continue to use its existing nongravity mechanical system that uses pumping equipment or it may construct a new nongravity mechanical system that uses pumping equipment. However, an animal truck wash facility that expands the area of its animal truck wash facility on or after April 1, 2011, shall not use a nongravity mechanical system that uses pumping equipment.

(3) Drainage tile lines may be installed to artificially lower the seasonal high-water table at an unformed animal truck wash effluent structure, if all of the following conditions are satisfied:

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1. A device to allow monitoring of the water in the drainage tile lines and a device to allow shutoff of the flow in the drainage tile lines are installed, if the drainage tile lines do not have a surface outlet accessible on the property where the unformed animal truck wash effluent structure is located.

2. Drainage tile lines are installed horizontally at least 25 feet away from the outside toe of the berm of the unformed animal truck wash effluent structure. Drainage tile lines shall be placed in a vertical trench and encased in granular material which extends upward to the level of the seasonal high-water table which existed prior to installation of the perimeter tile system.

65.206(4) Karst terrain.

a. Construction prohibited. Unformed animal truck wash effluent structures shall not be constructed in areas which drain to known sinkholes or in karst terrain. Structure sites located within one mile of karst terrain shall be considered to be located in karst terrain, unless site-specific geologic information is submitted documenting that 25 feet of suitable materials exist between the bottom of an unformed animal truck wash effluent storage structure and carbonated bedrock or limestone or dolomite.

b. The use of formed structures is required to store animal truck wash effluent in karst terrain.

(1) Formed structures constructed of concrete in karst terrain shall comply with the provisions of 65.15(14).

(2) The use of formed structures constructed of materials other than concrete and located in areas which drain to known sinkholes or located in karst terrain may be approved by the department if the proposed structures are designed by a professional engineer, a minimum of five feet vertical separation is maintained between the structure bottom and carbonated bedrock, and the engineer certifies and provides data showing that the permeability of the geologic material below the structure's base is sufficiently low to provide an adequate barrier to prevent percolation into carbonated bedrock or groundwater.

c. Construction of an unformed animal truck wash effluent structure is allowed in areas identified as karst terrain if site-specific geologic information is submitted documenting that 25 feet of suitable materials exist between the bottom of an unformed animal truck wash effluent storage structure and carbonated bedrock or limestone or dolomite.

65.206(5) Bedrock separation. An unformed animal truck wash effluent structure shall be constructed with at least four feet of separation between the bottom of the unformed animal truck wash effluent structure and a bedrock formation.

65.206(6) Floodplain requirements.

a. *Construction in floodplains.* Animal truck wash facilities located on a floodplain or within a floodway of a river or stream may be required to obtain department permits and provide protection from inundation by flood waters, as specified in 567—Chapters 71 and 72. If the animal truck wash facility structure is located in alluvial soils, then a floodplain determination or floodway elevation shall be requested from the department. The AFO Siting Atlas may be a tool used to assist in the floodplain and alluvial soil determinations.

b. *Permits for dam construction.* Animal truck wash facility structures exceeding storage capacity or dam height thresholds may be required to obtain department permits, as specified in 567—71.3(455B) and 567—72.3(455B).

65.206(7) Liner design and construction. The liner of an unformed animal truck wash effluent structure shall comply with all of the following:

a. The liner shall comply with any of the following permeability standards:

(1) The liner shall be constructed to have a percolation rate that shall not exceed one-sixteenth inch per day at the design depth of the unformed animal truck wash effluent structure as determined by percolation tests conducted by the professional engineer. If a clay soil liner is used, the liner shall be constructed with a minimum thickness of 12 inches or the minimum thickness necessary to comply with the percolation rate in this subparagraph, whichever is greater.

(2) The liner shall be constructed to have a percolation rate that shall not exceed one-sixteenth inch per day at the design depth of the unformed animal truck wash effluent structure. The design of the liner will specify a moisture content, compaction requirement, and liner thickness that will comply with the maximum allowable percolation requirement and will be based on moisture content and percentage of maximum density as determined by a standard 5-point proctor test performed in accordance with ASTM

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D698 (Method A). The liner thickness will be based on laboratory tests of the compacted material, with a minimum liner thickness of 12 inches. Appropriate field or laboratory testing during construction shall be provided to verify the design requirements are met.

b. If a synthetic liner is used, the liner shall be installed to comply with the percolation rate required in 65.206(7)“a”(1).

65.206(8) *Berm erosion inspection and repair.* The owner of an animal truck wash facility using an unformed animal truck wash effluent structure shall inspect the berms of the unformed animal truck wash effluent structure at least semiannually for evidence of erosion. If the inspection reveals erosion which may impact the unformed animal truck wash effluent structure’s structural stability or the integrity of the unformed animal truck wash effluent structure’s liner, the owner shall repair the berms.

65.206(9) *Basins containing confinement manure and animal truck wash effluent.* Basins containing confinement manure and animal truck wash effluent shall meet the confinement construction standards and separation distance requirements provided in Division I of this chapter. The basin design shall ensure adequate storage including two feet of freeboard for an unformed animal truck wash effluent structure or one foot of freeboard for a formed animal truck wash effluent structure. The basin shall contain the annual manure generated from all confinement animals.

65.206(10) *Formed animal truck wash effluent structures.* An animal truck wash facility electing to use a formed animal truck wash effluent structure may submit, in lieu of an engineering report, a construction design statement that meets the requirements in subrule 65.9(6).

567—65.207(459A) Construction certification.

65.207(1) The owner of an animal truck wash facility who is issued a construction permit for an animal truck wash effluent structure as provided in rule 567—65.202(459A) shall submit to the department a construction certification on a form provided by the department from a professional engineer certifying all of the following:

a. The animal truck wash effluent structure was constructed in accordance with the design plans submitted to the department as part of an application for a construction permit pursuant to rule 567—65.204(459A). If the actual construction deviates from the approved design plans, the construction certification shall identify all changes and certify that the changes were consistent with all applicable standards of these rules.

b. The animal truck wash effluent structure was inspected by the professional engineer after completion of construction and before commencement of operation.

65.207(2) A written record of an investigation for drainage tile lines, including the findings of the investigation and actions taken to comply with 65.206(1), shall be submitted as part of the construction certification.

567—65.208(459A) Nutrient management plan requirements.

65.208(1) The owner of an animal truck wash facility, other than a small animal truck wash facility, which has an animal truck wash effluent structure shall develop and implement a nutrient management plan meeting the requirements of this rule. However, an animal truck wash facility which is part of a confinement feeding operation, in lieu of submitting a nutrient management plan, may submit an original manure management plan and an updated manure management plan to the department.

65.208(2) A person shall not remove animal truck wash effluent from an animal truck wash facility for which a nutrient management plan is required under this rule, unless the department approves a nutrient management plan as required in this rule.

65.208(3) The department shall not approve an application for a permit to construct an animal truck wash effluent structure unless the owner of the animal truck wash facility applying for approval submits a nutrient management plan together with the application for the construction permit as provided in rule 567—65.202(459A).

65.208(4) If a construction permit is required as provided in rule 567—65.202(459A), the department shall approve or disapprove the nutrient management plan as part of the construction permit application. If a construction permit is not required, the department shall approve or disapprove

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the nutrient management plan within 60 days from the date that the department receives the nutrient management plan.

65.208(5) A nutrient management plan shall include all of the following:

a. Restrictions on the application of animal truck wash effluent based on all of the following:

(1) A phosphorus index of each field in the nutrient management plan, as required in 65.17(17), including the factors used in the calculation. A copy of the NRCS phosphorus index detailed report shall satisfy the requirement to include the factors used in the calculation. In addition, total phosphorus (as P2O5) available to be applied from the animal truck wash facility shall be included.

(2) Calculations necessary to determine the land area required for the application of animal truck wash effluent from an animal truck wash facility based on nitrogen or phosphorus use levels (as determined by the phosphorus index) in order to obtain optimum crop yields according to a crop schedule specified in the nutrient management plan, and according to requirements specified in subrule 65.17(4).

b. Information relating to the application of the animal truck wash effluent, including all of the following:

(1) Nutrient concentration of the animal truck wash effluent. Animal truck wash facilities shall provide yearly animal truck wash effluent test analysis for aluminum, copper, and iron.

(2) Application methods, the timing of the application, and the location of the land where the application occurs.

c. If the application is on land other than land owned or rented for crop production by the owner of the animal truck wash facility, the plan shall include a copy of each written agreement executed by the owner and the landowner or the person renting the land for crop production where the animal truck wash effluent may be applied. The written agreement shall indicate the number of acres on which the animal truck wash effluent may be applied and the length of the agreement.

d. An estimate of the animal truck wash effluent volume or weight produced by the animal truck wash facility.

e. Information which shows all of the following:

(1) There is adequate storage for animal truck wash effluent, including procedures to ensure proper operation and maintenance of the storage structures.

(2) Surface drainage is diverted from the animal truck wash facility.

(3) Chemicals or other contaminants handled on site are not disposed of in an animal truck wash facility that is not specifically designed to store such chemicals or contaminants.

(4) Equipment used for the land application of animal truck wash effluent must be periodically inspected for leaks.

(5) Appropriate site-specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the United States.

(6) Protocols for appropriate testing of animal truck wash effluent and soil.

(7) Protocols to land-apply animal truck wash effluent in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the animal truck wash effluent.

(8) Identification of specific records that will be maintained to document the implementation and management of the requirements in this subrule.

65.208(6) Current nutrient management plan, record keeping and inspections.

a. Current nutrient management plan. The owner of an animal truck wash facility who is required to submit a nutrient management plan shall maintain a current nutrient management plan at the site of the animal truck wash facility and shall make the current nutrient management plan available to the department upon request. If nutrient management practices change, a person required to submit a nutrient management plan shall make appropriate changes consistent with this rule. If values other than the standard table values are used for nutrient management plan calculations, the source of the values used shall be identified.

b. Record keeping. Records shall be maintained by the owner of an animal truck wash facility who is required to submit a nutrient management plan. This recorded information shall be maintained

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for five years following the year of application or for the length of the crop rotation, whichever is greater. Records shall be maintained at the site of the animal truck wash facility and shall be made available to the department upon request. Records to demonstrate compliance with the nutrient management plan shall include the following:

- (1) Factors used to calculate the animal truck wash effluent application rate:
 1. Optimum yield for the planned crop.
 2. Types of nitrogen credits and amounts.
 3. Remaining crop nitrogen needed.
 4. Nitrogen content and first-year nitrogen availability of the animal truck wash effluent.
 5. Phosphorus content of the animal truck wash effluent as required in 65.17(3) "i"(1) and (2). If an actual sample is used, documentation shall be provided.
 6. For animal truck wash facilities, the soil test analysis must include phosphorus, aluminum, copper and iron. The yearly effluent analysis for animal truck wash facilities shall include metals testing.
- (2) If phosphorus-based application rates are used, the following shall be included:
 1. Crop rotation.
 2. Phosphorus removed by crop harvest of that crop rotation.
 - (3) Maximum allowable animal truck wash effluent application rate.
 - (4) Actual animal truck wash effluent application information:
 1. Method(s) of application when animal truck wash effluent from the animal truck wash facility was applied.
 2. Date(s) when the animal truck wash effluent from the animal truck wash facility was applied.
 3. Weather conditions at the time of application and for 24 hours prior to and following the application.
 4. Location of the field where the animal truck effluent from the animal truck wash facility was applied, including the number of acres.
 5. The animal truck wash effluent application rate.
 6. Dates when application equipment was inspected.
 - (5) Date(s) and application rate(s) of commercial nitrogen and phosphorus on fields that received animal truck wash effluent. However, if the date and application rate information is for fields which are not owned for crop production or which are not rented or leased for crop production by the person required to keep records pursuant to this subrule, an enforcement action for noncompliance with a nutrient management plan or the requirements of this subrule shall not be pursued against the person required to keep records pursuant to this subrule or against any other person who relied on the date and application rate in records required to be kept pursuant to this subrule, unless that person knew or should have known that nitrogen or phosphorus would be applied in excess of maximum levels set forth in paragraph 65.17(1) "a." If nutrients are applied to fields not owned, rented or leased for crop production by the person required to keep records pursuant to this subrule, that person shall obtain from the person who owns, rents or leases those fields a statement specifying the planned commercial nitrogen and phosphorus fertilizer rates to be applied to each field receiving the nutrients.
 - (6) A copy of the current soil test laboratory results for each field in the nutrient management plan.
 - (7) All applicable records identified in 65.208(5) "e."
- c. Record inspection.* The department may inspect an animal truck wash facility at any time during normal working hours and may inspect the nutrient management plan and any records required to be maintained.

567—65.209(459A) Complaint investigations. Complaints of violations of Iowa Code chapter 455B, 459, 459A, or 459B or these rules, which are received by the department or are forwarded to the department by a county, following a county board of supervisors' determination that a complainant's allegation constitutes a violation, shall be investigated by the department if it is determined that the complaint is legally sufficient and an investigation is justified.

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65.209(1) If after evaluating a complaint to determine whether the allegation may constitute a violation, without investigating whether the facts supporting the allegation are true or untrue, the county board of supervisors shall forward its finding to the department director.

65.209(2) A complaint is legally sufficient if it contains adequate information to investigate the complaint and if the allegation constitutes a violation, without an investigation of whether the facts supporting the allegation are true or untrue, of department rules, Iowa Code chapter 455B, 459, 459A, or 459B, or environmental standards in regulations subject to federal law and enforced by the department.

65.209(3) The department in its discretion shall determine the urgency of the investigation, and the time and resources required to complete the investigation, based upon the circumstances of the case, including the severity of the threat to the quality of surface water or groundwater.

65.209(4) The department shall notify the complainant and the alleged violator if an investigation is not conducted specifying the reason for the decision not to conduct an investigation.

65.209(5) The department will notify the county board of supervisors where the violation is alleged to have occurred before doing a site investigation unless the department determines that a clear, present and impending danger to the public health or environment requires immediate action.

65.209(6) The county board of supervisors may designate a county employee to accompany the department on the investigation of any site as a result of a complaint.

65.209(7) A county employee accompanying the department on a site investigation has the same right of access to the site as the department official conducting the investigation during the period that the county designee accompanies the department official.

65.209(8) Upon completion of an investigation, the department shall notify the complainant of the results of the investigation, including any anticipated, pending or complete enforcement action arising from the investigation. The department shall deliver a copy of the notice to the animal truck wash facility that is the subject of the complaint, any alleged violators if different from the animal truck wash facility and the county board of supervisors of the county where the violation is alleged to have occurred.

65.209(9) When a person who is a department official, an agent of the department, or a person accompanying the department official or agent enters the premises of an animal truck wash, both of the following shall apply:

a. The person may enter at any reasonable time in and upon any private or public property to investigate any actual or possible violation of Iowa Code chapter 455B, 459, 459A, or 459B or these rules. However, the owner or person in charge shall be notified.

(1) If the owner or occupant of any property refuses admittance to the animal truck wash facility, or if prior to such refusal the director demonstrates the necessity for a warrant, the director may make application under oath or affirmation to the district court of the county in which the property is located for the issuance of a search warrant.

(2) In the application, the director shall state that an inspection of the premises is mandated by the laws of this state or that a search of certain premises, areas, or things designated in the application may result in evidence tending to reveal the existence of violations of public health, safety, or welfare requirements imposed by statutes, rules or ordinances established by the state or a political subdivision thereof. The application shall describe the area, premises, or thing to be searched, give the date of the last inspection if known, give the date and time of the proposed inspection, declare the need for such inspection, recite that notice of desire to make an inspection has been given to affected persons and that admission was refused if that be the fact, and state that the inspection has no purpose other than to carry out the purpose of the statute, ordinance, or regulation pursuant to which inspection is to be made. If an item of property is sought by the director, it shall be identified in the application.

(3) If the court is satisfied from the examination of the applicant, and of other witnesses, if any, and of the allegations of the application of the existence of the grounds of the application, or that there is probable cause to believe their existence, the court may issue such search warrant.

(4) In making inspections and searches pursuant to the authority of this rule, the director must execute the warrant:

1. Within ten days after its date.

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2. In a reasonable manner, and any property seized shall be treated in accordance with the provisions of Iowa Code chapters 808, 809, and 809A.

3. Subject to any restrictions imposed by the statute, ordinance or regulation pursuant to which inspection is made.

b. The person shall comply with standard biosecurity requirements customarily required by the animal truck wash facility which are necessary in order to control the spread of disease among an animal population.

567—65.210(455B,459A) Transfer of legal responsibilities or title. If title or legal responsibility for a permitted animal truck wash facility and its animal truck wash effluent structure is transferred, the person to whom title or legal responsibility is transferred shall be subject to all terms and conditions of the permit and these rules. The person to whom the permit was issued and the person to whom title or legal responsibility is transferred shall notify the department of the transfer of legal responsibility or title of the operation within 30 days of the transfer. Within 30 days of receiving a written request from the department, the person to whom legal responsibility is transferred shall submit to the department all information needed to modify the permit to reflect the transfer of legal responsibility.

These rules are intended to implement Iowa Code chapters 455B and 459A.

ITEM 74. Amend **567—Chapter 65, Appendix A, System 1**, as follows:

SYSTEM 1: ONE OPEN FEEDLOT EFFLUENT APPLICATION PERIOD PER YEAR

MAJOR SYSTEM FEATURES. No change.

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System. No change.

Open Feedlot Effluent Application Requirements: Open feedlot effluent must be removed from the open feedlot effluent control system and land-applied in accordance with the following requirements:

1. No change.
2. Feedlot Runoff Control System: Accumulated open feedlot effluent shall be removed from the feedlot runoff control system and disposed of by land application at least once annually. The interval between successive application periods shall not exceed 12 months.

During application periods, land application shall be conducted at rates sufficient to ensure complete removal of accumulated open feedlot effluent from the runoff control system in ten or fewer application days. Open feedlot effluent removal is considered complete when the open feedlot effluent remaining in the runoff control system occupies less than 10 percent of the system's design open feedlot effluent storage volume.

Land application of open feedlot effluent shall be conducted on days when weather and soil conditions are suitable. Weather and soil conditions are normally considered suitable for open feedlot effluent application if:

- Land application areas are not frozen or snow-covered.
- Temperatures during application are greater than 32 degrees Fahrenheit.

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~~- Precipitation has not exceeded 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application the water-holding capacity of the soil to accept the manure application without the possibility of runoff.~~

ITEM 75. Amend **567—Chapter 65, Appendix A, System 2**, as follows:

SYSTEM 2: JULY AND OCTOBER OPEN FEEDLOT EFFLUENT APPLICATION

MAJOR SYSTEM FEATURES. No change.

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System. No change.

Open Feedlot Effluent Application Requirements: Open feedlot effluent must be removed from the open feedlot effluent control system and land-applied in accordance with the following requirements:

1. No change.

2. Feedlot Runoff Control System:

A. A feedlot operator must comply with the following open feedlot effluent application requirements if application operations are limited to the months of July and October.

During these months, land application shall be conducted at rates sufficient to ensure complete removal of accumulated open feedlot effluent from the runoff control system in ten or fewer application days. Open feedlot effluent removal is considered complete when the open feedlot effluent remaining in the runoff control system occupies less than 10 percent of the system's design open feedlot effluent storage capacity.

During July and October, open feedlot effluent application operations shall be initiated on the first day that conditions are suitable for land application of open feedlot effluent, and application must continue on subsequent days that suitable conditions exist. If unfavorable weather conditions prevent complete application of open feedlot effluent to be accomplished during July or October, application must be continued into the following month. Open feedlot effluent application operations may cease when complete application has been achieved.

Weather and soil conditions are normally considered suitable for land application of open feedlot effluent if:

- Land application areas are not frozen or snow-covered.

- Temperatures during application are greater than 32 degrees Fahrenheit.

~~- Precipitation has not exceeded 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application the water-holding capacity of the soil to accept the manure application without the possibility of runoff.~~

B. No change.

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ITEM 76. Amend **567—Chapter 65, Appendix A, System 3**, as follows:

SYSTEM 3: APRIL, JULY AND OCTOBER OPEN
FEEDLOT EFFLUENT APPLICATION

MAJOR SYSTEM FEATURES. No change.

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System. No change.

Open Feedlot Effluent Application Requirements: Open feedlot effluent must be removed from the open feedlot effluent control system and land-applied in accordance with the following requirements:

1. No change.

2. Feedlot Runoff Control System:

A. A feedlot operator must comply with the following open feedlot effluent application requirements if application operations are limited to the months of April, July and October.

During these months, land application shall be conducted at rates sufficient to ensure complete removal of accumulated open feedlot effluent from the runoff control system in ten or fewer application days. Open feedlot effluent removal is considered complete when the open feedlot effluent remaining in the runoff control system occupies less than 10 percent of the system's design open feedlot effluent storage capacity.

During April, July and October, open feedlot effluent application operations shall be initiated on the first day that conditions are suitable for land application of open feedlot effluent, and application must continue on subsequent days that suitable conditions exist. If unfavorable weather conditions prevent complete application of open feedlot effluent to be accomplished during any of these months, open feedlot effluent application must be continued into the following month. Open feedlot effluent application operations may cease when complete application has been achieved.

Weather and soil conditions are normally considered suitable for land application of open feedlot effluent if:

- Land application areas are not frozen or snow-covered.

- Temperatures during application are greater than 32 degrees Fahrenheit.

- Precipitation has not exceeded 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application the water-holding capacity of the soil to accept the manure application without the possibility of runoff.

B. No change.

ITEM 77. Amend **567—Chapter 65, Appendix A, System 4**, as follows:

SYSTEM 4: OPEN FEEDLOT EFFLUENT APPLICATION AFTER EACH
SIGNIFICANT PRECIPITATION EVENT

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MAJOR SYSTEM FEATURES. No change.

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System. No change.

Open Feedlot Effluent Application Requirements: Open feedlot effluent must be removed from the open feedlot effluent control system and land-applied in accordance with the following requirements:

1. No change.
2. Feedlot Runoff Control System: Accumulated open feedlot effluent shall be removed from the feedlot runoff control system and disposed of by land application following each precipitation or snowmelt runoff event which results in significant open feedlot effluent accumulations in the control system. Open feedlot effluent accumulations will be considered significant whenever the available (unoccupied) storage capacity remaining in the control system is less than 90 percent of that required to store the runoff from the 25-year, 24-hour precipitation event.

Once the available storage capacity remaining in the open feedlot effluent control system is reduced to the point that open feedlot effluent application is necessary, open feedlot effluent application operations must be initiated on the first day that conditions are suitable for land application of open feedlot effluent, and application must continue on subsequent days that suitable conditions exist. Application operations may cease when the storage capacity available in the control system has been restored to greater than 90 percent of that required to store runoff from the 25-year, 24-hour precipitation event.

During application periods, land application shall be conducted at rates sufficient to ensure complete removal of accumulated open feedlot effluent from the control system in ten or fewer application days.

Weather and soil conditions are normally considered suitable for land application of open feedlot effluent if:

- Land application areas are not frozen or snow-covered.
- Temperatures during application are greater than 32 degrees Fahrenheit.
- Precipitation has not exceeded 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application the water-holding capacity of the soil to accept the manure application without the possibility of runoff.

ITEM 78. Amend **567—Chapter 65, Appendix A, System 5**, as follows:

SYSTEM 5: APRIL/MAY AND OCTOBER/NOVEMBER OPEN
FEEDLOT EFFLUENT APPLICATION

MAJOR SYSTEM FEATURES. No change.

DETAILED SYSTEM REQUIREMENTS:

Open Feedlot Effluent Control System. No change.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Open Feedlot Effluent Application Requirements: Open feedlot effluent must be removed from the open feedlot effluent control system and land-applied in accordance with the following requirements:

1. No change.
2. Feedlot Runoff Control System: At a minimum, accumulated open feedlot effluent shall be removed from the feedlot runoff control system and disposed of by land application during the periods April 1 through May 31 and October 1 through November 30.

During each of these periods, land application shall be conducted at rates sufficient to ensure complete removal of accumulated open feedlot effluent from the runoff control system in ten or fewer application days. Open feedlot effluent removal is considered complete when the open feedlot effluent remaining in the runoff control system occupies less than 10 percent of the system’s design open feedlot effluent storage capacity.

A feedlot operator may dispose of accumulated open feedlot effluent during any period of the year that conditions are suitable. While application during other periods will minimize the need for application during the April/May and October/November periods, the feedlot operator will still need to dispose of sufficient open feedlot effluent during these periods to reduce the open feedlot effluent volume remaining in the runoff control system during these periods to less than 10 percent of the system’s design open feedlot effluent storage capacity.

Land application of open feedlot effluent shall be conducted on days when weather and soil conditions are suitable. Weather and soil conditions are normally considered suitable for open feedlot effluent application if:

- Land application areas are not frozen or snow-covered.
- Temperatures during application are greater than 32 degrees Fahrenheit.
- Precipitation has not exceeded 0.05 inch per day for each of the three days immediately preceding application and no precipitation is occurring on the day of application the water-holding capacity of the soil to accept the manure application without the possibility of runoff.

ITEM 79. Rescind **567—Chapter 65, Table 2**, and adopt the following **new** table in lieu thereof:

TABLE 2
Major Water Sources – Lakes

County	Lake Name	Easting	Northing	Location
Adair	Greenfield Lake	375999.79	4572927.56	1 mile southwest of Greenfield
	Meadow Lake	379665.66	4582459.52	6 miles northeast of Greenfield
	Meadow Lake Watershed Pond 1	379413	4582674	
	Meadow Lake Watershed Pond 2	379575	4581649	
	Mormon Trail Lake	363054.22	4566934.26	1½ miles southeast of Bridgewater
	Nodaway Lake	374770.59	4571870.36	2 miles southwest of Greenfield
	Orient Lake	379552.53	4561682.24	1 mile southwest of Orient
Adams	Binder Lake	356117.08	4540974.27	1 mile northeast of Corning
	Lake Icaria	353123.81	4545985.84	4 miles north of Corning
	Spring Lake	354110	4538035	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
Allamakee	West Lake Corning	354797.09	4540213.74	North edge of Corning
	Big Lake (Lansing)	644291	4807674	3 miles north of Lansing
	Big Slough	642493	4809417	
	Butler Lake	652484	4785589	
	Conway Lake	657161	4738737	Pool 11, Mississippi River
	Founders Pond	646809.86	4771777.37	
	Gimmel Lake	653020	4786756	
	Harper's Slough	652820	4787292	
	Japan Slough	649975	4781589	
	Joyce Lake	651789	4786453	
	Lansing Lake	644132.62	4806470.39	
	Lost Channel	643012	4814948	
	Martelle Lake	652046	4785558	
	McDonald Slough	643396	4807291	
	Middle Slough	643004	4806779	
	Minnesota Slough	641882	4816293	
	Mud Hen Lake	650260.15	4780202.09	
	New Albin Big Lake	642649.71	4815967.5	
	Off Slough	649525	4778400	
	Oil Spring Creek	652475	4786953	
	Phillipi Lake	642729	4806240	
	Pigpen Slough	640087	4817194	
	Rittenhouse Lake	653227	4785541	
	Saint Paul Slough	654608	4788421	
	Taylor Lake	650782	4782728	
	Upper Iowa River	642871	4814120	
	Village Creek	645559	4800999	
Waukon Pond	623664	4790199	South end of Waukon	
Yellow River Pond	643657	4781904		
Zoll Lake	641939	4808167		
Appanoose	Lower Centerville Reservoir	509891.81	4507010.42	2 miles south of Centerville
	Mystic Reservoir	504475.03	4515541.19	North edge of Mystic
	Rathbun Reservoir	507933.71	4521817.24	8 miles northwest of Centerville
	Stephen's Forest - Unionville Area Pond	528645.58	4518825.61	
	Upper Centerville Reservoir	508646.64	4506155.89	South edge of Centerville
Audubon	Littlefield Lake	351168.93	4602359.81	4 miles east of Exira
	Nabotna Pond	343511.71	4624705.94	
Benton	Hannen Lake	573568.05	4635295.78	4 miles southwest of Blairstown
	Polk Township Lake	587024	4681784	5.5 miles northwest of Urbana on west side of I-380
	Rodgers Park Lake	576162.03	4672389	3.5 miles northwest of Vinton
	Winegar Lake	579835.17	4682491.94	9 miles north of Vinton
Black Hawk	Alice Wyth Lake	547459.69	4708746.55	North edge of Waterloo
	Big Woods Lake	546383	4711126	Northwest edge of Cedar Falls

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Black Hawk Park Pond 1	541989	4715777	
	Black Hawk Park Pond 2	542020	4716091	
	Brinker Lake	549696.62	4707599.56	North edge of Waterloo
	Casey Lake (a.k.a. Hickory Hills Lake)	556658.34	4679465.31	12 miles south of Waterloo
	Cedar Falls Impoundment	545219.5	4709795.29	North edge of Cedar Falls
	Cedar River N.R.A. Pond	564167	4693201	
	City Park Pond (Waterloo)	551267.77	4707955.43	
	Deerwood Park Lake	557153	4701012	
	Fisher Lake	548451.46	4709310.52	North edge of Waterloo
	Fox Township W.A. Pond	576669	4699847	
	George Wyth Lake	549304.53	4709368.04	North edge of Waterloo
	Green Belt Lake	550302.63	4703101.58	West edge of Waterloo
	Harold Getty Lake	556343	4703053	Located in southeast Waterloo about 1 mile north of the intersection of Highway 20 and Highway 218 (follow Mitchell Street about 0.25 miles east from Highway 218 to the Riverview Recreation Area)
	Hope Martin Pond	551368	4704345	
	Meyers Lake	558310	4701247	Evansdale
	North Hartman Pond	548427	4708601	North edge of Waterloo
	North Prairie Lake	544206.21	4703495.88	Southwest edge of Cedar Falls
	Railroad Lake (Falls Access S.W.M.A.)	540750.04	4714257.34	
	Roger Birdsall Memorial Park Lake	542025.53	4709221.17	
	Singing Bird Lake	551500.52	4704389.09	
	South Hartman Pond	548882	4708243	North edge of Waterloo
	South Prairie Lake	544294.1	4702973.87	
	Thunder Woman Park Pond	538081	4720051	
	Turkey Ridge	539901	4720235	
	West Hartman Pond	548157	4708610	
Boone	Dickcissell Lake	432318.99	4654283.46	4 miles east of Boone
	Don Williams Lake	415725.47	4663301.65	5 miles north of Ogden
	Fraser	419267	4664205	West edge of Fraser
	Fraser Pit	419643	4663787	
	Jay Carlson (south)	422516	4654138	3 miles west of Boone
	Jay Carlson Pit (east)	422807	4654169	
	Jay Carlson Pit (west)	422427.57	4654299.59	3 miles west of Boone
	McHose Park Pond	426458.23	4654856	
Bremer	Avenue of the Saints Pond	537967.5	4728531.17	2 miles southwest of Waverly
	Frederika Impoundment	556332.06	4748108.86	
	Horton Pond	543076	4737673	
	Three Rivers Pond	543567	4731680	
	Waverly Impoundment	543351.73	4730767.74	
	Wilson Grove North	574521	4747448	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Wilson Grove South	574556	4747158	
Buchanan	Fairbank Impoundment	577705.32	4721261.98	
	Fontana Mill Lake	589338.93	4717700.81	.5 miles south of Hazleton
	Grover Pond	597864	4694570	
	Independence Impoundment	590394.01	4703679.18	Independence
	Koutny Pond	585334.5	4683990.61	2.5 miles southeast of Brandon
	Quasqueton Impoundment	601853.66	4694358.61	
	Sand Creek Access Area Lake	604060.74	4688360.98	
	Triangle Park Pond	590366	4700259	
Buena Vista	Gustafson Lake	324410.66	4749539.68	1 mile south of Sioux Rapids
	Marathon City Park Pond	336282.51	4747522.39	
	Pickrel Lake	343178.2	4752172.72	7 miles northwest of Marathon
	Storm Lake (incl. Little Storm Lake)	320724	4720589.78	South edge of Storm Lake
	Sturchler Pit (Newell Pit)	332561.65	4720157.73	1½ miles northwest of Newell
	Three Waters W.A. Lake	332361.81	4723241.67	2 miles west, 3 miles north of Newell
Butler	Shell Rock County Park Lake	533481.5	4730230.8	
	South Fork Park Pond	501014	4732423	
	Sportsman's Pond	526024.24	4737139.8	
Calhoun	Calhoun W.A. Pond	380550.56	4708274.59	
	Highway 4 R.A. Pond	364318.22	4693540.94	Southwest edge of Rockwell City
	North Twin Lake	366058.06	4704861.72	4 miles north of Rockwell City
	Rockwell City City Pond	365301.56	4695663.29	
Carroll	Daniel Davis Timber Pond	350975.82	4639598.71	
	Great Western Park Lake	327502.29	4640943.67	¼ mile west of Manning
	Swan Lake	347387.38	4655754.9	3 miles southeast of Carroll
	Tigges Pond Dedham	350202	4637381	
	Tigges Pond Willey	346242	4648362	
Cass	Atlantic Quarry Pond 1	331184	4587055	
	Atlantic Quarry Pond 2	331584	4587075	
	Atlantic Quarry Pond 3	331194	4586765	
	Atlantic Quarry Pond 4	330814	4586305	
	Cass County Education Pond	355709	4565459	
	Cocklin Fish Farm	321115.02	4569144.05	2 miles north of Griswold
	Cold Springs Lake	325247.74	4573271.32	1 mile south of Lewis
	Iranistan Pond	321341.31	4575142.81	5½ miles north of Griswold
	Lake Anita	351183.86	4587776.12	½ mile south of Anita
	Nodaway W.A. Pond	348909.57	4562168.2	4 miles southwest of Massena
Cedar	Bennett Lake	673027.94	4623719.41	3 miles east of Bennett
	Cedar Valley Park Quarries	646463.9	4620838.45	7.5 miles southwest of Tipton
Cerro Gordo	Black Pit	481804.02	4776426.15	Southwest edge of Mason City
	Blair Meadows Preserve Pond	478617.97	4779040.49	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Blue Pit	482111.48	4776398.89	Southwest edge of Mason City
	Bluebill Lake	472575	4772317	4 miles south of Clear Lake
	Clark Lake (Mike Zack W.A.)	484789.14	4772323.49	4 miles southeast of Mason City
	Clear Lake	468223.96	4775662.73	South edge of Clear Lake
	Fin and Feather Lake	484532.82	4772256.57	3 miles south, 1 mile east of Mason City
	Georgia Hanford Park Ponds	484772.71	4774447.16	
	Kuhn W.A. Quarry	461019.75	4784286.67	
	Lime Creek Conservation Area Pond	483422.38	4781958.78	
	Mason City East Park Pond	485146.14	4777980.74	
	Rockfall Pond	493523.87	4783404.37	
	Rockwell Pond	483665.34	4757598.17	
	Wilkinson Pioneer Park Pond	495812.85	4781094.28	1 mile southwest of Rock Falls
Cherokee	Larson Lake	304430.57	4733431.63	2½ miles east, 2 miles north of Aurelia
	Spring Lake	288123.89	4736797.97	South edge of Cherokee
Chickasaw	Airport Lake	553186.11	4770705.14	2 miles northwest of New Hampton
	Goodale Conservation Area Pond	538694.07	4781787.04	
	Johnny Walnut Seed Conservation Area Pond	558890.16	4783221.4	
	Nashua Impoundment (Cedar Lake)	537601.88	4756074.71	East edge of Nashua
	New Hampton Pond (Garnant)	556648	4766778	On south 4th Avenue
	Ringneck Haven	546180	4776920	1.5 miles north, 1 mile west of North Washington
	Sluggo's Pond	572129.68	4775728.49	
	Split Rock Lake	562232.53	4751215.46	4 miles south, 2 miles west of Fredericksburg
	Twin Ponds	549570.09	4762052.06	
Clarke	East Lake (Osceola)	437595.56	4542703.74	½ mile east of Osceola
	Grade Lake	435244.38	4541428.82	
	Green Pines W.A. Pond	440396.84	4554345.48	
	Q Pond City Park	434442.65	4543865.34	Northwest edge of Osceola
	West Lake (Osceola)	432377.34	4543057.65	2 miles west of Osceola
Clay	Brugeman Park Pond	306038.38	4784675.59	
	Dicken's Pit	336663.27	4776416.47	
	Elk Lake	343505.42	4771935.39	1 mile west, 3 miles south of Ruthven
	Hawk Valley Pond (east)	330877	4777520	
	Hawk Valley Pond (west)	330799.83	4777354.35	
	James W.A. Lake	320881.12	4754827.39	
	Scharnberg Pond	313589.42	4780323.5	3 miles east of Everly
	Schmerse W.A. Pond	330762.31	4789429.12	
	Stolley Pit	322147	4780318	
	Trumbull Lake	341588.03	4783433.66	4 miles west, 5 miles north of Ruthven

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
Clayton	Ackerman Cut	657357	4737376	
	Big Pond	657273.37	4738200.61	
	Bussey Lake	654925.65	4740888.84	2 miles north of Guttenberg
	Cassville Iowa Slough	659190	4733838	
	Dead Lake	664841	4728559	
	Elkader Impoundment	630271.33	4746096.02	Elkader
	Ferry Slough	656672	4741212	
	Frenchtown Lake	655025.87	4745546.55	
	Guttenberg Waterfowl Ponds	650096	4755972	
	Johnsons Slough	649854	4758013	
	Methodist Lake	650333	4754252	
	Norwegian Lake	650299	4756882	
	Osborne Pond	627996.1	4739466.54	4.5 miles southwest of Elkader on Highway 13
	Picayune Chute	667499	4727985	
	Sny Magill Ponds (3)	646906	4757322	
	Spring Lake	663898	4728959	
	State Line Slough	655794	4749192	
	Swift Slough	656481	4738566	
	Wachendorf Lake	665673	4728599	
	Wood Duck Lake	664082	4729894	
	Wood Duck Slough	665193	4728551	
	Wyalusing Slough	649971	4754957	
	Wyoming Slough	649926	4755032	
Clinton	Beaver Slough	731464	4633122	
	Blue Bill Slough	729968	4630504	
	Cook Slough	735828	4656142	
	Dark Chute	734997	4656669	
	Elk River Slough	735246	4651042	
	Gomers Lake	734043	4650592	
	Grass Lake	732753	4632465	
	Hagenson Pond	719775.71	4624673.83	.25 miles south of Folletts
	Killdeer R.A. Lake	711769.49	4632533.72	5 miles east of DeWitt
	Lower Lake	731111	4631776	
	Lyons Chute	735004	4642186	
	Malone Park Pond	711349.2	4632124.6	5 miles east of DeWitt
	McAndrews Wildlife Area Pond	676287	4655308	
	Pond Lily Lake	725811	4628290	
	Rock Creek	723154	4625541	
	Schricker Slough	724198	4627207	
	Sodus Slough	723474	4625535	
Swan Slough	726432	4628308		
The Tubes	725042	4627687		

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Tyler Lake	724150	4627546	
	Upper Lake	731782	4632342	
Crawford	Ahart/Rudd N.R.A. Pond	291176.1	4641904.72	1 mile west, 1.5 miles south of Dow City
	Nelson Park Lake	285370.38	4646138.79	3 miles west, 3 miles north of Dow City
	Newcom/Riggelman N.R.A. Pond	311386.82	4668258.97	
	Sunset Lake	303325.19	4652690.91	
	Yellow Smoke Park Lake	307776.43	4655290.27	2 miles east, 2 miles north of Denison
Dallas	Beaver Lake	398938.68	4598600.26	1½ miles north of Dexter
	Glissman Pond	407406	4602545	
	Siglund Pond	429979	4628676	
	Snyder Pit	412198	4621032	
Davis	Bloomfield City Park Pond	550631.24	4511403.99	
	Davis County Pond 1 (N-S)	551262	4511060	
	Davis County Pond 10 (N-N)	551330	4511330	
	Davis County Pond 2 (S-NE)	551448	4510774.28	
	Davis County Pond 3 (S-NW)	550946	4510770	
	Davis County Pond 4 (S-NM2)	551166	4510721	
	Davis County Pond 5 (S-M1)	551147	4510550	
	Davis County Pond 6 (S-S)	551277	4510162	
	Davis County Pond 7 (S-NM1)	551246	4510808	
	Davis County Pond 8 (S-M2)	551212	4510377	
	Davis County Pond 9 (N-M)	551274	4511217	
	Drakesville Ponds	544053.7	4516907.98	
	Lake Fisher	547145.17	4511858.74	2 miles northwest of Bloomfield
	Lake Wapello	535775.58	4518715.47	7 miles west of Drakesville
Decatur	Home Pond	419485.75	4497642.68	
	Lake LeShane	417531.16	4498385.73	
	Little River Watershed Lake	434102.76	4512932.22	1 mile west of Leon
	Nine Eagles Lake	434841.62	4494456.68	3½ miles southeast of Davis City
	Slip Bluff Lake	427969.88	4500576.02	2 miles northwest of Davis City
Delaware	Backbone Lake	620098.06	4717575.34	4 miles southwest of Strawberry Point
	Schram Pond	627204	4703162	
	Silver Lake (Delaware)	637956.2	4698315.57	Southeast edge of Delhi
Des Moines	4th Pumping Plant (Iowa Slough Lake)	670782.93	4547982.17	6 miles north, 5 miles east of Kingston
	Big Hollow Lake	648948	4534137	3 miles west of Sperry
	Black Hawk Bottoms	658961	4507637	
	Buffalo Slough	670919	4545162	
	Camp Island	672008	4540145	
	Charlie Island	672115	4542329	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Cody Chute	671688	4543373	
	Gahn Wildlife Refuge Pond	652570.62	4522956.11	Northwest of West Burlington, 1 mile north of Highway 34
	Gates Lake	670341	4546373	
	Gorge Pond	648629	4534554	5 miles west of Sperry
	Gun Chute	671255	4544681	
	Half Moon Lake	658047	4508487	
	Huron Chute	670493	4546373	
	Izaak Walton Lake	656013.69	4521699.42	
	Johnson Island	672127	4541237	
	Leaky Pond	649971	4535213	5 miles west of Sperry
	Linder Pond	648842	4534364	5 miles west of Sperry
	O'Connell Slough	661110	4523877	
	Otter Bay	663051	4523701	
	Otter Slough	662762	4524286	
	Round Lake	657613	4509914	
	Rush Chute	661527	4523059	
	Shelter D	649433	4535145	5 miles west of Sperry
	Shelter E	650161	4535176	5 miles west of Sperry
	Swift Slough	665024	4527309	
	Twin Ponds	671560	4545138	
	West Lake	655836.8	4521930.26	
	Yeager Lake	660748.37	4521923.82	
Dickinson	Big Spirit Lake	329966.96	4812894.29	1 mile north of Spirit Lake
	Center Lake	327070.22	4808772.86	2 miles west, ½ mile south of Spirit Lake
	Diamond Lake	322816.82	4816686.45	2 miles east, 2 miles north of Montgomery
	East Okoboji Lake	328394.92	4805141.83	East edge of Okoboji
	Little Spirit Lake	328213.3	4818249.82	4 miles north of Orleans
	Little Swan Lake	342370	4813624	
	Lower Gar Lake	328234.54	4801799.84	½ mile south of Arnolds Park
	Minnewashta Lake	327875.2	4803006.35	½ mile south of Arnolds Park
	Pleasant Lake	335821.28	4807755.65	3 miles east, 1 mile south of Spirit Lake
	Prairie Lake	332924.42	4805076.72	2.5 miles east of Arnolds Park
	Silver Lake (Dickinson)	310997.28	4813089.18	West edge of Lake Park
	Swan Lake	342395.86	4813752.52	2 miles north of Superior
	Upper Gar Lake	328141.26	4803845.34	East of Arnolds Park
	Welch Lake	324264.45	4814314.92	
	West Okoboji Lake	326658.64	4804352.38	Northwest edge of Arnolds Park
	Westport Park Pond	309177.54	4798208.23	
Dubuque	Basswood Creek	679703	4724434	
	Bluebell Creek	661458	4730249	
	Bunker Chute	672453	4726563	
	Dubuque Harbor	692288	4706960	
	East Bergfeld	682823	4706318	
	Greens Lake	699375	4700686	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Heritage Pond	688309.91	4713704.08	North edge of Dubuque
	Horseshoe Lake	700143	4700256	
	Lake Peosta Channel	692993	4710087	
	Molo Slough	698268	4701301	
	Mud Lake Park	688390.25	4720447.61	
	Shawon Dasse Slough	698520	4701375	
	West Bergfeld	682370	4706457	
Emmet	High Lake	361493.8	4796057.25	6 miles east of Wallingford
	Ingham Lake	362567.49	4797656.25	6 miles east of Wallingford
	Iowa Lake	382161.54	4817021.05	6 miles north of Armstrong
	Jim Hall Habitat Area Wetland	356559.58	4791861.6	
	Tuttle Lake	371345.55	4817077.11	1 mile east, 2 miles north of Dolliver
	West Swan Lake S.W.M.A.	364028.85	4801616.77	3 miles southeast of Gruver
Fayette	Gilbertson Area Lake	613397.36	4756833.09	East of Elgin off of County Highway B64
	Lake Oelwein	588798.64	4722337.49	South edge of Oelwein
	Maynard Impoundment	591414	4737075	
	Volga Lake	600326.81	4750319.41	3 miles north of Fayette
	Waucoma Impoundment	578691.97	4767409.38	
Floyd	Charles City Impoundment	525968.93	4768270.7	Charles City
	Fossil Park Pond	502010	4766025	1 mile west of Rockford
	Marble Rock Impoundment	510448.27	4757045.24	West edge of Marble Rock
	Rudd Lake	509045	4774695	East of Rudd
Franklin	Beeds Lake	480055.88	4735292.12	2 miles west, 1 mile north of Hampton
	Interstate Park Lake	465846.02	4730889.95	1 mile west, 2 miles south of I-35 and Hwy 3
	Maynes Grove Lake	483119.56	4724728.86	5 miles south of Hampton
	Pope Joy Pond	464203	4714636.42	
	Prairie Bridges Park Ponds	495240.66	4712345.37	1 mile north of Ackley
	Robinsons Pond	485757.14	4733568.17	
	Sheffield G.M.A. Pond	477136.67	4750562.81	
	Toft Pit	459592.79	4723669.33	
Fremont	Lake Virginia	272866	4504644	5 miles west of Riverton
	McPaul A Pond	263645.55	4525103.08	2 miles south of Bartlett
	McPaul B Pond	263506.35	4523459.15	2 miles south of Bartlett
	Percival Lake	262829.68	4517831.28	1 mile north of Percival
	Pinky's Glen Pond	270951.36	4530967.33	2 miles west of Tabor
	Scott Lake A	263972.86	4527917.37	1½ miles south of Bartlett
	Scott Lake B	263966.46	4527143.86	1½ miles south of Bartlett
	Waubonsie Access Lake	261509.74	4507347	
Greene	Pound Pit	396860	4658722	
	Pound Pit middle W	396775	4658797	
	Pound Pit NE	396775	4658894	3 miles north of Grand Junction
	Pound Pit NW	396654	4658891	
	Pound Pit SW	396723	4658550	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location	
Grundy	Spring Lake	393381.93	4657295.83	4 miles northwest of Grand Junction	
	Grundy County Lake	529801.87	4700900.07	South side of Hwy 20 at Dike exit	
	Rodman Park Ponds	527694.71	4702110.46	2 miles west of Dike	
Guthrie	Stoehr Lake (Wellsburg)	509535.39	4693577.21	4 miles southeast of Wellsburg	
	Springbrook Lake	378112.1	4626039.93	7 miles north of Guthrie Center	
	Sutcliff Woodland Pond	363708.79	4613110.19	10 miles north of Adair	
Hamilton	Briggs Woods Lake	434799.38	4698625.1	2 miles south of Webster City	
	Little Wall Lake	447509.22	4679896.07	1½ miles south of Jewell	
Hancock	Crystal Lake	435751.69	4786527.29	North edge of Crystal Lake	
	Crystal Lake Sediment Pond	436272	4787244	Off the northeast corner of Crystal Lake	
	Eight Mile Pits	439357.12	4787963.53		
	Eldred Sherwood Lake	453975.09	4754473.17	3 miles east, 1 mile north of Goodell	
	Pilot Knob Lake	454452.32	4788839.96	3 miles east of Forest City	
	Torkelson Pit W.A. (north)	456166.98	4783852.84		
	Torkelson Pit W.A. (southeast)	456317	4783649		
	Torkelson Pit W.A. (southwest)	456186	4783743		
	West Twin Lake	440160.83	4754061.28	3 miles east of Kanawha	
	Alden	469050	4707733		
Hardin	Lower Pine Lake	493819.22	4690719.67	½ mile east of Eldora	
	Meiers Access	472688	4684011		
	Pine Ridge R.A. Lake	494327.5	4696097.19		
	Steamboat Rock	494022	4695110		
	Upper Pine Lake	494761.55	4691675.65	½ mile east of Eldora	
	DeSoto Bend at DeSoto National Wildlife Refuge	247652.14	4603538.94	5 miles west of Missouri Valley at DeSoto National Wildlife Refuge	
Harrison	Dunlap Pond	285083.69	4636573.63	East edge of Dunlap	
	Nobles	251377	4599685	6 miles southwest of Missouri Valley	
	Sawmill Hollow W.A. Pond	257535.24	4614482.5	4 miles southwest of Magnolia	
	Schaben Pond	278081.43	4631303.92	5½ miles northeast of Woodbine	
	Schley Park Pond	287078.68	4606215.77	1 mile east of Persia	
	Willow Lake	268199.26	4627939.86	5½ miles west of Woodbine	
	East Lake Park	624600.28	4533827.73	Mount Pleasant - city park	
	Gibson Area Pond	611978	4531418	East of Oakland Mills (Henry CCB)	
	Lake Geode	636087.98	4519878.79	4 miles southwest of Danville	
	Lake Geode Pond #1	637003	4520751		
Henry	Lake Geode Pond #3	637089	4520269		
	Lake Geode Pond #4	636941	4520357		
	Lake Geode Pond #5	636535	4520217		
	Lake Geode Pond #6	634992	4520680		
	Lake Geode Pond #7				
	Lake Geode Pond #8				
	Oakland Mills Impoundment	616371.43	4532547.37		
	Howard	Lake Hendricks	536796.76	4802511.8	.5 miles northeast of Riceville

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Lidtke Impoundment	558360	4812676	
	Lime Springs Impoundment	558117.58	4812991.97	
	Merrick Pond	538801.89	4788117.94	
	Taylor Park Pond	571816.29	4789408.51	3 miles northwest of Protivin
	Vernon Springs Park Pond	569748.29	4799739.76	
Humboldt	Humboldt Impoundment	399264.31	4731291.08	
	Rutland Impoundment	393915	4734434	
Ida	Crawford Creek Impoundment	285080.77	4683549.46	3½ miles south of Battle Creek
	Moorehead Park Pond	295746.77	4692499.69	½ mile north of Ida Grove
Iowa	Gateway Park North	577527	4629168	North edge of Marengo
	Gateway Park South	577522	4628800	North edge of Marengo
	Iowa Lake	568747.08	4609827.89	5 miles north of Millersburg
	Lake Iowa Pond	568387	4609231	Behind the nature center in Lake Iowa Park
	Williamsburg Pond	581687.98	4612442.9	In the town of Williamsburg
Jackson	Alligator Lake	733398	4662712	
	Bards Lake	732439	4662936	
	Barge Lake	734038	4662695	
	Bellevue Pond	713018	4680766	South edge of Bellevue, near Bellevue State Park
	Bellevue Slough	711881	4688370	
	Big Keller Lake	733142	4667124	
	Big Sieber Lake	732910	4664862	
	Blake's Lake	726130	4672042	
	Bonnie Lake	717312.92	4675010.51	
	Bowman's Slough	717091	4676230	
	Dead Lake	733310	4664175	
	Densmore Lake	724280.63	4671708.49	
	Doc Wood Lake	733494	4664015	
	Eldridge Slough	734109	4663128	
	Esmay Slough	733497	4665008	
	Fish Lake	722936.54	4672600.4	
	Flat Lake (A)	719274	4674318	
	Flat Lake (B)	733522	4663968	
	Golden Lake	718898.04	4675105.93	
	Goose Lake	720185.32	4674528.7	
	Green Island Lake	724532.96	4671513.05	1 mile east of Green Island
	Harrington Slough	713758	4679680	
	Horseshoe Pond	693445.62	4658581.92	
	Hubble Slough	733897	4659264	
	Hurstville Pond	691433	4662547	1 mile north of Maquoketa
	Israel Day Lake	733606	4662720	
	Jackson Lake	719474	4674965	
	Joe Day Lake	732671	4664015	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Lainsville Slough	729361	4669432	
	Little Keller Lake	732659.32	4667065.9	
	Little Sawmill Lake	724477.32	4672495.39	
	Little Sieber Lake	733166	4664662	
	Lower Brown Lake	727674	4670384	
	Lower Y Lake	733727.34	4666349.11	
	McGann's Lake	725645	4672141	
	Middle Sabula Lake	733211.42	4661003.42	West edge of Sabula
	Pin Oak Lake	729142.03	4670312.65	
	Running Slough	733678	4666005	
	Sawmill Lake	724778.68	4672601.1	
	Scarborough Lake	727305	4670619	
	Sheepshead Bay	734325	4665286	
	Snag Slough	723628	4672682	
	Snider Lake	722807.84	4673524.84	
	South Sabula Lake	733677.57	4660163.34	
	Sunfish Lake	732412.16	4666850.65	
	Town Lake	732718	4662632	
	Twin Lakes	721080.93	4674100.26	
	Upper Brown Lake	726110.52	4670430.27	
	Upper Sabula Lake	732981.25	4661695.68	
	Upper Y Lake	733574.41	4666792.15	
	Western Pond	718108.96	4674401.97	
Jasper	Clear Creek Pond	480600	4628525	
	Deppe Pond (north)	511167	4623933	4 miles northeast of Kellogg
	Deppe Pond (south)	511161	4623426	4 miles northeast of Kellogg
	Jacob Krumm Nature Preserve Lake (east)	517620	4617110	
	Jacob Krumm Nature Preserve Lake (west)	518446.58	4617485.07	6 miles southeast of Kellogg
	Mariposa Lake	502975.97	4625216.65	5 miles northeast of Newton
	Reimer Refuge Pond	507460	4619070	
	Rock Creek Lake	512179.64	4620967.25	4 miles northeast of Kellogg
	Rock Creek Lake Park Pond (east)	513967	4621454	
	Rock Creek Lake Park Pond (north)	512526	4621802	
	Rock Creek Lake Park Pond (west)	511190	4620719	
	Stephens State Forest Reichelt Unit Lake	511067.31	4616575.07	
Jefferson	Bonnifield Lake	587914.03	4541523.96	
	Jefferson Co. Park New Pond	584904	4537775	Southwest edge of Fairfield
	Jefferson Co. Pond #1	584866	4537540	Southwest edge of Fairfield
	Jefferson Co. Pond #2	585164	4537540	Southwest edge of Fairfield

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Jefferson Co. Pond #3	585084	4538602	Southwest edge of Fairfield
	Jefferson Co. Pond #4	585272	4538373	Southwest edge of Fairfield
	Pleasant Lake	588370.59	4542079.46	
	Round Prairie Park Entry Pond	600087	4529881	12 miles southeast of Fairfield
	Round Prairie Park Quarry Pond	600304	4529660	
	Walton Reservoir	589629.66	4540841.99	
	Whitham Woods Pond	583314	4540070	1 mile west of Fairfield
	Zilman's Pond	592387	4536617	
Johnson	Broodmoor Pond	616993	4621423	East side of North Liberty
	Burlington Street Dam	621477	4612805	On the Iowa River in Iowa City under the Burlington Street bridge
	Coralville Reservoir	622294.37	4620498.12	4 miles north of Iowa City
	Dovetail Pond	620021	4617910	
	Ewalt Pond	614915	4617216	West side of Coralville
	Fox Run Pond	615638	4624756	North side of North Liberty
	Fox Valley Pond	614671	4619683	Southwest of North Liberty
	Freedom Pond	614993	4621721	North Liberty
	Goose Pond	613471	4624028	West side of North Liberty by I-380
	Iowa River Landing Pond	620047	4615397	Just south of I-80 at Iowa River landing
	Kent Park Lake	605587.26	4620021.73	2.5 miles west of Tiffin
	Lake Macbride	619078.11	4628229.25	4 miles west of Solon
	Liberty Centre Pond	615500	4622936	One block west off Hwy 965 on Cherry Street
	North Ridge Park Pond	616966.57	4616718.45	Just north of I-80 in Coralville
	Oakdale Ponds	616042	4618778	East of Hwy 965
	Redbird Farms W.A. Ponds	607294.48	4607914.17	9 miles southwest of Iowa City
	S.T. Morrison	617764	4615107	Coralville
	Terry Trueblood Lake	622528	4608957	1.5 miles south of Hwy 6 on Gilbert Street in Iowa City
	Town Dam	619489	4614596	On the Iowa River along 1st Avenue in Iowa City
	West Pond	613582	4621842	
Jones	Central Park Lake	653870.14	4663855.76	2 miles west of Center Junction
	Hale Ponds	663097	4654211	3 miles east of Hale
	Monticello Dam	650809	4678560	On the Maquoketa River on the east side of Monticello
	Olin R.A. Pond	654322.31	4652393.1	1 mile north of Olin
Keokuk	Belva Deer Park Pond #1	572399	4580789	5 miles northeast of Sigourney
	Belva Deer Park Pond #2	572552	4580701	5 miles northeast of Sigourney in the campground
	Belva Deer Park Pond #3	572712	4580705	5 miles northeast of Sigourney in the campground
	Griffin Lake	554502.09	4582351.74	Southeast corner of What Cheer
	Griffin Pond #1	554809	4582606	
	Griffin Pond #2	555034	4582531	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Lake Belva Deer	573367	4581022	5 miles northeast of Sigourney
	Yenruogis Pond	566866.17	4581105.04	2 miles north of Sigourney
Kossuth	Burt Lake	387755.38	4817117.51	4 miles west, 8 miles north of Swea City
	Hurlburt W.A. Pond	400846.96	4772904.56	
	Lake Smith	399004.66	4775327.52	3 miles north of Algona
	Plum Creek W.A. Pond	403565.97	4776155.8	
	St. Benedict W.A. Pond	411428.97	4763547.16	2 miles southwest of St. Benedict
	Whittemore Pit	386031.74	4767988.65	1.5 miles southeast of Whittemore
Lee	Bitternut	607002	4502463	3 miles north of Farmington
	Black Oak	608922	4499870	2 miles northeast of Farmington
	Chatfield Lake	631418.04	4477352.55	3 miles northwest of Keokuk
	Devil's Creek Lake	635244	4494311	
	Grape Chute	655552	4502801	
	Lead Island Chute	648559	4501028	
	Martens Pond	612682	4498974	Just off Highway 2 in Shimek State Forest
	Martin Pond	612689	4498943	
	Pollmiller Park Lake	632044.15	4508067.78	East edge of West Point
	Rabbit Island Lake	638603	4497196	
	Shagbark	612763	4500242	6 miles northeast of Farmington
	White Oak	609402	4498526	2 miles east of Farmington
	Wilson Lake	627747	4500241	4 miles east of Donnellson
	Wilson Pond #1	627532	4500070	
	Wilson Pond #2	627327	4500075	
Linn	Central City Ponds	620723.06	4674042	
	Coggon Impoundment	620851.21	4682196.87	On Buffalo Creek on the northwest edge of Coggon
	Five in One Dam	609949	4648267	On Cedar River under I-380 in Cedar Rapids
	Manhattan Robbins Lake Park	607509.52	4651345.38	On the Cedar River in northwest Cedar Rapids
	Mohawk Park Lake	608932	4650761	East side of the Cedar River off J Avenue
	Mount Vernon Quarry	631572	4641831	Between Mount Vernon and Lisbon on the north side of Highway 30
	Murphy Lake	619876	4645502	1 mile northwest of Bertram on the west side of Highway 13
	Pleasant Creek Lake	598199.61	4664125.85	4 miles north of Palo
	Prairie Park Fishery	613355	4644988	1.5 miles south-southeast of Cargill on Otis Road, along the Cedar River in Cedar Rapids
	Seminole Valley Park Lakes	605042.16	4650789.19	Along the Cedar River in northwest Cedar Rapids
	South Cedar Pond	630066.45	4638533.71	
	Wakpicada Natural Area Pit 1	621944	4671998	1 mile south of Central City
	Wakpicada Natural Area Pit 2	622013	4670928	1 mile south of Central City
Louisa	Beebe Pond	660348	4562333	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Big Goose Pond	660725	4561162	
	Big Timber Complex	658059	4569957	
	Blackhawk Chute	670734	4551602	
	Cairo Woods Pond	638996.46	4562293.45	
	Coolegar Slough	658114.44	4570795.74	
	Fox Pond	659185	4564105	
	Hidden Acres	657929	4566569	
	Kilpeck Island Chute	660469	4574879	
	Lake Odessa	660024.13	4560444.9	5 miles east of Wapello
	Little Fox Pond	659618	4563856	
	Louisa Interpretive Center Pond	654884	4569511	
	Otter Island	662381	4561346	
	Prairie Pocket	659290	4565212	
	Swarms Pond	659731	4562325	
	Turkey Chute	660327	4563388	
	Virginia Grove R.A. Pond	640596.11	4556176.98	4 miles northwest of Morning Sun
Lucas	Ellis Lake	478118	4539959.96	1 mile east of Chariton
	Morris Lake	479091.71	4540050.46	3 miles east of Chariton
	Red Haw Lake	477089.37	4538562.46	1 mile east of Chariton
	Red Haw Pond 1 (east)	476871	4537515	
	Red Haw Pond 2 (middle)	476686	4537455	
	Red Haw Pond 3 (north)	476651	4537780	
	Stephen's Forest Lucas Unit Pond 1	458776.18	4541052.58	
	Stephen's Forest Lucas Unit Pond 2	459618.26	4540360.97	
	Stephen's Forest Whitebreast Pond 1	458068.38	4537864.95	
	Stephen's Forest Whitebreast Pond 2	457718.44	4536796.84	8 miles west of Chariton
	Williamson Pond	482052.92	4549089.51	2 miles east of Williamson
Lyon	Jasper Pool	209438.86	4822553.45	
	Lake Pahoja	219000.7	4809227.87	4 miles south, 2 miles west of Larchwood
	Locker Park Pond	256720.45	4803663.21	In city park in George
Madison	Badger Creek Lake	423893.93	4591432.25	5 miles southeast of Van Meter
	Badger Creek Pond	423780	4592988	6 miles southeast of Van Meter
	Cedar Lake	416544.42	4580433.65	2 miles northeast of Winterset
	Criss Cove County Park Pond	412630.06	4562897.31	7 miles south of Winterset
	Deer Creek Wildlife Unit Pond	416883.11	4560928.89	
	Fellowship Forest Pond	410740	4570020	
Mahaska	Cedar Bluffs N.A. Pond	514213.22	4566947.03	
	Edmunson Pond	528946.31	4570391.36	
	Hawthorn Lake (a.k.a. Barnes City Lake)	545229.09	4591852.64	1 mile south of Barnes City

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Hawthorn Lake Watershed Ponds			
	Lake Keomah	538546.94	4571495.74	6 miles east of Oskaloosa
	Russell W.A. Pond	531042.96	4578939.74	6 miles north of Oskaloosa
	White Oak Conservation Area Lake	543838.8	4569253.88	2 miles south of Rose Hill
Marion	Bauer Park	473515.3	4561127.02	4 miles west of Melcher-Dallas
	Knoxville Pond	489340.69	4573756.55	1 mile southwest of Knoxville
	Pella S.G.M.A. Ponds	508282.51	4580049.2	
	Red Rock Reservoir	500001.33	4581031.68	4 miles north of Knoxville
	Roberts Creek Lake	495830.2	4585975.08	6 miles northeast of Knoxville
	Sand Pit	503020.85	4579588.17	
	Sunken Gardens Park Pond	507044.28	4584467.25	
	Tower Pond	501083.29	4578269.23	
	Wilcox W.A. Pond	504275.37	4566180.27	4 miles east of Attica
Marshall	Center Street Dam	506615	4656548	On the Iowa River on the north edge of Marshalltown
	Green Castle Lake	511581.56	4641843.27	1 mile south of Ferguson
	Marshall County Lake	501181.94	4653756.22	4 miles west of Marshalltown
	Sand Lake	511500	4655700	On the northeast edge of Marshalltown
Mills	Folsom Lake	262956.75	4551866.61	2 miles west of Glenwood
	Glenwood Lake	270109.51	4547391.54	East edge of Glenwood
	Keg Creek Lake	264085.12	4541300.49	2 miles southwest of Pacific Junction
	Lake George	293010.52	4544369.48	
	Malvern Pond (a.k.a. Bohner Pond)	282046	4542498	West edge of Malvern
	Mile Hill Lake	265997.5	4548659.57	2 miles west of Glenwood
Mitchell	Interstate Lake (Mitchell Impoundment)	509569.33	4796205.54	West edge of Mitchell
	Otranto Impoundment	501476.14	4811770.78	
	Stacyville Impoundment	517933.94	4809237.57	
Monona	Blue Lake	238595.91	4659728.09	3 miles west of Onawa
	I-29 Access Area borrow pit – Dry	242812.82	4646066.83	
	Johnston Pit	257800	4676400	1 mile east of Rodney
	Loess Hills State Forest – Jones Creek	257215	4639517	
	McDonald Pit	257276	4675844	1 mile east of Rodney
	Middle Decatur Lake	234152.8	4655809.5	
	Oldham Lake	268988.65	4654477.44	1 mile north of Soldier
	Pawnee Rec. Area Pit (NE)	258042	4677144	
	Pawnee Rec. Area Pit (SW)	257900	4677000	
	Peters Park	256800	4676000	1 mile east of Rodney
	Savery Pond	263720.03	4638997.9	2 miles southeast of Moorhead
	Upper Decatur Bend	232403	4655429	
	Whiting Woods Pond	261406.53	4669982.78	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location	
Monroe	Albia (lower)	515300	4544600	1 mile north of Albia	
	Albia City Reservoir	514850	4544350	1 mile north of Albia	
	Carmack Park Pond	505562.4	4552081.85	2 miles west of Lovilia	
	Lake Miami	512952.93	4551706.67	5 miles southeast of Lovilia	
Montgomery	Anderson Area Pond 1	316415.17	4544876.14	2 miles east of Red Oak	
	Anderson Area Pond 2	316156.26	4543807.56	2 miles east of Red Oak	
	Hacklebarney East	334300	4538900	4 miles north of Villisca	
	Hacklebarney West	333600	4538400	4 miles north of Villisca	
	Pilot Grove Lake	328614.32	4557101.13	5 miles east of Elliott	
	Viking Lake	329002.05	4538071.21	4 miles east of Stanton	
	Muscatine	Cedar Bluffs R.A. Ponds	640775.91	4578442.02	
Chicken Creek Lake		653073	4595470	8 miles northwest of Muscatine (CCB)	
Deep Lakes		660751	4581647		
Drury Slough		672542	4587295		
Environmental Discovery Park North Pond		660000	4588800	Muscatine CCB, east of Muscatine	
Environmental Discovery Park South Pond		659750	4588600	Muscatine CCB, east of Muscatine	
Gedney Lake		641241.83	4584761.77		
Hershey Slough		671496	4588165		
Hog Island		665859	4588186		
Muscatine Slough (Kent-Stein Park)		661049.98	4586403.35	Southwest edge of Muscatine	
Spring Lake		660814	4577870		
Wyoming Slough		671745	4588758		
O'Brien		Dog Creek (Lake)	298538.13	4756818.5	2 miles east, ½ mile south of Sutherland
		Douma Area Pond	279975.69	4782398.84	2 miles west, 1 mile south of Sanborn
	Mill Creek (Lake)	282302	4762515	1 mile east of Paullina	
	Negus Recreation Area Pond	297040.75	4756751.02		
	Sheldon Community Pond	271108.1	4784622.5		
	Tjossem Pond	286969.84	4771788.04		
Osceola	Ashton Park Pond	274303.65	4799335.56		
	Ashton Pits Wildlife Management Area	274931.84	4800219.8		
	May City Pit	298016.91	4800337.63		
	Ocheyedan Pit #1	294636.06	4806765.04	2 miles south of Ocheyedan	
	Ocheyedan Pit #2	294509	4807219	2 miles south of Ocheyedan	
	Ocheyedan Pit #3	294291	4807392	2 miles south of Ocheyedan	
	Peters Pit	269633.43	4817562.63		
	Thomas Pit	295840.01	4802894.09		
	Willow Creek	288284	4812127	4 miles west of Ocheyedan	
Page	Pierce Creek Pond	301186.8	4522851.23	5 miles north of Shenandoah	
	Pioneer Park Pond	312336.38	4512741.41	10 miles north of Clarinda	
	RAPP Park Lakes	300880	4517554	North edge of Shenandoah	
	Ross Area Pit	334046.4	4497246.63	8 miles southeast of Clarinda	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
Palo Alto	Five Island Lake	364129.71	4776858.57	North edge of Emmetsburg
	Lost Island Lake	345236.73	4781980.63	3 miles north of Ruthven
	Mulroney Recreation W.A. Pond	371544.92	4763574.23	
	Silver Lake (Palo Alto)	346427.93	4766118.97	2 miles west of Ayrshire
	Sportsman Park Pond	373841.73	4774577.66	
	Virgin Lake	345799.11	4773993.31	2 miles south of Ruthven
Plymouth	Hillview R.A. Pond	227889.37	4726319.16	2 miles west of Hinton
	LeMars Pit	246489.6	4739176.68	
	Meadow W.A. Pond	260939.3	4748626.59	
	Rivers Bend Wildlife Area Lake	206448	4743942	
	Silver Maple County Park Pond	206580.89	4745257.62	
	Southeast Wildwood Park Pond	253515.73	4720561.95	
Pocahontas	Cooper's Cove Park Pond	379947.83	4720030.24	7 miles east of Palmer
	Fonda Reservoir	348315.07	4715687.24	
	Lizard Lake	377543.34	4725444.04	
	Meredith Park Pond	367541.9	4751724.52	1.5 miles north of Plover
	Northwest Recreational Park Pond	349680.49	4745166.51	Southeast edge of Laurens
Polk	Acorn Valley Pond	440086	4620848	Within Acorn Valley campground on the west side of Saylorville Reservoir 3 miles north of Johnston
	Ankeny Lake (DMACC)	449512	4617135	Ankeny, DMACC campus
	Big Creek Lake	438321.15	4629479.46	2 miles north of Polk City
	Birdland Park Pond	448932.83	4606930.51	
	Blue Heron Lake (Raccoon River Park)	439020.58	4599899.06	Southwest of West Des Moines; Raccoon River Park
	Copper Creek	455930	4605980	North side of University Avenue in Pleasant Hill along Four Mile Creek
	Dale Maffitt Reservoir	434202.42	4596457.29	6 miles southwest of Des Moines
	Discovery Pond	434952.67	4626039.47	
	Donald McRae Park Pond	448020.25	4602131.04	
	Easter Lake	453737.61	4599264.29	Southeast edge of Des Moines
	Ewing Park Pond	451685.09	4598800.16	
	Fort Des Moines Pond	449107	4596329	
	Grays Lake	446619.95	4602226.81	Fleur Drive, Des Moines
	Greenwood/Ashworth Park Pond	443179.91	4603320.13	
	Hawkeye Park Pond	449411.16	4620502.87	Ankeny
	Lake Petocka	463217.99	4617300.7	Northeast edge of Bondurant
	Lake View Pond	439386	4609789	
	McHenry Park Lagoon	447691.3	4608112.63	
	Saylorville Reservoir	442684.68	4618588.91	North edge of Des Moines
Skull Pond	434961	4626036	Within Jester Park 2.5 miles northeast of Granger	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
Pottawattamie	Teal Pond	434504	4625778	Within Jester Park 2.5 miles northeast of Granger
	Terra Lake	441169	4612454	Within city of Johnston south of Pioneer Parkway
	Thomas Mitchell Lake	468053.88	4610166.83	3 miles southwest of Mitchellville
	Walker-Johnston Pond	438255	4608532	Within Walker-Johnston Park in the city of Urbandale
	Witmer Park Pond	444651.4	4606515.45	
	Yellow Banks Park Pond	461572.92	4598783.73	Southeast edge of Des Moines
	Arrowhead Pond	283406.45	4590411.46	1½ miles southeast of Neola
	Big Lake (incl. Gilbert's Pond)	260371.03	4575268.64	North 25th Street exit off Interstate 29, Nash Blvd. to Big Lake Road, northeast Council Bluffs
	Carter Lake	255489.46	4576242.85	North edge of Carter Lake
	Farm Creek Lake	305790	4565600	5 miles east of Carson
	Lake Manawa	260203.21	4565635.29	Southwest edge of Council Bluffs
	Riepe Pond	307915	4565321	
Saganaush Pond	256320	4568090	On grounds of Western Historic Trails Center in western Council Bluffs, accessed via Richard Downing Avenue	
Poweshiek	Arbor Lake	522262.02	4620025.39	On the southwest edge of Grinnell
	Diamond Lake	537371.4	4604053.83	1 mile west of Montezuma
	Diamond Lake Pond	538009	4604190	1 mile west of Montezuma
	Miller	523211	4620090	On the southeast edge of Grinnell
Ringgold	Fife's Grove Park Pond	395138.61	4510343.9	1 mile north of Mount Ayr
	Fogle Lake S.W.A.	386067.75	4519129.71	½ mile west of Diagonal
	Kokesh R.A. Pond	387027.06	4516600.61	
	Loch Ayr	395377.92	4511185.33	2 miles north of Mount Ayr
	Mount Ayr Game Area Ponds	388320.85	4504889.89	5 miles southwest of Mount Ayr
	Mount Ayr Old Reservoir	396421.06	4509142.84	½ mile north of Mount Ayr
	Poe Hollow Park Pond	399172.78	4507465.25	
	Ringgold CCB Ponds	395164	4510341	1 mile north of Mount Ayr
	Ringgold Management Area Ponds	404084.61	4494965.08	11 miles southeast of Mount Ayr
Sac	Almer Noyd W.A. Pit	343857.65	4683121.44	
	Arrowhead Lake	330911.52	4684793.63	South side of Lake View
	Black Hawk Lake	333592.47	4684763.6	East edge of Lake View
	Black Hawk Pits	330522	4682062	1½ miles south of Lake View
	Eden Prairie R.A. Pits	319758.78	4707958.74	
	Jana R.A. Pit	338824.24	4687134.39	
	L Pond	330582	4681897	
	Reiff Park Pond	323169.89	4700594.24	
Scott	Bluegrass Lake	692799.99	4599833.86	.25 miles west of Davenport (CCB)
	Buena Vista Public Use Area Ponds	688198.91	4622022.22	
	Cody Lake	705361.42	4620767.89	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Cordova Slough	722599	4620589	
	Crow Creek W.A. Lake	703587.12	4609911.64	East edge of Mount Joy
	Davenport Harbor	698411	4596521	
	Enchanted Island	695840	4593464	
	Grant Slough	722010	4620391	
	Lake of the Hills	693798.96	4599251.97	.25 miles west of Davenport (CCB)
	Lambach Lake	693953.02	4599816.3	.25 miles west of Davenport
	Le Claire Canal	717084	4606489	
	Lost Grove Lake	713121	4616355	6 miles east of Eldridge
	Lost Grove Lake Pond			
	Pride Lake	705741.49	4619857.29	
	Railroad Lake	693213.11	4599729.1	.25 miles west of Davenport (CCB)
	Steamboat Slough	722736	4620149	
	Wapsi River Center Pond	683785.63	4626415.39	
Shelby	Elk Horn Creek Pond	325720.04	4604192.81	
	Manteno Park Pond	295232.85	4636522.07	8 miles northwest of Defiance
	Nishna Bend R.A. Ponds	305993.99	4604617.39	4 miles south of Harlan
	Pioneer Park Pond	306202	4613751	Within Harlan city limits
	Prairie Rose Lake	315022.56	4608076.17	8 miles southeast of Harlan
	Schimeroski Pond	299608.55	4627446.47	East edge of Earling
	Speery Pond	305460	4612920	Within Harlan city limits
Sioux	Alton Roadside Park Pond	254874.7	4764719.04	.5 miles north of Alton
	Big Sioux Recreation Area	214559	4765664	
	Fairview Area Impoundment	217068.02	4792010.78	5 miles south, 3 miles west of Inwood
	Nassau W.A. Pond	252253.29	4758384.74	
	Oak Grove Pond	216911.5	4773041.27	Oak Grove County Park
	Otter Creek R.A. Pond	256088.72	4793184.47	4.5 miles north of Boyden on L14
	Rock Valley Pit	230911.25	4789780.59	In city park in Rock Valley
	Sandy Hollow Park Lake	246404.47	4772715.56	
	Sioux Center Pit	240949.87	4769579.74	
	Vander Weerd Pit	259830	4767780	
	Winterfield Pond (a.k.a. Van Zee Pit)	232630.55	4789617.55	North edge of Rock Valley
Story	Ada Hayden Heritage Park Lake	448174.92	4657208.55	North side of Ames, west of Grand Avenue/Highway 69
	Cambridge Pond	454936.39	4642902.35	
	Dakin Lake	475677.46	4668780.3	2 miles northeast of Zearing
	Hickory Grove Lake	470564.02	4648264.23	3 miles southwest of Colo
	Lake Laverne	446406.96	4652629.02	
	McFarland Pond	452861.05	4660393.21	4 miles northeast of Ames
	Moore Memorial Park Pond	446172.06	4654939.44	
	Petersons Pit (west)	450738.3	4659450.24	4 miles northeast of Ames
	Robison Wildlife Acres Pond	463583.65	4641878.25	
Tama	Cherry Lake	534572	4645482	On the southwest edge of Tama

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Columbia W.A. Pond	538064.71	4639700.32	4 miles southeast of Tama
	Otter Creek Lake	539761.59	4654810.53	6 miles northeast of Toledo
	Otter Creek Pond	540216	4654983	Just east of Otter Creek Lake, within county park
	Union Grove Lake	522799.61	4664064.32	4 miles south of Gladbrook
	Union Grove W.A. Pond	522365.05	4663357.32	4 miles south of Gladbrook, on southwest corner of Union Grove State Park
Taylor	Bedford Impoundment	355314	4504855	
	East Lake (Lenox)	369538.35	4528640.04	½ mile north of Lenox
	Lake of Three Fires	357231.61	4508111.37	3 miles northeast of Bedford
	Sands Timber Lake (Blockton Reservoir)	373269.1	4498496.49	1 mile northwest of Blockton
	West Lake (Lenox)	369018.64	4528368.21	1 mile north of Lenox
	Wilson Park Lake	369940.42	4521759.13	2½ miles southeast of Lenox
	Windmill Lake	345779.77	4510308.98	3½ miles east of New Market
Union	Afton City Reservoir	398287.94	4543422.16	1 mile west of Afton
	Green Valley Lake	383661.65	4550950.63	2½ miles northwest of Creston
	Groesbeck W.A. Lake	404231.4	4550318.84	
	McKinley Lake	383582.18	4545574.05	
	Summit Lake	382469.75	4546927.06	West edge of Creston
	Talmadge Hill Lake/Marsh	407807.79	4542658.84	5 miles east of Afton
	Thayer Lake	410388.46	4541669.78	1 mile south of Thayer
	Three Mile Lake	397910.93	4547597.32	3 miles northwest of Afton
	Twelve Mile Creek Lake	394545.86	4545747.38	4 miles east of Creston
Van Buren	Cantril Pond	578466.3	4499991.73	
	Indian Lake	605465.38	4498406.87	1 mile southwest of Farmington
	Lacey Keosauqua Park Lake	586944.13	4507027.86	1 mile southwest of Keosauqua
	Lake Miss (Tug Fork W)	582203.21	4506424.17	5 miles southwest of Keosauqua
	Lake Sugema	585661.49	4504193.59	3 miles southwest of Keosauqua
	Morris Memorial Park Pond	601368.13	4527099.57	
	Piper's Pond (Tug Fork E)	582409.8	4506415.2	5 miles southwest of Keosauqua
Wapello	Arrowhead Lake	555813.87	4535928.93	3 miles east of Ottumwa
	East Greater Ottumwa Central Park Pond	548123	4540330	Inside Ottumwa city limits
	Eldon Pond	567256.76	4529893.75	
	Memorial Park Pond	550420.63	4542425.32	
	North Greater Ottumwa Central Park Pond	547952	4540649	Inside Ottumwa city limits
	Ottumwa - Waterworks Dam	549101	4540659	
	Ottumwa Lagoon	548207	4539654	Southeast edge of Ottumwa
	Pioneer Ridge Nature Area Pond (Nature Center)	550055.85	4527975.72	
	Pioneer Ridge Nature Area Pond (Parking lot pond)	550334	4527929	
	Pioneer Ridge Nature Area Pond (south pond)	549872	4528018	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	South Greater Ottumwa Central Park Pond	548065	4540029	Inside Ottumwa city limits
	Unmanaged Greater Ottumwa Central Park Ponds	548330	4540159	
	West Greater Ottumwa Central Park Pond	547996	4540189	
Warren	Annett Nature Center Pond (Lester)	451693.92	4571892.04	4 miles south of Indianola
	Banner Lake (north)	454077	4588169	4½ miles north of Indianola
	Banner Lake (south)	453834.69	4587561.79	4½ miles north of Indianola
	Grant Nature Land Pond	472357.58	4585777.95	5 miles south of Swan off Fenton Street
	Hickory Hills Park Pond	448921.8	4558819.73	
	Hooper Area Pond	450695.82	4569434.84	6 miles southwest of Indianola
	Lake Ahquabi	450319.32	4571145.83	5 miles southwest of Indianola
	Otter Creek Park Pond	455547.34	4565886.93	
Washington	Clemons Creek Area Pond	605490	4573460	2 miles west of Washington, CCB
	Crawford Pond	621826.79	4577093.39	3 miles north of Ainsworth
	Darling Campground pond	592365	4560165	Lake Darling State Park
	Darling Youth Camp pond	592865	4561394	
	Foster Pond	622590	4557960	
	Foster Woods Pond	596014.92	4589260.98	1.5 miles southwest of Wellman
	Iowa Township Pond	618490.31	4593583.71	.5 miles north of Riverside
	Lake Darling	592526.11	4561019.3	4 miles west of Brighton
	Lake Darling Watershed Pond 1	591959	4561972	
	Lake Darling Watershed Pond 10	594554	4560251	
	Lake Darling Watershed Pond 11	594322	4560139	
	Lake Darling Watershed Pond 12	593874	4559921	
	Lake Darling Watershed Pond 13	593969	4559630	
	Lake Darling Watershed Pond 14	593653	4559630	
	Lake Darling Watershed Pond 15	593521	4559890	
	Lake Darling Watershed Pond 16	593109	4560079	
	Lake Darling Watershed Pond 17	592332	4560184	
	Lake Darling Watershed Pond 18	591972	4559932	
	Lake Darling Watershed Pond 19	591707	4559840	
	Lake Darling Watershed Pond 2	592051	4561895	
	Lake Darling Watershed Pond 20	591264	4559919	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Lake Darling Watershed Pond 21	591168	4559920	
	Lake Darling Watershed Pond 22	590959	4559865	
	Lake Darling Watershed Pond 23	592146	4560997	
	Lake Darling Watershed Pond 24	591935	4561227	
	Lake Darling Watershed Pond 25	591700	4561404	
	Lake Darling Watershed Pond 3	592168	4561808	
	Lake Darling Watershed Pond 4	592250	4561693	
	Lake Darling Watershed Pond 5	592629	4561526	
	Lake Darling Watershed Pond 6	592821	4561744	
	Lake Darling Watershed Pond 7	592936	4560961	
	Lake Darling Watershed Pond 8	593121	4560812	
	Lake Darling Watershed Pond 9	594664	4560228	
	Marr Park Lake	619220	4571485	1 mile west of Ainsworth
	Marr Park Pond	619159.71	4571622.68	1 mile west of Ainsworth
	Schmitter Pond (north)	594190	4563450	
	Schmitter Pond (south)	594155	4563164	
	Sokum Ridge Pond	612791.94	4563691.64	5 miles south of Washington
	Willow Pond	607059	4535425	
Wayne	Bob White Lake	466282.9	4507270.67	1 mile west of Allerton
	Corydon Reservoir	471714.34	4511517.65	West edge of Corydon
	Humeston Reservoir	457368.6	4525586.56	1 mile north of Humeston
	Lineville Reservoir	456747.3	4494458.64	North edge of Lineville
	Seymour Reservoir	489648.91	4502091.94	.5 miles south of Seymour
Webster	Armstrong Park Pond	402127.19	4707563.34	
	Badger Lake	402117.43	4715601.85	4½ miles north of Fort Dodge
	Bob Hay Memorial Conservation Area Pond	399087.96	4704626.41	
	Brushy Creek Lake	419317.11	4693493.89	5 miles east of Lehigh
	Ft. Dodge - Lower Dam	402435	4705264	
	Ft. Dodge - Upper Dam	401405	4707790	
	Lake Ole	411729.41	4678897.29	
	Moorland Pond	394584.84	4700601.82	
Winnebago	Ambrosion Pit (east)	448224	4796718	3½ miles north of Forest City
	Ambrosion Pit (middle)	448083.53	4796806.07	3½ miles north of Forest City
	Ambrosion Pit (north)	448219	4797019	3½ miles north of Forest City
	Ambrosion Pit (west)	447981	4796879	3½ miles north of Forest City

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	Lake Name	Easting	Northing	Location
	Dahle Park Pond	453467.21	4812755.4	
	Florence Park Pond	431055.17	4803054.02	
	Hadacek R.A. Pond	446604.45	4794340.68	
	Lake Catherine	438336.32	4789827.68	6 miles west of Forest City
	Lande River Conservation W.A. Pond	452220.22	4810136.14	
	Rice Lake	458817.54	4804514.54	1 mile south, 1 mile east of Lake Mills
Winneshiek	Lake Meyer	588587.31	4780856.03	2.5 miles southwest of Calmar
	Lower Dam Impoundment	610007.88	4799419.9	
	Silver Springs Pond	599452.68	4776706.39	
	Upper Dam Impoundment	607370.28	4797024.26	
Woodbury	Bacon Creek Lake	225556.49	4710043.68	East edge of Sioux City
	Browns Lake	226224.76	4689445.5	2 miles west of Salix
	Little Sioux Park Lake	269611.94	4703249.66	2 miles south of Correctionville
	Midway Park Lake	251408.28	4714219.6	3 miles northeast of Merville
	Snyder Bend Lake	225516.18	4684455.41	1½ miles west of Salix
	Southwood Conservation Area Pond (east)	256098.42	4678037.87	½ mile west, ½ mile south of Smithland
	Southwood Conservation Area Pond (west)	256014	4677987	½ mile west, ½ mile south of Smithland
	Stone State Park Pond	214847.43	4716891.21	
Worth	Kuennen's Pit W.A. (north)	483241	4806793	2 miles south, ½ mile east of Northwood
	Kuennen's Pit W.A. (south)	483262.09	4806542.03	2 miles south, ½ mile east of Northwood
	Mill Pond	465620.81	4790170.28	
	Silver Lake (Worth)	466247.61	4814365.2	10 miles west, 3½ miles north of Northwood
	Worth County Lake	485623.1	4801876.18	2 miles northeast of Kensett
Wright	Fishpond Park	426518.28	4724992.42	
	Lake Cornelia	443606.06	4737316.08	3½ miles north, 2 miles east of Clarion
	Morse Lake	443361.94	4743180.96	3½ miles west of Belmond

ITEM 80. Amend **567—Chapter 65, Table 4a**, as follows:

TABLE 4a

Phosphorus Removal for Iowa Crops

Source: PM 1688, A General Guide for Crop Nutrient and Limestone Recommendations in Iowa,
revised October 2013

CROP	UNITS	P ₂ O ₅ (pounds/unit)
Corn	bu.	0.375 <u>0.32</u>
Corn silage	ton (65% H ₂ O)	3.5
Soybeans	bu.	0.8 <u>0.72</u>
Alfalfa, <u>alfalfa grass</u>	ton	12.5 <u>13</u>
Oat and straw	bu.	0.4 <u>0.294</u>
Wheat	bu.	0.6 <u>0.55</u>
Smooth brome	ton	<u>9 7.9</u>

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

CROP	UNITS	P ₂ O ₅ (pounds/unit)
Orchard grass	ton	14 <u>12</u>
Tall fescue	ton	12 <u>11</u>
Switch grass	ton	12 <u>11</u>
Sorghum-Sudan	ton	12 <u>11</u>
Vetch	ton	12
Red clover-grass	ton	12 <u>11</u>
Perennial rye grass	ton	12 <u>11</u>
Timothy	ton	9 <u>7.9</u>
Wheat straw	ton	4 <u>3.7</u>
Oat straw	ton	5 <u>6.4</u>

ITEM 81. Amend **567—Chapter 65, Table 6, table of distances to water wells**, as follows:

TABLE 6

Required Separation Distances for Confinement Feeding Operations Constructed on or after March 1, 2003—Swine, Sheep, Horses, Poultry, and Beef and Dairy Cattle

DISTANCES TO WATER WELLS				
Type of Structure	Public Well		Private Well	
	Shallow	Deep	Shallow	Deep
Aerobic structure, anaerobic lagoon, earthen manure storage basin <u>Unformed manure storage structure and egg washwater storage structure</u>	1,000 feet	400 feet	400 feet	400 feet
Formed manure storage structure and confinement building	200 feet	100 feet	200 feet	100 feet

ITEM 82. Amend **567—Chapter 65, Table 6a, table of distances to water wells**, as follows:

TABLE 6a

Required Separation Distances for Confinement Feeding Operations Constructed on or after January 1, 1999, but prior to March 1, 2003—Swine, Sheep, Horses and Poultry

DISTANCES TO WATER WELLS				
Type of Structure	Public Well		Private Well	
	Shallow	Deep	Shallow	Deep
Aerobic structure, anaerobic lagoon, earthen manure storage basin <u>Unformed manure storage structure and egg washwater storage structure</u>	1,000 feet	400 feet	400 feet	400 feet
Formed manure storage structure and confinement building	200 feet	100 feet	200 feet	100 feet

ITEM 83. Amend **567—Chapter 65, Table 6b, table of distances to water wells**, as follows:

TABLE 6b

Required Separation Distances for Confinement Feeding Operations Constructed

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

on or after January 1, 1999, but prior to March 1, 2003—Beef and Dairy Cattle

DISTANCES TO WATER WELLS				
Type of Structure	Public Well		Private Well	
	Shallow	Deep	Shallow	Deep
Aerobic structure, anaerobic lagoon, earthen manure storage basin Unformed manure storage structure and egg washwater storage structure	1,000 feet	400 feet	400 feet	400 feet
Formed manure storage structure and confinement building	200 feet	100 feet	200 feet	100 feet

ITEM 84. Amend **567—Chapter 65, Table 6c, table of distances to water wells**, as follows:

TABLE 6c

Required Separation Distances for Confinement Feeding Operations Constructed prior to January 1, 1999—Swine, Sheep, Horses and Poultry

DISTANCES TO WATER WELLS				
Type of Structure	Public Well		Private Well	
	Shallow	Deep	Shallow	Deep
Aerobic structure, anaerobic lagoon, earthen manure storage basin Unformed manure storage structure and egg washwater storage structure	1,000 feet	400 feet	400 feet	400 feet
Formed manure storage structure and confinement building	200 feet	100 feet	200 feet	100 feet

ITEM 85. Amend **567—Chapter 65, Table 6d, table of distances to water wells**, as follows:

TABLE 6d

Required Separation Distances for Confinement Feeding Operations Constructed prior to January 1, 1999—Beef and Dairy Cattle

DISTANCES TO WATER WELLS				
Type of Structure	Public Well		Private Well	
	Shallow	Deep	Shallow	Deep
Aerobic structure, anaerobic lagoon, earthen manure storage basin Unformed manure storage structure and egg washwater storage structure	1,000 feet	400 feet	400 feet	400 feet
Formed manure storage structure and confinement building	200 feet	100 feet	200 feet	100 feet

ITEM 86. Amend **567—Chapter 65, Table 7, table of distances to water wells**, as follows:

TABLE 7

Required Separation Distances for Open Feedlot Operations, Stockpiles from Open Feedlot Operations, Stockpiles from Dry Manure Confinement Operations and Stockpiles from

Dry Bedded Confinement Operations

DISTANCES TO WELLS FOR OPEN FEEDLOT STRUCTURES				
Type of Structure	Public Well		Private Well	
	Shallow	Deep	Shallow	Deep
Settled Unformed settled open feedlot effluent basin	1,000 feet	400 feet	400 feet	400 feet
Open feedlot, open feedlot solids settling facility, formed settled open feedlot effluent basin, AT system and feed storage runoff basin	200 feet	100 feet	200 feet	100 feet
DISTANCES TO RESIDENCES AND SPECIAL AREAS FOR MANURE STOCKPILES ^{1, 2}				
Residence, commercial enterprise, bona fide religious institution, educational institution, or public use area (does not apply to stockpiles from SAFO sized confinements and open feedlots)				1,250 feet
Designated area other than a high-quality water resource				400 feet ³
High-quality water resource				800 feet
Terrace tile inlet or surface tile inlet – unless methods, structures or practices are implemented to contain the stockpiled manure				200 feet

¹Manure stockpiles are prohibited on grassed waterways or where water pools on the surface. Manure stockpiles are also prohibited on land with slopes greater than 3% unless methods, structures or practices are implemented to contain the stockpiled manure to prevent or diminish precipitation-induced runoff from the stockpiled manure.

²See subparagraph 65.2(3) “d”(4) and paragraph 65.11(8) “c” for exemptions pertaining to dry manure stockpiles.

³For Stockpiles from dry manure confinement operations, the separation distance is 800 feet to agricultural drainage wells and known sinkholes.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/16.

ARC 2804C

**HOMELAND SECURITY AND EMERGENCY
MANAGEMENT DEPARTMENT[605]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3, the Department of Homeland Security and Emergency Management hereby amends Chapter 7, “Local Emergency Management,” Iowa Administrative Code.

This amendment implements 2016 Iowa Acts, House File 2353, which amends Iowa Code section 29C.16 to allow emergency management employees to run for partisan elective office. The amendment also aligns the administrative rule with 2016 Iowa Acts, House File 2353, and with the federal Hatch Act. The Hatch Act allows a governmental employee to run for partisan elective office as long as that employee’s salary is not 100 percent federally funded.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2713C** on September 14, 2016. A public hearing was held on October 4, 2016. No public comment was received during the comment period or during the public hearing. This amendment is identical to that published under Notice of Intended Action.

The Department of Homeland Security and Emergency Management adopted this amendment on October 19, 2016.

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

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

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

This amendment is intended to implement Iowa Code section 29C.16 as amended by 2016 Iowa Acts, House File 2353.

This amendment will become effective December 14, 2016.

The following amendment is adopted.

Amend subrule 7.4(2) as follows:

7.4(2) Political activity.

a. A member of a commission shall not be appointed as the local emergency management coordinator.

b. An individual serving in a full-time or part-time governmental position incompatible with the position of coordinator shall not be appointed as the emergency management coordinator.

c. Any employee of an organization for emergency management shall not ~~become a candidate for any partisan elective office. However, the employee is not precluded from holding any nonpartisan elective office for which no pay or only token payment is received.~~

(1) During working hours or when performing official duties or when using public equipment or at any time on public property, take part in any way in soliciting any contribution for any political party or any person seeking political office.

(2) Seek or attempt to use any political endorsement in connection with any appointment to a position created under this rule.

(3) Use any official authority or influence for the purpose of interfering with an election or affecting the results of an election.

[Filed 10/19/16, effective 12/14/16]

[Published 11/9/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/16.

ARC 2812C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 239B.4(6), the Department of Human Services hereby amends Chapter 40, "Application for Aid," Chapter 41, "Granting Assistance," and Chapter 46, "Overpayment Recovery," Iowa Administrative Code.

These amendments update and clarify existing language and ensure that the rules comply with federal requirements, including final regulations (Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. No. 112-96), 45 CFR Parts 262, 264, and 265) issued after the rules were last updated.

Specifically, these amendments add definitions for locations where applicants and recipients are prohibited from accessing Family Investment Program (FIP) funds with an electronic access card. These amendments also require applicants and recipients to agree in writing that they will not use an electronic access card at prohibited locations, and these amendments add to the amount the client must repay any fees associated with accessing FIP funds at a prohibited location.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2684C** on August 17, 2016. The Department received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 12, 2016.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 239B.4(6), Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. No. 112-96) and 45 CFR Parts 262, 264, and 265.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments will become effective January 1, 2017.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions in rule **441—40.21(239B)**:

“Casino, gambling casino, or gaming establishment” means an establishment with a primary purpose of accommodating the wagering of money. It does not include:

1. A grocery store which sells groceries including staple foods and which also offers, or is located within the same building or complex as, casino, gambling, or gaming activities; or
2. Any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

An automated teller machine (ATM) or a point-of-sale (POS) terminal located within those areas of an establishment where individuals are banned due to age restrictions associated with gambling, established by state or federal law or by any other regulatory entity having the authority to do so, is considered to be in a casino, gambling casino, or gaming establishment.

“Electronic benefit transfer transaction” means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.

“Liquor store” means any retail establishment which sells exclusively or primarily intoxicating liquor or other alcoholic beverages. Such term does not include a grocery store which sells both intoxicating liquor and groceries including staple foods (within the meaning of Section 3(r) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(r))).

Unless exempt as described in this definition, a retail establishment meets the definition of a liquor store when it has a North American Industry Classification System (NAICS) number that categorizes the retail establishment as either a beer, wine and liquor store or as a drinking place (alcoholic beverages). A retail establishment that does not have either type of NAICS code is considered to exclusively or primarily sell intoxicating liquor when 95 percent or more of the retail establishment’s gross sales are from intoxicating liquor and it is not a United States Department of Agriculture-certified Supplemental Nutrition Assistance Program (SNAP) retailer.

“Retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment” means an establishment that includes live entertainment at locations such as, but not limited to, strip clubs and gentleman’s clubs. It also includes stores and theaters that exclusively or primarily sell or feature adult-oriented videos and movies such as, but not limited to, adult book stores and adult movie theaters. A retail establishment meets this definition when the department has confirmed the primary nature of the business through the description on the business’s Web site, phone contact with the establishment, a site visit, or other means such as common local knowledge.

ITEM 2. Amend subrule 41.25(11) as follows:

41.25(11) Access to benefits. As a condition of eligibility, applicants and recipients must agree in writing to not use an electronic access card at prohibited locations. By signing Form 470-0462 or 470-0462(S), Financial Support Application, or Form 470-2881, 470-2881(S), 470-2881(M), or 470-2881(MS), Review/Recertification Eligibility Document, the applicant, the applicant’s authorized representative or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant’s behalf agrees to this condition of eligibility. When both parents, or a parent and a stepparent, are in the home and eligibility is determined on a family or household basis, one parent or stepparent may sign the application and agree to this condition for the assistance unit. Failure to sign a form agreeing to not use the electronic access card at prohibited locations creates ineligibility for the entire eligible group.

a. A recipient shall not use the recipient’s electronic access card issued pursuant to 441—subrule 45.21(1) to access benefits at any of the following prohibited locations as defined by federal statute or regulation applicable to this prohibition and as further defined in rule 441—40.21(239B):

- (1) A liquor store,
- (2) A casino, gambling casino, or gaming establishment, or

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) A retail establishment ~~that~~ which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

b. No change.

c. When the department of inspections and appeals finds that a recipient has used the recipient's electronic access card at a prohibited location, the household that includes the recipient is:

(1) No change.

(2) Liable for any amounts accessed and any associated fees for accessing the benefits at a prohibited location and required to repay such amount in accordance with 441—Chapter 46;

(3) and (4) No change.

d. and e. No change.

ITEM 3. Amend paragraph **46.24(3)“c”** as follows:

c. An overpayment due to a recipient's accessing benefits via the electronic access card at a prohibited location shall be the total of the transactions and any associated fees for accessing the benefits at the prohibited location pursuant to 441—subrule 41.25(11).

[Filed 10/17/16, effective 1/1/17]

[Published 11/9/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/16.

ARC 2813C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 217.6 and 2015 Iowa Acts, Senate File 500, sections 119, 120, and 124, the Department of Human Services amends Chapter 99, “Support Establishment and Adjustment Services,” Iowa Administrative Code.

These amendments update Division VI of Chapter 99 to conform the rules to statutory changes regarding the suspension of court orders for child and medical support. The amendments offer an additional way for an obligor to suspend a child support order when the child goes to live with the obligor and the obligee does not respond to the request to suspend under the current process in Iowa Code section 252B.20.

These amendments also update the existing suspension process in accordance with Iowa Code section 252B.20 to allow for suspension of the child support order if the child goes to live with a caretaker who does not want child support and both parents consent to the suspension. The amendments also add the ability to suspend the child support order if the child goes to live with a caretaker who does not want child support when the obligor requests the suspension but the obligee will not consent pursuant to Iowa Code section 252B.20A. In both processes, the suspension request will be allowed only in cases where the caretaker does not want child support and the child is not on public assistance.

These amendments also update rule 441—99.27(252F) to conform the rule to a statutory change regarding genetic testing, which allows specimens or results of previous genetic testing of the mother and child to be reused, rather than having the mother and child resubmit samples for actions against each subsequent alleged father, and streamlines the methods used under Iowa Code section 252F.3.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2702C** on August 31, 2016. The Department received no comments during the public comment period. One change was made from the amendments published under Notice. In subrule 99.110(2), the term “local office” was changed to “local unit” for consistency.

The Council on Human Services adopted these amendments on October 12, 2016.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments are intended to implement Iowa Code section 217.6 and 2015 Iowa Acts, Senate File 500, sections 119, 120, and 124.

These amendments will become effective January 1, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 441—99.27(252F) as follows:

441—99.27(252F) Paternity contested. The alleged father may contest the paternity establishment by submitting, within 20 calendar days after service of the notice upon him, as provided in rule 441—99.23(252F), a written statement contesting paternity to the address of the unit as set forth in the notice. The mother may contest paternity establishment by submitting, within 20 calendar days after the unit mailed her notice of the action or within 20 calendar days after the alleged father is served with the original notice, whichever is later, a written statement contesting paternity to the address of the unit as set forth in the notice. When paternity is contested, or at the unit's initiative, the unit shall issue ex parte administrative orders requiring the alleged father, the mother and the child to submit to paternity testing. If the mother and child or children previously submitted blood or genetic specimens in a prior action to establish paternity against a different alleged father, the previously submitted specimens and prior results, if available, may be used for testing in this action.

ITEM 2. Amend **441—Chapter 99, Division VI**, by adding the following **new** Part A title to follow the division title:

PART A
SUSPENSION BY MUTUAL CONSENT

ITEM 3. Amend rule 441—99.101(252B) as follows:

441—99.101(252B) Definitions. As used in this ~~division part~~, unless the context otherwise requires:

“Caretaker” means a natural person with whom a child is residing and who is not legally entitled to receive support for that child pursuant to the order that is the subject of the pending suspension request.

“Child” shall mean means the same as defined in Iowa Code section 252E.1.

“Child support recovery unit” or “unit” shall mean means the same as defined in rule 441—95.1(252B) and Iowa Code section 252B.1.

“Obligee” shall mean the same as defined in rule 441—98.1(73GA, ch1224) means a custodial parent or other natural person legally entitled to receive a support payment on behalf of a child.

“Obligor” shall mean the same as defined in rule 441—98.1(73GA, ch1224) means a noncustodial parent or other natural person who is ordered to pay support pursuant to the order that is the subject of the pending suspension request.

“Public assistance” shall mean means the same as defined in Iowa Code section 252H.2.

“Spousal support” shall mean means either a set amount of monetary support, or medical support as defined in Iowa Code section 252E.1, for the benefit of a spouse or former spouse, including alimony, maintenance, or any other term used to describe these obligations.

“Step change” shall mean means a change designated in a support order that specifies the amount of the child support obligation as the number of children entitled to support under the order changes.

“Support” shall mean means the same as defined in Iowa Code section 252D.16, and shall include spousal support and support for a child.

“Support for a child” shall mean means either a set amount of monetary support (child support), or medical support as defined in Iowa Code section 252E.1, for the benefit of a child. This term does not include spousal support as defined in this rule.

“Support order” shall mean means the same as a “court order” as defined in Iowa Code section 252C.1.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 4. Amend rule 441—99.102(252B) as follows:

441—99.102(252B) Availability of service. The child support recovery unit shall provide the services described in this ~~division part~~ only with respect to support orders entered or registered in this state for which the unit is providing enforcement services in accordance with Iowa Code chapter 252B to collect current or accrued support.

99.102(1) Services described in this ~~division part~~ shall only be provided if a court in this state would have continuing, exclusive jurisdiction to suspend and reinstate the order under Iowa Code chapter 252K.

99.102(2) Services described in this ~~division part~~ shall be provided only if no prior request for suspension of all or part of a support order has been filed with the unit pursuant to Iowa Code section 252B.20 and no prior request for suspension of all or part of a support order has been served by the unit pursuant to Iowa Code section 252B.20A during the two-year period preceding the request. ~~However, if the request was filed during the two-year period preceding July 1, 2005, and the unit denied the request because the suspension did not apply to all children for whom support is ordered, the unit shall provide suspension services if the parents jointly file a request on or after July 1, 2005.~~

ITEM 5. Amend subrule 99.103(2) as follows:

99.103(2) Change in residency. The unit shall assist an obligor and obligee in suspending support for a child when the child is residing with the obligor; however, the unit shall not assist in suspending any spousal support provisions of a support order on this basis. The unit shall also assist an obligor and obligee in suspending support for a child residing with a caretaker who has not requested unit services, if the child is not receiving public assistance.

ITEM 6. Amend subrule 99.103(3), introductory paragraph, as follows:

99.103(3) Affected children. The unit shall assist an obligor and obligee in suspending all or part of a support order as provided in this ~~division part~~ if the basis for suspension as described in this rule applies to the children entitled to support under the order to be suspended as follows:

ITEM 7. Amend subrule 99.103(4) as follows:

99.103(4) Limited to current support. The provisions in this ~~division part~~ for suspending support apply only toward ongoing or current support. Any support that has accrued prior to the entry of an order suspending support, including judgments for past periods of time, is unaffected by the suspension.

ITEM 8. Amend subrule 99.104(2) as follows:

99.104(2) ~~Acknowledging requests~~ Denying a request. The local unit providing services shall issue a written notice to the obligor and obligee indicating ~~whether that~~ a properly completed request is ~~accepted or~~ denied.

a. This notice shall be sent by first-class regular mail to the ~~last-known~~ last-known address of the obligor and obligee; or, if applicable, to the ~~last-known~~ last-known address of the obligor's or obligee's attorney.

b. If the basis for suspension is reconciliation, one notice shall be sent to the address shared by the obligor and obligee. If the basis for suspension is a change in residency of the children entitled to support, a separate notice shall be issued to the obligor and obligee at their respective ~~last-known~~ last-known addresses.

c. ~~A~~ The notice denying a request shall indicate the reason for denial.

d. A request for suspension shall be denied when the conditions specified in Iowa Code section 252B.20, rule 441—99.102(252B), or rule 441—99.103(252B) are not met.

e. Denial of a request is not subject to appeal or review under Iowa Code chapter 17A.

ITEM 9. Rescind subrule **99.104(3)**.

ITEM 10. Amend rule 441—99.105(252B), introductory paragraph, as follows:

441—99.105(252B) Order suspending support. ~~After approving~~ To approve a request to suspend support, the unit shall prepare and present to the district court an order suspending support as provided in Iowa Code section 252B.20.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 11. Amend **441—Chapter 99, Division VI**, by adding the following new Part B title to follow rule 441—99.106(252B):

PART B
SUSPENSION BY PAYOR'S REQUEST

ITEM 12. Rescind rule 441—99.107(252B) and adopt the following new rule in lieu thereof:

441—99.107(252B) Definitions. As used in this part, unless the context otherwise requires:

“*Caretaker*” means a natural person with whom a child is residing and who is not legally entitled to receive support for that child pursuant to the order that is the subject of the pending suspension request.

“*Child*” means the same as defined in Iowa Code section 252E.1.

“*Child support recovery unit*” or “*unit*” means the same as defined in rule 441—95.1(252B) and Iowa Code section 252B.1.

“*Obligee*” means a custodial parent or other natural person legally entitled to receive a support payment on behalf of a child.

“*Obligor*” means a noncustodial parent or other natural person who is ordered to pay support pursuant to the order that is the subject of the pending suspension request.

“*Public assistance*” means the same as defined in Iowa Code section 252H.2.

“*Step change*” means a change designated in a support order that specifies the amount of the child support obligation as the number of children entitled to support under the order changes.

“*Support*” means the same as defined in Iowa Code section 252D.16 and shall include support for a child.

“*Support for a child*” means either a set amount of monetary support (child support), or medical support as defined in Iowa Code section 252E.1, for the benefit of a child. This term does not include spousal support as defined in rule 441—99.101(252B).

“*Support order*” means the same as a “court order” as defined in Iowa Code section 252C.1.

ITEM 13. Rescind rule 441—99.108(252B) and adopt the following new rule in lieu thereof:

441—99.108(252B) Availability of service. The child support recovery unit shall provide the services described in this part only with respect to support orders entered pursuant to Iowa Code chapter 252A, 252C or 252F for which the unit is providing enforcement services in accordance with Iowa Code chapter 252B to collect current or accrued support.

99.108(1) Services described in this part shall only be provided if a court in this state would have continuing, exclusive jurisdiction to suspend and reinstate the order pursuant to Iowa Code chapter 252K.

99.108(2) Services described in this part shall be provided only if no prior request for suspension of all or part of a support order has been filed with the unit pursuant to Iowa Code section 252B.20 and no prior request for suspension of all or part of a support order has been served by the unit pursuant to Iowa Code section 252B.20A during the two-year period preceding the request.

ITEM 14. Rescind rule 441—99.109(252B) and adopt the following new rule in lieu thereof:

441—99.109(252B) Basis for suspension of support.

99.109(1) *Child residing with obligor or caretaker.* The unit shall assist an obligor in suspending support for a child residing with the obligor or with a caretaker who has not requested unit services, if the child has been residing with the obligor or caretaker for more than 60 consecutive days.

99.109(2) *Orders eligible for suspension.*

a. The unit shall assist an obligor in suspending support for a child under this part only when there is no order in effect regarding legal custody, physical care, visitation or other parenting time for the child.

b. If an order exists that contains language regarding legal custody, physical care, visitation or other parenting time for the child, the unit shall deny the suspension request.

99.109(3) *Children on public assistance.* The children for whom ongoing support is being suspended shall not be receiving public assistance pursuant to Iowa Code chapter 239B or 249A or a comparable law of another state or foreign country, or if the children are receiving public assistance, the obligor must

HUMAN SERVICES DEPARTMENT[441](cont'd)

be considered to be a member of the same household as the children for the purposes of public assistance eligibility.

99.109(4) *Duration of conditions.* The basis for suspension of support under this part must reasonably be expected to continue for not less than six months from the date a request for assistance to suspend is received by the child support recovery unit.

99.109(5) *Affected children.* The unit shall assist an obligor in suspending all or part of a support order as provided in this part if the basis for suspension as described in this rule applies to the children entitled to support under the order to be suspended as follows:

a. If the basis for suspension applies to all of the children, the unit shall assist in suspending support obligations for all of the children.

b. If the basis for suspension applies to at least one but not all of the children and if the support order includes a step change, the unit shall assist in suspending the support obligations for children for whom the basis for suspension applies.

99.109(6) *Limited to current support.* The provisions in this part for suspending support apply only toward ongoing or current support. Any support that has accrued prior to the entry of an order suspending support, including judgments for past periods of time, is unaffected by the suspension.

ITEM 15. Rescind rule 441—99.110(252B) and adopt the following **new** rule in lieu thereof:

441—99.110(252B) Request for assistance to suspend. The obligor subject to a support order being enforced by the unit may request that the unit assist in having the ongoing support provisions suspended as follows:

99.110(1) *Submitting a request.*

a. A request for suspension shall be submitted to the local child support unit providing services using Form 470-5348, Request from the Payor to Suspend Support.

b. The unit shall provide Form 470-5348 to the obligor upon request.

c. The request form must be signed by the obligor affected by the order to be suspended.

d. The request shall contain sufficient information to allow the local unit to identify the court order and parties involved and shall attest that the children have lived in the obligor's household or the caretaker's household for more than 60 consecutive days and are expected to live there for at least six months.

99.110(2) *Submitting an affidavit.* After receiving a valid request for suspension, the local unit shall provide the requestor with Form 470-5349, Affidavit Requesting Suspension of Support Based on Payor's Request.

a. The obligor shall submit the affidavit for suspension to the local child support unit providing services. If the request for suspension is made pursuant to Iowa Code section 252B.20A(17), the caretaker must also submit an affidavit, Form 470-5349.

b. Form 470-5349 must be signed, attesting to the existence of the conditions under subrules 99.109(1) through 99.109(4). Form 470-5349 must be notarized.

c. If the obligor is requesting suspension of more than one order at the same time, the obligor shall be required to submit only one copy of Form 470-5348, identifying each order the request involves; however, the obligor shall be required to submit a separate, signed and notarized affidavit, Form 470-5349, for each order.

ITEM 16. Adopt the following **new** rule 441—99.111(252B):

441—99.111(252B) Determining eligibility for suspension. Upon receipt of the request for suspension and the properly executed and notarized affidavit, the unit shall review the request and the affidavit to determine that the criteria have been met.

99.111(1) *If the criteria are not met.* If the criteria have not been met, the local unit providing services shall issue a written notice to the obligor indicating that the request is denied.

a. The notice shall be sent by first-class regular mail to the last-known address of the obligor or, if applicable, to the last-known address of the obligor's attorney.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. The notice shall indicate the reason for denial and notify the obligor of the right to proceed through private counsel. Denial of the request is not subject to contested case proceedings or further review pursuant to Iowa Code chapter 17A.

99.111(2) *If the criteria are met.* If the criteria are met, the unit shall proceed as follows:

a. The unit shall serve Form 470-5351, Notice of Intent to Payee to Suspend a Child Support Obligation Based on Payor's Request, and Form 470-5352, Payee's Affidavit Objecting to Suspension of Support, and supporting documents on the obligee by any means provided in Iowa Code section 252B.26. The notice to the obligee shall include all of the following:

- (1) Information sufficient to identify the parties and the support order affected.
- (2) An explanation of the procedure for suspension under Part B and reinstatement of support under Part C of this division.
- (3) An explanation of the rights and responsibilities of the obligee to respond to the action.
- (4) A statement that, within 20 days of service, the obligee must submit a signed and notarized response to the unit objecting to at least one of the assertions in subrules 99.109(1) through 99.109(4). The statement shall inform the obligee that if, within 20 days of service, the obligee fails to submit a response as specified in this subparagraph, notwithstanding Rules of Civil Procedure 1.972(2) and 1.972(3), the unit will prepare and submit an order.

b. No sooner than 30 days after service on the obligee, the unit shall do one of the following:

- (1) If the obligee submits a signed and notarized objection to at least one of the assertions in subrules 99.109(1) through 99.109(4), deny the request and notify the parties in writing that the request is denied, providing reasons for the denial, and notifying the parties of the right to proceed through private counsel. Denial of the request is not subject to contested case proceedings or further review pursuant to Iowa Code chapter 17A.
- (2) If the obligee cannot be served, the local unit providing services shall issue a written notice to the obligor indicating the request is denied, following the procedure described in subrule 99.111(2).
- (3) If the obligee does not timely submit a signed and notarized objection to the unit, prepare an order following the procedure described in rule 441—99.112(252B).

ITEM 17. Adopt the following new rule 441—99.112(252B):

441—99.112(252B) Order suspending support. After approving a request to suspend support and properly serving the obligee, the unit shall prepare and present to the district court an order suspending support as provided in Iowa Code section 252B.20A.

99.112(1) The suspension shall apply to ongoing support provisions, including medical support, with respect to only the children entitled to support under the order who are residing with the obligor or caretaker.

99.112(2) A copy of the filed order shall be sent by first-class regular mail to the last-known address of the obligor and obligee or, if applicable, to the last-known address of the obligor's or obligee's attorney.

ITEM 18. Adopt the following new rule 441—99.113(252B):

441—99.113(252B) Suspension of enforcement of current support. The child support recovery unit shall suspend enforcement actions intended to collect or enforce any current support obligation that would have accrued during the time the support obligation is suspended. The unit shall continue to provide all appropriate enforcement services to collect any support not suspended and any arrearages that accrued before the effective date of the suspension.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 19. Amend **441—Chapter 99, Division VI**, by adding the following new Part C title to follow rule 441—99.113(252B):

PART C
REINSTATEMENT OF SUPPORT

ITEM 20. Adopt the following new rule 441—99.114(252B):

441—99.114(252B) Request for reinstatement. The unit may request that the court reinstate the suspended support obligation in accordance with the procedures found in Iowa Code sections 252B.20 and 252B.20A.

99.114(1) Either the obligor or the obligee affected by the suspended order may request reinstatement by submitting a written request for reinstatement to the child support recovery unit. The request must indicate that reinstatement is being requested and the reason for reinstatement and must contain sufficient information to identify the court order and parties involved. The request must also be signed by the requesting party.

99.114(2) The unit may, at its own initiative, request that the court reinstate a support obligation when it is determined that a child for whom the obligation was suspended is receiving public assistance benefits.

99.114(3) The unit shall issue a written notice approving or denying the request to any obligor or obligee requesting reinstatement. This notice shall be sent by first-class regular mail to the last-known address of the requesting party and shall indicate any reason for denial.

99.114(4) A properly completed request for reinstatement shall be denied when any of the following conditions exist:

- a.* The request is made by someone other than the obligor, the obligee, or the obligor's or obligee's attorney.
- b.* The unit is no longer providing enforcement services for the suspended order.
- c.* The request is received more than six months after the date of the filing of the order suspending support.
- d.* The request is for partial reinstatement of the suspended support order for some but not all of the children, and the order does not contain a step change.
- e.* A court in this state would not have continuing, exclusive jurisdiction to reinstate the order under Iowa Code chapter 252K.

ITEM 21. Adopt the following new rule 441—99.115(252B):

441—99.115(252B) Reinstatement. The child support recovery unit shall follow the procedures in Iowa Code sections 252B.20 and 252B.20A in seeking to have the court reinstate a support order.

99.115(1) The unit shall request that the court reinstate a spousal support provision previously suspended if the provision was included in the suspension in accordance with subrule 99.105(1) and if the unit receives a properly completed request from the obligor or the obligee.

99.115(2) The unit shall seek to have the previously suspended support for a child reinstated under this part when the conditions in paragraph "*a*" or "*b*" of this subrule are met. This provision shall not prohibit any party, including the child support recovery unit, from taking other action to establish support as provided for by law.

- a.* The basis for suspension no longer applies to any of the children for whom support was suspended; or
- b.* The basis for suspension continues to apply to some but not all of the children for whom support was suspended, and there is a step change in the order.

ITEM 22. Adopt the following new rule 441—99.116(252B):

441—99.116(252B) Reinstatement of enforcement of support. If a suspended support obligation is reinstated, the unit shall also reinstate all appropriate enforcement measures to enforce all reinstated ongoing support provisions of the support order.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 23. Adopt the following new rule 441—99.117(252B):

441—99.117(252B) Temporary suspension becomes final. The temporary suspension of a support order under this division shall become final if not reinstated in accordance with Iowa Code sections 252B.20 and 252B.20A.

ITEM 24. Amend **441—Chapter 99, Division VI**, implementation sentence, as follows:

~~These~~ The rules in this division are intended to implement Iowa Code ~~section~~ sections 252B.20 and 252B.20A.

[Filed 10/18/16, effective 1/1/17]

[Published 11/9/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/16.

ARC 2810C

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 523I.207, the Insurance Division (the Division) hereby adopts a new Chapter 101, "Burial Sites and Cemeteries," and rescinds Chapter 140, "Burial Sites and Cemeteries," Iowa Administrative Code.

Iowa Code chapter 523I regulates the sale of purchase agreements for cemetery merchandise and services, and authorizes the Iowa Insurance Commissioner to adopt rules as are necessary to administer Iowa Code chapter 523I.

New Chapter 101 implements Iowa Code chapter 523I as amended by 2016 Iowa Acts, House File 2394, sections 12 and 13, related to the annual report required to be filed with the Division. The new chapter also clarifies the current requirements for occasions when care fund amounts are distributed using a total return distribution method. Finally, the new chapter includes other clarifications and general updates to rescinded Chapter 140 in accordance with Iowa Code section 17A.7(2).

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 14, 2016, as **ARC 2718C**. A public hearing was held on October 4, 2016, and written comments were accepted through that date. No comments were received. However, the Division has determined that certain clarifications should be made to the amendments published under Notice, as follows:

- Rule 191—101.4(523I) was changed to clarify what types of offers are considered offers to sell insurance.
- Proposed subrule 101.7(2) was not adopted, and language from it was incorporated into proposed subrule 101.7(3), which has been renumbered herein as subrule 101.7(2). Accordingly, references in subrule 101.7(1) were changed, and proposed subrule 101.7(4) was renumbered as subrule 101.7(3).
- Language in subrule 101.8(2) was clarified to better explain the total return distribution method.
- Language in subrule 101.8(3) was clarified to explain that court approval is not necessary for trustees to adopt a total return distribution method. Language in paragraphs 101.8(3)"b" and "c" was simplified in regard to what is required of a care fund trust's governing instrument and how distributions are to be paid.
- Because subrule 101.8(8) is being clarified to specifically require maintenance of records of the fair market value of the care fund's assets as determined immediately before conversion to the total return distribution method, the requirement to make such a determination was included in new subparagraph 101.8(5)"a"(3) as one of the responsibilities for trustees to complete prior to implementation of a total return distribution method.
- New subrule 101.8(7) was added; it consists of the last three sentences of proposed subrule 101.8(8).

INSURANCE DIVISION[191](cont'd)

- Proposed subrule 101.8(7) was renumbered as subrule 101.8(8); the language was clarified to show which records need to be maintained in order for the administrator to be able to perform a proper review of the operation of the care fund and the total distribution method.
- Proposed subrule 101.8(8) was renumbered as subrule 101.8(9); the final three sentences were separated into new subrule 101.8(7).
- Proposed subrule 101.8(9) was renumbered as subrule 101.8(10); the language was clarified regarding analysis of investment returns and distribution practices.
- Proposed subrules 101.8(10) and 101.8(11) were renumbered as subrules 101.8(11) and 101.8(12), respectively.
- Rule 191—101.10(523I) was changed to clarify that an independent expert could review whether Chapter 101 or Iowa Code chapter 523I had been violated, and the review would not be limited to determining whether a care fund or a perpetual care cemetery had complied with the withdrawal restriction and with the expertise requirements for advisors and trustees to the care fund and perpetual care cemetery.

These amendments are subject to waiver consistent with the waiver provisions provided at 191—Chapter 4.

These amendments will impose no fiscal impact to the State.

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

These amendments are intended to implement Iowa Code chapter 523I as amended by 2016 Iowa Acts, House File 2394, sections 12 and 13.

These amendments shall become effective December 14, 2016.

The following amendments are adopted.

ITEM 1. Adopt the following **new** 191—Chapter 101:

CHAPTER 101
BURIAL SITES AND CEMETERIES

191—101.1(523I) Purpose. This chapter is intended to implement and administer the provisions of Iowa Code chapter 523I as amended by 2016 Iowa Acts, House File 2394, which regulates burial sites and cemeteries.

191—101.2(523I) Definitions. For purposes of this chapter, the definitions of Iowa Code chapter 523I are incorporated by reference. In addition, the following definitions shall apply:

“*Division*” means the Iowa insurance division, supervised by the commissioner pursuant to Iowa Code section 505.8, in the division’s performance of the duties of the commissioner under Iowa Code chapters 505 and 523I.

“*Net appreciation*” means the amount by which cumulative capital gains exceed the sum of the capital losses.

191—101.3(523I) Examination expenses assessment. If the division performs an on-site examination of a perpetual care cemetery pursuant to Iowa Code section 523I.213A, the perpetual care cemetery shall pay the division fee of \$150. The fee will not be assessed more than once every five years. In addition, the division reserves the right, in special circumstances, or for investigative examinations for cause, as often as necessary, to assess actual costs of examiners’ time, travel, meals and lodging. The fee or costs may be waived by the division, in the division’s sole discretion.

191—101.4(523I) Sale of insurance. The offer to provide cemetery merchandise or services for a death in the future, including the death of the purchaser, of a beneficiary, or of a person other than the purchaser or beneficiary, except if it is the sale of a purchase agreement in compliance with Iowa Code chapter 523A and 191—Chapter 100, is the offer to sell insurance, and the cemetery merchandise or services cannot be sold unless they are both of the following:

101.4(1) Sold by an insurance producer licensed in Iowa.

INSURANCE DIVISION[191](cont'd)

101.4(2) Underwritten by an insurance company authorized to sell insurance in Iowa.

191—101.5(523I) Notice of disinterment. The notice filed by a cemetery reporting a disinterment pursuant to Iowa Code section 523I.309(6) shall include a description of the error, the reason the error occurred, the identity of all parties in interest, the date of the initial interment, the identity of the remains being relocated, the location where the disinterment will occur, and the location of the new interment space. The division and parties in interest may waive the notice required by Iowa Code section 523I.309(6) if all parties in interest have otherwise received notice of the action and consented to the disinterment and relocation.

191—101.6(523I) Cemeteries owned or operated by a governmental subdivision.

101.6(1) *Governmental subdivision deemed trustee.* A governmental subdivision holding care fund amounts shall be deemed the trustee of the care fund for purposes of Iowa Code chapter 523I unless a care fund trust agreement provides otherwise.

101.6(2) *Governmental subdivision's adoption of ordinance to create care fund.* For purposes of Iowa Code section 523I.502, if a governmental subdivision adopts an ordinance or resolution as required by Iowa Code section 523I.502 with the language set forth on the division's Web site, www.iid.iowa.gov, or alternate similar language approved in writing by the division, the division shall deem the action as creating a care fund trust agreement for a perpetual care cemetery.

191—101.7(523I) Commingling of care fund accounts.

101.7(1) *Generally, commingling not permitted.* Except as otherwise provided in subrules 101.7(2) and 101.7(3), the assets of a care fund may not be commingled with the assets of another care fund or with any other fund's assets.

101.7(2) *Other care funds.* The assets of one or more care funds may be commingled in a single financial account for investment purposes if separate title and separate accounting are maintained for each cemetery's care fund.

101.7(3) *Governmental subdivisions.* A governmental subdivision may commingle care funds pursuant to Iowa Code section 523I.506.

191—101.8(523I) Distribution of care fund amounts using a total return distribution method.

101.8(1) *Purpose.* This rule is authorized by Iowa Code section 523I.811(2) and is intended to encourage care fund investments in appreciating assets that will produce higher care fund income levels created by growth in the care fund principal.

101.8(2) *Definition of "total return distribution method."* For purposes of this rule, a "total return distribution method" is a plan for distributing care fund amounts which takes into account both income (interest and dividends) earned by the care fund and capital appreciation (the change in the market value) of the care fund's assets. A total return distribution method takes into account the estimated rate of return to ensure growth of the care fund over time.

101.8(3) *Principal of care fund.* The principal of a care fund required by Iowa Code section 523I.806 shall remain available as a funding source for care of the cemetery. A cemetery shall not reduce the principal of a care fund voluntarily, except for the distribution of income. Pursuant to Iowa Code section 523I.811(2), the commissioner, by this rule, establishes terms and conditions under which a care fund trustee or, in the event of multiple trustees, a majority of the trustees, may, in the trustee's or trustees' sole discretion and without approval of a court, adopt a total return distribution method for the distribution of care fund income, subject to the terms and conditions of this rule.

a. In maintaining accounts for the care fund, the trustee or trustees shall maintain separate accountings of principal and of income.

b. The care fund trust's governing instrument must clearly manifest intent to use a total return distribution method. Conversion to an investment policy utilizing the total return distribution method shall not conflict with or affect any provision of the trust agreement, if any, regarding the distribution of principal. If the trust agreement indicates intent that net appreciation shall not be expended, the trust

INSURANCE DIVISION[191](cont'd)

may not use the total return distribution method. The care fund trust's governing instrument shall clearly indicate how the reserve account shall be established and administered.

c. Distributions permitted under the total return distribution method shall be paid from the following sources in the order listed:

- (1) Income; and
- (2) If permitted by paragraph 101.8(6) "a," principal.

d. The distributions under the total return distribution method shall be used in any manner determined to be in the best interests of the cemetery if authorized by a resolution, bylaw, or other action or instrument establishing the care fund, including but not limited to the following: the general care of memorials; memorialization; cutting and trimming lawns, shrubs, and trees at reasonable intervals; maintaining drains, water lines, roads, buildings, fences, and other structures; maintaining machinery, tools, and equipment; compensating maintenance employees; paying insurance premiums; making payments to maintenance employees' pension and benefit plans; paying expenses necessary to maintain ownership, transfer, and interment records of the cemetery; capital improvements; and paying overhead expenses incidental to such purposes.

e. The trustee or trustees shall, not less than annually, determine the fair market value of each asset of the care fund that consists primarily of real property or other property that is not traded on a regular basis in an active market, by appraisal or other reasonable method or estimate. That determination, if made reasonably and in good faith, shall be conclusive as to all persons interested in the care fund.

101.8(4) Trustee to exercise care and prudence. The trustee or trustees shall exercise ordinary business care and prudence regarding the investment of care fund amounts, by considering the following:

- a. The Probate Code, Iowa Code chapter 633;
- b. The Uniform Prudent Investor Act, Iowa Code sections 633A.4301 through 633A.4309;
- c. Present and anticipated financial requirements of the cemetery, including but not limited to the following: the cemetery's need to fund the current and long-term expenses of care and maintenance; expected total return from income and appreciation of principal; price level trends of equity and fixed income investments; needs for liquidity; regularity of income; preservation or appreciation of capital; general economic conditions; the possible effect of inflation or deflation; and the retention of income and net appreciation to adjust for inflation.

101.8(5) Adoption and implementation of a total return distribution method.

a. Prior to implementation of a total return distribution method, the trustee or trustees shall do all of the following:

(1) Adopt a written investment and distribution policy under which future distributions from the care fund will be total return distribution amounts rather than net income distribution amounts.

1. The investment goals and objectives shall be to achieve principal growth through equity investment; current income through income investments; and an appropriate balance between:

- Maintaining purchasing power through principal appreciation; and
- Generating current income to support the cemetery's current requirements for care and maintenance.

2. The trustee or trustees shall treat the net appreciation, realized and unrealized, in the fair value of the assets of a care fund as if it were net income of the care fund for purposes of determining the amount available for distributions, from time to time, from the care fund.

(2) Ninety days prior to implementation of the total return distribution method, file with the division a request for the division's approval of the proposed plan for use of the total return distribution method. The request shall include copies of the following:

1. The care fund governing instrument.
2. The written election adopting the total return distribution method.
3. The written investment and distribution policy required by paragraph 101.8(5) "a."
4. Evidence of the existence of any reserve fund required and information explaining how the amount of the reserve fund was calculated.
5. Other information requested by the division.

INSURANCE DIVISION[191](cont'd)

(3) Immediately before the implementation of the total distribution return method, determine the fair market value of the care fund's assets and maintain records of the fair market value and the evidence used to make that determination to comply with paragraph 101.8(8) "a."

b. The division may limit or prohibit adoption of a total return distribution method by a care fund for any of the following reasons:

(1) The trustee or trustees and any investment manager are not able to demonstrate sufficient knowledge and expertise regarding effective implementation of the total return distribution method.

(2) Trust assets cannot be adequately valued at market value.

(3) Terms of the care fund governing instrument are inconsistent.

c. The division shall notify the trustee or trustees of its decision regarding approval of the implementation plan. If the division does not approve of the plan, the total return distribution method may not be implemented.

101.8(6) Amount of distribution payment.

a. Unless another amount is approved by the division upon a showing of good cause, the annual distribution amount shall not exceed the greater of:

(1) The net ordinary income, or

(2) Five percent of the fair market value of the care fund as of the last day of the care fund calendar year immediately preceding the distribution year.

b. When determining the distribution amounts, the trustee or trustees shall take into consideration the cemetery's need to fund both:

(1) The current and future expenses of care; and

(2) The maintenance and preservation of principal.

c. For the purpose of determining the amounts to be paid out annually, the following factors shall be taken into account:

(1) The perpetual duration of the care fund;

(2) Present and anticipated financial requirements;

(3) Expected total return from income and appreciation of principal;

(4) Price level trends of equity and fixed income investments;

(5) Needs for liquidity;

(6) Regularity of income;

(7) Preservation or appreciation of capital;

(8) General economic conditions;

(9) The possible effect of inflation or deflation; and

(10) The retention of income and net appreciation to adjust for inflation.

d. Any excess of income and capital appreciation over allowable cemetery expenses shall be retained in the care fund as undistributed income until needed to fund the cemetery's allowable expenses. This retained income shall be reserved for the purpose of future maintenance unless the division approves in writing of another purpose.

101.8(7) Annual determination of fair market value of care fund. The fair market value of the care fund shall be determined at least annually, using such valuation date or dates or averages of valuation dates as are readily ascertainable. Reasonable and appropriate valuation methods shall be utilized. As appropriate, assets may be excluded from valuation, provided all income received with respect to such assets is distributed to the extent distributable in accordance with the terms of the care fund agreement.

101.8(8) Records maintenance. The care fund trustee or trustees shall document and maintain a record of the following:

a. The fair market value of the care fund's assets determined immediately before conversion to the total return distribution method as required by subparagraph 101.8(5) "a"(3); and

b. Every fair market value of the care fund's assets calculated annually pursuant to subrule 101.8(7).

101.8(9) Reserve fund. A cemetery using the total return distribution method shall create and maintain a reserve fund to replace any care fund principal lost by capital losses incurred from the

INSURANCE DIVISION[191](cont'd)

care fund's investments. The reserve fund shall be created by retaining and setting aside a reasonable percentage of the income and capital appreciation within the care fund.

101.8(10) *Division may limit use of total return distribution method.* The division may limit or prohibit ongoing use of a total return distribution method by a care fund under the following circumstances:

a. The trustee or trustees and any investment manager are not able to demonstrate sufficient knowledge and expertise regarding effective implementation of the total return distribution method. In making this determination, the division shall consider the factors for approval of a total return distribution plan as set out in subrule 101.8(5).

b. In situations where analysis shows that investment returns and distribution practices have not resulted in sufficient protection of the care fund's principal, using either a middle-term (three to five years) or a long-term (more than five years) analysis, the division may limit or prohibit the distribution of capital gains. In making this determination, the division shall consider the presence and stated value of assets that do not have an active market and are not traded on a regular basis, the frequency of appraisals and evaluations, the asset allocation of the care fund, and whether care fund principal, as adjusted for inflation, is less than it was at the time the cemetery converted to the total return distribution method.

101.8(11) *Reversion from total return distribution method.* If a care fund's trustee or trustees make an election pursuant to this rule to use a total return distribution method, that method is irrevocable unless a reversion is approved by the division. The care fund's trustee or trustees shall file a request for approval of a reversion with the division 90 days prior to a proposed reversion from the total return distribution method to the traditional net income distribution method. The division may prohibit a reversion from the total return distribution method to the traditional net income distribution method if the care fund principal, as adjusted for inflation, is less than it was at the time the cemetery converted to the total return distribution method.

101.8(12) *Annual report of total return distribution method information.* As part of the annual report required by Iowa Code section 523I.813 and rule 199—101.9(523I), a perpetual care cemetery using the total return distribution method shall file an addendum to the annual report related to the total return distribution method, detailing the following:

- a.* The asset allocation.
- b.* The annual payout.
- c.* Any changes in investment policy.
- d.* An accounting in regard to whether growth of the care fund's principal has exceeded an amount needed to compensate for inflation.
- e.* The existence and amount in a reserve fund as required by subrule 101.8(9).
- f.* A description of how the total return distribution method meets the requirements of paragraph 101.8(6) "a."
- g.* A statement that the perpetual care cemetery and care fund are in compliance with this chapter.
- h.* The investment portfolio for the perpetual care cemetery and care fund.
- i.* A statement describing how the investment portfolio for the care fund has performed in comparison to the consumer price index.
- j.* Any other pertinent information.

191—101.9(523I) Filing annual reports.

101.9(1) *Annual reports filed by perpetual care cemeteries.*

a. Each year between January 1 and April 30, perpetual care cemeteries shall file a complete and accurate annual report for the prior reporting period, in the form and manner required by the division. For purposes of Iowa Code section 523I.813 as amended by 2016 Iowa Acts, House File 2394, section 13, and of this rule, "reporting period" means a calendar year.

INSURANCE DIVISION[191](cont'd)

b. This rule shall apply to all perpetual care cemeteries submitting annual reports after January 1, 2017, providing information for the 2016 calendar year reporting period.

101.9(2) Forms and instructions. Forms and instructions for perpetual care cemeteries filing the annual report required by Iowa Code section 523I.813 as amended by 2016 Iowa Acts, House File 2394, sections 12 and 13, can be found on the division's Web site, www.iid.iowa.gov.

191—101.10(523I) Independent review. The division may use an independent expert to review whether a care fund or a perpetual care cemetery is in compliance with Iowa Code chapter 523I and this chapter. Costs of the independent expert review shall be borne by the perpetual care cemetery.

These rules are intended to implement Iowa Code chapter 523I as amended by 2016 Iowa Acts, House File 2394.

ITEM 2. Rescind and reserve **191—Chapter 140**.

[Filed 10/19/16, effective 12/14/16]

[Published 11/9/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/16.

ARC 2795C

RACING AND GAMING COMMISSION[491]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby amends Chapter 5, "Track, Gambling Structure, and Excursion Gambling Boat Licensees' Responsibilities," Iowa Administrative Code.

This amendment to subrule 5.4(10) implements 2016 Iowa Acts, House File 2445, [Iowa Code section 99F.1(1)] with regard to the calculation of adjusted gross receipts.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2686C** on August 31, 2016. A public hearing was held on September 20, 2016. No one attended the hearing, and no comments were received. This amendment is identical to the one published under Notice.

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

This amendment is intended to implement Iowa Code chapters 99D and 99F and 2016 Iowa Acts, House File 2445.

This amendment will become effective December 14, 2016.

The following amendment is adopted.

Amend subrule 5.4(10) as follows:

5.4(10) Taxes and fees.

a. Annual taxes and fees. All taxes and fees, whose collection by the state is authorized under Iowa Code chapters 99D and 99F, shall be accounted for on a fiscal-year basis, each fiscal year beginning on July 1 and ending on June 30.

b. Submission of taxes and fees.

(1) All moneys collected for and owed to the commission or state of Iowa under Iowa Code chapter 99F shall be accounted for and itemized on a weekly basis in a format approved by the commission. Each day on the report shall be an accurate representation of the gaming activities. A week shall begin on Monday and end on Sunday.

(2) The reporting form must be received in the commission office by noon on Wednesday following the week's end. The moneys owed, according to the reporting form, must be received in the treasurer's office by 11 a.m. on the Thursday following the week's end.

(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

RACING AND GAMING COMMISSION[491](cont'd)

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.

[Filed 10/17/16, effective 12/14/16]

[Published 11/9/16]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/16.

ARC 2808C

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Adopted and Filed

Pursuant to the authority of Iowa Code section 543D.5, the Iowa Real Estate Appraiser Examining Board hereby amends Chapter 1, “Organization and Administration,” and Chapter 2, “Definitions,” and adopts new Chapter 17, “Superintendent Supervision Standards and Procedures,” Iowa Administrative Code.

Consistent with 2016 Iowa Acts, House File 2436, the amendments to Chapters 1 and 2 and the adoption of new Chapter 17 move the Board under the Banking Division of the Iowa Department of Commerce, subject the Board to the supervision and authority of the Superintendent of the Banking Division of the Iowa Department of Commerce (Superintendent), and articulate the standards and procedures by which such supervision shall occur.

The amendments to Chapter 1 place the Board under the supervision of the Superintendent pursuant to 2016 Iowa Acts, House File 2436. The amendment to Chapter 2 amends one definition and adopts two new definitions. The adoption of Chapter 17 sets forth the standards and procedures by which the Superintendent shall supervise the Board.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2710C** on September 14, 2016. A public hearing was held on October 4, 2016, at 8:30 a.m. in the Professional Licensing Small Conference Room, 200 E. Grand Avenue, Third Floor, Des Moines, Iowa. No public comment was received. These amendments are identical to those published under Notice.

These amendments are subject to waiver or variance pursuant to 193F—Chapter 1.

The Board adopted these amendments on October 19, 2016.

These amendments do not have any fiscal impact on the state of Iowa.

After analysis and review of this rule making, no direct impact on jobs exists as these amendments implement procedural changes only.

These amendments are intended to implement Iowa Code chapters 17A, 272C, 543D, and 546 and 2016 Iowa Acts, House File 2436.

These amendments will become effective January 1, 2017.

The following amendments are adopted.

ITEM 1. Adopt the following new subrule 1.1(3):

1.1(3) All board action under Iowa Code chapter 543D and 193F—Chapter 17 shall be taken under the supervision of the superintendent, as provided in 2016 Iowa Acts, House File 2436.

ITEM 2. Rescind rule 193F—1.2(543D) and adopt the following new rule in lieu thereof:

193F—1.2(543D) Administrative committees.

1.2(1) The superintendent is vested with authority to review, approve, modify, or reject all board action pursuant to Iowa Code chapter 543D and 193F—Chapter 17. The superintendent may exercise all authority conferred upon the board and shall have access to all records and information to which the board

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has access. In supervising the board, the superintendent shall independently evaluate the substantive merits of recommended or proposed board actions which may be anticompetitive.

1.2(2) In performing its duties and in exercising its authority under Iowa Code chapter 543D and 193F—Chapter 17, the board may take action without preclearance by the superintendent if the action is ministerial or nondiscretionary. As used in this chapter, “ministerial or nondiscretionary” shall include any action expressly required by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee. The board may, for example, grant or deny an application for initial or reciprocal certification as a real estate appraiser, an application for registration as an associate real estate appraiser, or an application for a temporary practice permit by an out-of-state appraiser, on any ground expressly required by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee.

1.2(3) Prior to taking discretionary action under Iowa Code chapter 543D and 193F—Chapter 17, the board shall secure approval of the superintendent if the proposed action is or may be anticompetitive, as provided in 193F—Chapter 17. As used in this chapter, “discretionary” shall include any action that is authorized but not expressly required by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee. Examples of discretionary action include orders in response to petitions for rule making, declaratory orders, or waivers or variances from rules, rule making, disciplinary proceedings against licensees, administrative proceedings against unlicensed persons, or any action commenced in the district court.

1.2(4) Determining whether any particular action is or may be anticompetitive is necessarily a fact-based inquiry dependent on a number of factors, including potential impact on the market or restraint of trade. With respect to disciplinary actions, for instance, a proceeding against a single licensee for violating appraisal standards would not have an impact on the broader market and would accordingly not be an anticompetitive action. Commencement of disciplinary proceedings which affect all or a substantial subset of appraisers may have a significant market impact. When in doubt as to whether a proposed discretionary action is or may be anticompetitive, the board may submit the proposed action through the preclearance procedures outlined in 193F—Chapter 17.

1.2(5) A person aggrieved by any final action of the board taken under Iowa Code chapter 543D or 193F—Chapter 17 may appeal that action to the superintendent within 20 days of the date the board issues the action.

a. The appeal process applies whether the board action at issue was ministerial or nondiscretionary, or discretionary, and whether the proposed action was or was not submitted through a preclearance process before the superintendent.

b. No person aggrieved by a final action of the board may seek judicial review of that action without first appealing the action to the superintendent, as more fully described in 193F—Chapter 17.

c. Final board action which is ministerial or nondiscretionary is immediately effective when issued by the board but is subject to appeal to the superintendent.

d. Final board action which is discretionary shall be effective upon the expiration of 20 days following issuance of the board’s action if not timely reviewed by or appealed to the superintendent or upon final action by the superintendent if timely reviewed or appealed.

ITEM 3. Amend rule 193F—2.1(543D) as follows:

193F—2.1(543D) Applicability. The following definitions shall be applicable to the rules of the real estate appraiser examining board.

“Appraisal Foundation” means the Appraisal Foundation established incorporated as an Illinois not-for-profit corporation on November 30, 1987, ~~as a not-for-profit corporation under the laws of Illinois to develop qualifications and criteria for the appraisal profession.~~

“Appraisal subcommittee” means the appraisal subcommittee of the Federal Financial Institutions Examination Council.

“AQB” means the Appraiser Qualifications Board of the Appraisal Foundation.

“ASB” means the Appraisal Standards Board of the Appraisal Foundation.

“Associate real property appraiser” or *“associate appraiser”* means an individual who has registered with the board as an associate real property appraiser, as defined in Iowa Code section

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543D.2(5), and who is training to become a certified residential or certified general real property appraiser.

“*Certified appraiser*” means an individual who has been certified in one of the following two classifications:

1. The certified residential real property appraiser classification, which is limited to the appraisal of one to four residential units without regard to transaction value.
2. The certified general real property appraiser classification, which applies to the appraisal of all types of real property.

“*FIRREA*” means the Financial Institutions Reform Recovery and Enforcement Act of 1989.

“*Knowingly*” means done with awareness and deliberateness.

“*Law*” means the “Iowa Voluntary Appraisal Standards and Appraiser Certification Law of 1989,” Iowa Code chapter 543D.

“*Superintendent*” means the superintendent of banking or the superintendent’s designee. The designee shall not be a certified or licensed real estate appraiser, a registered associate real estate appraiser, or a trainee real estate appraiser in any jurisdiction.

“*USPAP*” means the Uniform Standards of Professional Appraisal Practice published by the Appraisal Foundation.

This rule is intended to implement Iowa Code section 543D.2.

ITEM 4. Adopt the following new 193F—Chapter 17:

CHAPTER 17
SUPERINTENDENT SUPERVISION STANDARDS AND PROCEDURES

193F—17.1(543D) Superintendent supervision standards. The level of the superintendent’s supervisory scrutiny of board actions will vary depending on the nature of the board action, the surrounding circumstances, and whether the action is or may be anticompetitive. In general, the superintendent will independently evaluate both the procedures and the substantive merits of board actions.

17.1(1) Ministerial and nondiscretionary board actions. Board actions which are ministerial or nondiscretionary, as provided in 193F—subrule 1.2(2), shall be monitored to ensure that such actions are consistent with the mandates required by state or federal law, rule, or regulation; by the AQB; or by the appraisal subcommittee.

17.1(2) Discretionary board actions. The superintendent shall independently assess discretionary board actions, as provided in 193F—subrule 1.2(3), to determine whether an action reflects clearly articulated state policy as the inherent, logical, or ordinary result of the exercise of authority delegated to the board by the legislature and is not the result of private interests attempting to restrain trade or otherwise pursue anticompetitive objectives that are contrary to state policy goals. Discretionary board actions which are not anticompetitive shall be monitored by the superintendent but will only be subjected to preclearance procedures if specifically requested by the board or at the superintendent’s election. Discretionary board actions that are or may be anticompetitive shall require the superintendent’s prior written approval.

17.1(3) Information review and gathering. When monitoring or evaluating board actions, the superintendent may rely on the information provided by the board in support of the board’s actions if the superintendent is satisfied that the information is sufficient for an independent, de novo evaluation of the substantive merits of the board’s action. The superintendent may supplement the board’s information and gather additional information if deemed necessary or desirable.

17.1(4) Written decisions. Following the superintendent’s independent evaluation of the substantive merits of board actions, the superintendent shall issue a written decision approving, modifying, or disapproving the recommended action, and explaining the reasons and rationale for such decision. This requirement shall apply when the superintendent is requested to provide preclearance for a board

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action and when the superintendent evaluates a final board action upon review by or appeal to the superintendent.

193F—17.2(543D) Procedures for superintendent supervision.**17.2(1) Ministerial or nondiscretionary board actions.**

a. The superintendent's monitoring of ministerial or nondiscretionary board actions shall be flexible and designed to spot check compliance. The board shall provide any information that the superintendent requests to adequately monitor such actions. Final board action which is ministerial or nondiscretionary may be appealed to the superintendent by an aggrieved person within 20 days of the issuance of the board action. The written notice of appeal shall be filed with the superintendent and served upon the board within such 20-day period and shall specify:

- (1) The name of the person initiating the appeal;
- (2) The board action which is being appealed;
- (3) The specific facts or law alleged to be in error in the board action;
- (4) The relief sought; and
- (5) The grounds for such relief.

b. The board may respond to the notice of appeal within 20 days of its receipt of the appeal. The superintendent shall issue a written decision as provided in subrule 17.1(4).

17.2(2) Preclearance. When the board seeks preclearance of a proposed board action, the board shall submit a written report which identifies the proposed action, describes the basis and support for the action, outlines the persons or markets which may be affected by the action, and attaches sufficient information from which the superintendent can make an independent, de novo evaluation of the substantive merits of the proposed action. The superintendent shall issue a written decision as provided in subrule 17.1(4).

17.2(3) Review or appeal of final, discretionary board action.

a. Final, discretionary board action may be reviewed by or appealed to the superintendent within 20 days of the issuance of the board action. Such decisions shall be provided to the superintendent when issued to affected persons. If the final board action is not a contested case decision, the written notice of appeal shall be filed with the superintendent and served upon the board within such 20-day period, and shall specify:

- (1) The name of the person initiating the appeal;
- (2) The board action which is being appealed;
- (3) The specific facts or law alleged to be in error in the board action;
- (4) The relief sought; and
- (5) The grounds for such relief.

b. A review initiated by the superintendent shall be in writing and shall inform the board and affected persons of the nature of the superintendent's concerns. The board may respond to the superintendent's review or notice of appeal within 20 days of the board's receipt of the appeal. A person notified of a superintendent's review may respond to the superintendent's review within 20 days of the issuance of the review. The superintendent shall issue a written decision as provided in subrule 17.1(4).

17.2(4) Review or appeal of contested case decision.

a. All board decisions in a contested case, whether by consent or following hearing, are proposed decisions and shall be provided to the superintendent when issued.

b. Any aggrieved party may appeal the proposed decision to the superintendent within 20 days after issuance of the proposed decision. The superintendent may initiate a review of the proposed decision on the superintendent's own motion at any time within 20 days following issuance of such decision.

c. A notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- (1) The parties initiating the appeal;
- (2) The proposed decision or order which is being appealed;
- (3) The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;

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- (4) The relief sought; and
- (5) The grounds for such relief.

d. A notice of superintendent's review shall identify the superintendent's concerns with sufficient detail from which the board or a party can respond.

e. A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The superintendent may preside over the taking of additional evidence or may remand a case to the board for further hearing.

f. The superintendent shall issue a schedule for consideration of the review or appeal.

g. Unless otherwise ordered, within 20 days of the notice of appeal or order for review, the board and each appealing party may file briefs. Within 20 days thereafter, the board or any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs. The superintendent may resolve the appeal or review on the briefs or provide an opportunity for oral argument. The superintendent may shorten or extend the briefing period as appropriate.

h. The record on appeal or review shall be the entire record made at hearing.

i. The superintendent shall issue a written decision as provided in subrule 17.1(4).

These rules are intended to implement 2016 Iowa Acts, House File 2436.

[Filed 10/19/16, effective 1/1/17]

[Published 11/9/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/16.

ARC 2809C

TREASURER OF STATE[781]

Adopted and Filed

Pursuant to the authority of Iowa Code section 556.26, the Treasurer of State hereby rescinds Chapter 9, "Unclaimed Property," Iowa Administrative Code, and adopts a new Chapter 9 with the same title.

Existing Chapter 9 is being rescinded and a new chapter is being adopted primarily for the purpose of addressing changes that will be implemented in providing an online claims process for Great Iowa Treasure Hunt claimants. The Treasurer of State is also taking this opportunity to review the entire chapter in order to provide revisions, updates, and clarifications to existing unclaimed property rules administered by the Treasurer of State.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2716C** on September 14, 2016. A public hearing was held on October 6, 2016, at the State Capitol, Room 116, 1007 E. Grand Avenue, Des Moines, Iowa, and written comments were accepted through October 6, 2016. Comments were received and, as a result of public comment and staff review, the following changes from the Notice of Intended Action have been made.

Public comments centered on rules 781—9.14(556) to 781—9.17(556) and changes to rules regarding estimation in rules 781—9.37(556) and 781—9.38(556) of the Notice of Intended Action. Due to public comments in these areas, the Treasurer has not adopted rules 781—9.14(556) to 781—9.17(556) and is instead reserving these rule numbers in new Chapter 9. In addition, the language of rules 781—9.37(556), Examination of holders, 781—9.38(556), Estimation, and 781—9.39(556), Appeal of examination findings, has been changed back to the language of existing rules 781—9.26(556), 781—9.27(556), and 781—9.28(556). Finally, the language in subrule 9.5(3) regarding dormancy fees has been changed back to the language of existing subrule 9.4(3).

Additional comments requested that a definition of "Reporting of stocks—non-freely transferable securities" be added to rule 781—9.7(556). In response, the Treasurer has added a definition of

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“non-freely transferable security” to rule 781—9.4(556) and has removed the ten-day window for reporting non-freely transferable securities from rule 781—9.7(556) and replaced the ten-day window with a report on the next regular (annual) date in new rule 781—9.7(556).

The Treasurer also received public comments on rule 781—9.8(556) regarding the reporting of individual retirement accounts. As the result of public comment, the Treasurer has changed the language back to that of existing rule 781—9.6(556).

Additional public comments were received regarding third-party reporting, and as a result, further clarification has been provided in 781—9.30(556).

The language of proposed new rule 781—9.41(556) regarding contract auditors has been replaced with that of existing rule 781—9.30(556).

After further staff review, the Treasurer has not adopted rule 781—9.2(556) and has reserved this rule number in Chapter 9.

The general waiver provisions of the Treasurer of State in 781—Chapter 19 apply to these rules.

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

These rules are intended to implement Iowa Code chapter 556.

These rules will become effective December 14, 2016.

The following amendment is adopted.

Rescind 781—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9
UNCLAIMED PROPERTY

781—9.1(556) Purpose. Iowa Code chapter 556 authorizes the treasurer of state to establish administrative rules that are necessary for the purpose of carrying out the provisions of Iowa Code chapter 556, the uniform disposition of unclaimed property Act.

This rule is intended to implement Iowa Code chapter 556.

781—9.2 Reserved.

781—9.3(556) Forms. The following approved forms will be used by the unclaimed property division:

9.3(1) Claim Form, together with, as applicable, the Affidavit of Lost Certificate and Affidavit of Administration, as well as other applicable affidavits, is the form required by the division for a claimant to file and support a claim relative to unclaimed property held in custody by the division.

9.3(2) Safe Deposit Box Inventory Form is the form that may be used by holders in the inventorying and reporting of contents of safe deposit boxes reportable under the Act.

9.3(3) Holder Report Forms UP1 (also referred to as Holder Verification Form or Holder Report Cover Sheet) and UP2 are the forms holders are required to use to report unclaimed property.

9.3(4) Holder Reimbursement Form (or a form by another name that the treasurer’s office distributes to reimburse an owner or holder) is the form holders are required to use to request that the state pay an owner directly or to seek reimbursement from the state in cases when the holder has paid the claim of a reappearing owner, pursuant to Iowa Code section 556.14(5) or as otherwise permitted by law.

This rule is intended to implement Iowa Code chapter 556.

781—9.4(556) Definitions. In addition to the terms defined in Iowa Code section 556.1, the following words or terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“*Act*” means the uniform disposition of unclaimed property Act, Iowa Code chapter 556.

“*Aggregate property*” means individual items of intangible property with a value of less than \$50 each which have been aggregated by a holder and reported and delivered to the division in a lump sum.

“*Book shares*” means debt or equity securities which are maintained in book entry form only and for which no physical certificate was or is issued.

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“*Claimant*” means a person or legal entity entitled to reclaim abandoned property in the possession of the division. A claimant may be an original owner, legal representative (other than a finder), or successor in interest.

“*Contract auditor*” means any person or entity engaged or hired by the treasurer or the division to provide unclaimed property examination services. “Contract auditor” includes agents, employees and any subcontractor engaged by a contract auditor or engaged by its subcontractors.

“*Credits, advance payments, overpayments, refunds, or credit memoranda,*” for purposes of Iowa Code section 556.1(12), means current accounts receivable of a business association that have not been reduced to a check or other form of payment. “Credits, advance payments, overpayments, refunds, or credit memoranda,” for purposes of Iowa Code section 556.1(12), shall not include uncashed checks or other unclaimed payments due and owing to a business association for its provision of goods or services, with respect to any other type of obligation.

“*Custodial property*” means property transferred to a custodian for a minor under the provisions of (1) the Iowa UTMA, (2) the Uniform Transfers to Minors Act, (3) the Uniform Gifts to Minors Act, or (4) a substantially similar Act of another state if, at the time of the transfer, the transferor, the minor, or the custodian is a resident of the designated state or the custodial property is located in the designated state.

“*Division*” means the unclaimed property division within the Iowa treasurer of state’s office that has the responsibility of administering the Act.

“*Dormancy fee*” means a service charge, dormancy charge, inactive account fee, escheat fee, minimum balance fee, maintenance fee, unclaimed property fee, or any other charge that results in the reduction of an account balance or property value and is not directly related to a transaction initiated by an owner.

“*Dormancy period*” means the statutorily specified span of time after which an owner’s failure to indicate an interest in property will result in the property’s being presumed abandoned and subject to reporting and delivery to the division.

“*Due diligence*” means the efforts required to be undertaken by a holder of unclaimed property to find the rightful owner of such property before the property is delivered to the division.

“*Finder*” means a person hired or engaged to assist owners, heirs or other persons in the recovery of unclaimed property reported under the Act.

“*Finder agreement*” means an agreement to pay a fee, commission, or other compensation to a finder to identify, locate, deliver, recover, or assist in the recovery of unclaimed property reported under the Act.

“*Funds for liquidation*” means unclaimed funds which are held by a holder on behalf of an owner of debt or equity securities and which are owing as a result of the liquidation of the securities issuer.

“*Gift certificate*” means a merchandise certificate or electronic gift card conspicuously designated as a gift certificate or electronic gift card and generally purchased by a buyer for use by a person other than the buyer.

“*Indication of interest*” means an action by an owner with respect to the owner’s property which indicates that the owner is aware of the existence of the property and intends for the property not to be presumed abandoned. Examples of an owner’s indication of interest include, but are not limited to, the following: an owner-initiated deposit or withdrawal from an account; notification to a holder of a change of address specific to the account; an account balance or similar owner-initiated inquiry, including an account inquiry made electronically in which the owner has contemporaneously authenticated the owner’s identity; and any communication, such as written or electronic correspondence, telephone call or person-to-person conversation between an owner and a holder (or the agent of a holder), which can be documented and which reflects an owner’s awareness of the existence of the property. “Indication of interest” does not include recurring Automated Clearing House (ACH) transfers, automated postings to accounts, computer system conversions, the non-return of mail, and other actions that are not owner-initiated or do not require a direct owner response.

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"Intangible property" means such property as described in Iowa Code section 556.1(12) as well as any other fixed and certain interest or right in an intangible that is held by, issued to, or owing to a holder except as otherwise expressly exempted by law.

"Iowa uniform transfers to minors Act" or *"Iowa UTMA"* means Iowa Code chapter 565B.

"Last activity date" means the last verifiable date of owner-initiated activity or contact with the holder with respect to unclaimed property.

"Matured bond principal" means unclaimed funds which are held by a holder for a bond holder pending the bond holder's redemption of debt securities.

"Non-freely transferable security" means a security that cannot be delivered to the administrator by the Depository Trust Clearing Corporation or a similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer. "Non-freely transferable security" includes a worthless security.

"Retained asset account" means any mechanism whereby the settlement of proceeds payable under a life insurance policy is accomplished by deposit by the insurer, or an entity acting on behalf of the insurer, depositing the proceeds into an account with check- or draft-writing privileges, where those proceeds are retained by the insurer pursuant to a supplementary contract not involving annuity benefits.

"Tangible property" means the physical contents of a safe deposit box or other safekeeping repository, or physical items held as collateral by a banking organization, financial organization, or business association, that are reportable and deliverable to the division.

"Treasurer" means the treasurer of the state of Iowa.

"Undelivered shares" means unclaimed physically issued debt or equity securities which were returned to the issuer by the post office as undeliverable or which were otherwise never delivered into the possession of the owner.

"Underlying shares" means unclaimed physically issued debt or equity securities which are presumably in the possession of an owner.

"Unexchanged shares" means unclaimed debt or equity securities which are held by a holder on behalf of an owner, pending the owner's surrender of obsolete debt or equity securities in conjunction with an acquisition, merger, recapitalization, or similar mandatory corporate action.

This rule is intended to implement Iowa Code section 556.1.

781—9.5(556) Dormancy fees and related charges.

9.5(1) Iowa Code chapter 556 authorizes the following dormancy fees:

a. Lawful charges withheld from abandoned demand, savings, or matured time deposits held by a financial organization.

b. Charges on unpresented traveler's checks and money orders, when a valid and enforceable contract to assess the charges exists, and the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel such charges for the benefit of the owner.

c. Charges on unpresented checks, drafts, or similar instruments on which a financial organization is directly liable, when a valid and enforceable written contract to assess the charges exists, and the holder regularly imposes such charges and does not regularly reverse or otherwise cancel such charges for the benefit of the owner.

d. Deductions from the face value of a gift certificate or gift card resulting from untimely presentment or usage, when a valid and enforceable written contract was provided in conjunction with the issuance of the gift certificate or gift card, and the issuer of the gift certificate or gift card regularly imposes and does not regularly reverse or otherwise cancel the deduction for the benefit of the owner.

9.5(2) Dormancy fees not authorized by Iowa Code chapter 556, including but not limited to an escheat fee or other fee sought for the holder's performance of the requirements of Iowa Code chapter 556, are prohibited.

9.5(3) Except for unclaimed accounts of less than \$50 at the time of reporting, all dormancy fees assessed against an unclaimed account must be disclosed in the report of unclaimed property filed with the division.

This rule is intended to implement Iowa Code section 556.2.

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781—9.6(556) Reporting and delivery of safe deposit box contents.

9.6(1) Safe deposit boxes or other safekeeping depositories that have been abandoned shall be opened and inventoried in the presence of at least two employees of the holder.

9.6(2) The holder shall list the contents of each box inventoried and provide that list to the division. The Safe Deposit Box Inventory Form, or other form approved by the division, or any financial institution's internal inventory form shall be used and provided to the division.

9.6(3) The property and a copy of the inventory shall then be sealed and maintained in safekeeping until delivered to the owner or to the division when required by the Act. The holder may not convert the property to cash or reduce cash property to check; all property is to be delivered in its original form and "as is" to the owner or, if required, to the division.

9.6(4) Property transferred to the division shall be packaged in a reasonably protective manner to prepare for transportation to the division. Property should be delivered to the division via certified mail or insured courier. The holder assumes all risk of loss pending receipt of the property by the division. In the case of hazardous materials or weapons, including handguns, holders shall contact the division and follow any special instructions for handling such items.

This rule is intended to implement Iowa Code section 556.2.

781—9.7(556) Reporting of stocks—non-freely transferable securities. A holder is not required to report or deliver to the division a security identified by the holder as a non-freely transferable security. Upon determination by the division or the holder that a security is no longer a non-freely transferable security, the security shall be subsequently remitted on the next regular (annual) date prescribed for delivery of securities pursuant to the Act. The holder shall make a determination annually whether a security that has not been reported or delivered to the division on the basis that it is non-freely transferable is no longer non-freely transferable.

This rule is intended to implement Iowa Code section 556.5.

781—9.8(556) Reporting of individual retirement accounts (IRAs) and other retirement accounts.

9.8(1) The reporting and delivery of property in an individual retirement account, defined contribution plan, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States shall be extended until three years after the earliest of the following has occurred:

- a. The date of unsuccessful distribution;
- b. The date of the required distribution, as stated in agreements governing the account; or
- c. The date specified in the income tax laws of the United States by which a distribution must occur in order for the owner to avoid a tax penalty.

9.8(2) In reporting individual retirement accounts and other retirement accounts, holders shall include the name, address, and social security number of the account beneficiary, to the extent such information is known.

This rule is intended to implement Iowa Code section 556.7.

781—9.9(556) Reporting of certificates of deposit and other time deposits. If an automatically renewable time deposit or nonrenewable time deposit is deemed abandoned prior to its initial maturity, the time for the reporting and delivery of the time deposit to the division will be extended to the date of maturity or three years from the date on which the abandonment period commenced, whichever is later.

This rule is intended to implement Iowa Code section 556.7.

781—9.10(556) Indication of interest by an owner in a certificate of deposit or other time deposit.

9.10(1) The following acts by the owner of a time deposit shall rebut a presumption of abandonment of the time deposit:

- a. Consent in writing to a renewal of the time deposit at or about the time of renewal and signed by the owner, given by delivery of the original or a signed copy in a format reasonably acceptable to

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the division, or demonstrated by the existence of a memorandum or other record on file with the holder made at the time of renewal; or

b. The owner, within three years after the earlier of the maturity date or the date of the owner's last indication of interest in the deposit, has:

(1) Increased or decreased the amount or presented the passbook or other similar evidence of the deposit for the crediting of interest due;

(2) Communicated in writing with the financial organization concerning the time deposit, including requesting that the time deposit be redeemed;

(3) Otherwise demonstrated an indication of interest in the deposit as evidenced by a memorandum or other record on file prepared by an employee of the financial organization;

(4) Owned other property to which subparagraphs 9.10(1) "b"(1), (2), and (3) above apply and the financial organization communicates with the owner about the deposit that would otherwise be presumed abandoned under this subrule in writing at the address to which communications regarding the other property regularly are sent; or

(5) Had another relationship other than time or demand deposits, such as, but not limited to, a safe deposit box, mortgage, stocks, bonds, or other investments, with the financial organization concerning which the owner has:

1. Communicated in writing with the banking or financial organization; or

2. Demonstrated an indication of interest as evidenced by a memorandum or other record on file prepared by an employee of the financial organization.

9.10(2) Consent to renewal of a time deposit shall be presumed and the owner will be deemed to have demonstrated an indication of interest in a time deposit when the financial organization sends the owner notice of the renewal via first-class mail, address correction requested, and the notice is not returned to the financial organization by the post office for reason of nondelivery; provided, however, the financial organization must maintain a system for tracking and documenting return mail.

9.10(3) The date on which the owner has last demonstrated an indication of interest in and awareness of the owner's time deposit, as defined in paragraph 9.10(1) "a" above, or the date of maturity if no conduct evidencing such interest is made, whichever is earlier, shall begin the three-year abandonment period. However, when a written communication mailed to an owner is returned marked "undeliverable" or "unclaimed," the date of receipt by the financial organization of the returned mailing shall be deemed to begin the abandonment period. When periodic interest checks are issued on a time deposit, the abandonment period will commence on the date of an uncashed interest check, and the time deposit will be considered abandoned if all subsequent interest checks continue to remain uncashed through the entire statutory abandonment period, unless there is other conduct by the owner demonstrating an indication of interest in the time deposit as specified elsewhere in rule 781—9.10(556) and applicable statutory law.

This rule is intended to implement Iowa Code section 556.7.

781—9.11(556) Reporting of retained asset accounts. Funds held in a retained asset account maintained by a life insurance company on behalf of a beneficiary shall be reported and delivered to the division if the beneficiary has failed to take such actions demonstrating an indication of interest in the account for a period of three years.

This rule is intended to implement Iowa Code section 556.9.

781—9.12(556) Reporting of tax-advantaged college savings accounts. Property held in a plan described in Section 529A of the Internal Revenue Code or held in an account or plan that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is unclaimed by the owner three years from the later of:

9.12(1) The date a second item sent to the owner by first-class mail was returned as undeliverable by the United States Postal Service (USPS), unless a later mailing by first-class mail to the apparent owner was not returned as undeliverable or, for an apparent owner not receiving communications from

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the holder by first-class mail, the date of the last indication to the holder by the apparent owner of interest in the property; or

9.12(2) Thirty years have elapsed after the date the account was opened.

This rule is intended to implement Iowa Code section 556.7.

781—9.13(556) Reporting of unused gift certificate balances.

9.13(1) Except as provided in subrules 9.13(2) and 9.13(3), an unused balance on a gift certificate is reportable five years from the date of issuance of the gift certificate or last usage, whichever is later.

9.13(2) An unused balance on a gift certificate that is not redeemable for cash, which was issued prior to July 2, 2014, is reportable five years from the date of issuance of the gift certificate or last usage, whichever is later.

9.13(3) An unused balance on a gift certificate that is not redeemable for cash, which was issued after July 1, 2014, and is not subject to expiration or service fees, is not subject to reporting and delivery under Iowa Code chapter 556.

This rule is intended to implement Iowa Code section 556.9.

781—9.14 to 9.17 Reserved.

781—9.18(556) Information required to be included in report.

9.18(1) Every Holder Report Form submitted to the division must include, to the extent such information is available to the holder, the following information:

- a. The owner's (and as applicable/available, the beneficiary's) name;
- b. The owner's (and as applicable/available, the beneficiary's) last-known address;
- c. The owner's (and as applicable/available, the beneficiary's) social security number or Federal Tax Identification Number;
- d. Account number, policy number, or other similar account relationship identifier;
- e. Check number, certificate number, or other similar property identifier;
- f. Date of owner's last indication of interest;
- g. Date the property became payable or distributable;
- h. In the case of joint owners, the relationship of the owners (joint owners, sole owner, etc.); and
- i. As applicable and as known to the holder, an indication that the owner is deceased, as well as the date of death of the owner and the source of decedent information.

9.18(2) The division may determine that the information included in the Holder Report Form is nonconforming and may require that a holder revise its report in circumstances where the Holder Report Form:

- a. Does not include complete information;
- b. Does not reconcile to the property remittance;
- c. Is not verified;
- d. Is not verified by the appropriate individual as required by statute;
- e. Reflects unauthorized service or other owner charges assessed by the holder;
- f. Includes property which is not subject to Iowa Code chapter 556; or
- g. Was not filed electronically or has been filed electronically and cannot be read or converted by the division.

This rule is intended to implement Iowa Code section 556.11.

781—9.19(556) Early reporting of unclaimed property.

9.19(1) A holder may request permission to report and deliver property to the division before it is presumed abandoned by sending a written request to the division.

9.19(2) The request must identify the property to be reported and delivered and the reasons for requesting permission to report and deliver the property prior to the date it is presumed abandoned.

9.19(3) The division may, at its sole discretion, consent to early reporting and delivery according to terms and conditions prescribed by the division.

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This rule is intended to implement Iowa Code section 556.11.

781—9.20(556) Owner notification and holder due diligence. Holders shall exercise reasonable and necessary due diligence consistent with good business practice in attempting to reactivate dormant accounts and to locate owners of unclaimed property. If a holder fails to undertake due diligence as required by Iowa Code section 556.11, the holder will not have met the good-faith reporting standard of Iowa Code section 556.14 and the division will not be obligated to defend the holder against any claim of liability.

This rule is intended to implement Iowa Code section 556.11.

781—9.21(556) Reporting aggregate amounts to the division. Holders may report in aggregate to the division items of property with a value of under \$50. Holders are encouraged not to aggregate unclaimed dividend checks, oil royalties, and other payments of a recurring nature, regardless of the item value.

This rule is intended to implement Iowa Code section 556.11.

781—9.22(556) Property held by a third party. A holder may contract with a third party to hold property, provide payment services and report unclaimed property; however, such arrangements shall not relieve the holder from complying with all requirements of this chapter and Iowa Code chapter 556. The holder remains at all times responsible for the complete, accurate and timely reporting and delivery of property presumed abandoned and other duties as provided for under this chapter and Iowa Code chapter 556.

This rule is intended to implement Iowa Code chapter 556.

781—9.23(556) Regulation of finders.

9.23(1) Pursuant to Iowa Code section 556.11(10), agreements or contracts between finders and owners to pay compensation to recover or assist in the recovery of abandoned property are unenforceable if made within 24 months of the date the property was received by the division. Additionally, if a holder is in possession of property that has been deemed abandoned but has not yet been timely reported and delivered to the division, an agreement to pay compensation to recover or assist in the recovery of such property is unenforceable. In no case shall the finder fees or compensation exceed 15 percent of the amount of the property subject to claim.

9.23(2) A claim form signed by a finder shall not be reviewed by the division. The apparent owner or owner's legal representative shall make direct contact with the division and sign the claim form. All communication regarding the claim will be sent to the claimant. A signed, dated and notarized copy of any original agreement or contract between a finder and an owner shall be included with the filing of any claim. Handwritten agreements or contracts will not be accepted. To be valid, the agreement must disclose the nature and value of the property and the name and address of the person in possession.

9.23(3) Owner information shall be reproduced at least annually in a format to be determined by the treasurer and shall be provided to anyone requesting the information for a fee of \$20 per copy. The fee shall be paid in the form of an official check or money order and made payable to the State of Iowa. All fees for owner information shall be received by the division before the owner information is made available.

This rule is intended to implement Iowa Code section 556.11.

781—9.24(556) Disposition of safe deposit box contents.

9.24(1) Except as stated in subrules 9.24(2) and 9.24(3), the contents of safe deposit boxes and other tangible property received by the division shall be held by the division for not less than one year, after which time the property may be sold, held, or destroyed.

a. No employee, person related to an employee of the Iowa treasurer of state living in the same household, or contractor that provided appraisal services may directly or indirectly bid on safe deposit box contents or other tangible property offered for sale by the division.

b. For purposes of this subrule, "related to an employee" shall mean the employee's spouse, child, stepchild, grandchild, parent, stepparent, sibling, stepsibling, or spouse of any of the foregoing persons.

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9.24(2) Medals awarded for military service in the armed forces of the United States shall not be auctioned.

9.24(3) If the treasurer determines, after investigation and after an attempt to dispose of the unclaimed property in accordance with the Act, that the probable cost of sale exceeds the value of the property, the treasurer may destroy or otherwise dispose of the property at any time.

This rule is intended to implement Iowa Code section 556.17.

781—9.25(556) Filing of owner claims.

9.25(1) All claims for abandoned property shall be filed with the division on the division's claim form or through such other means or process as the division finds acceptable.

9.25(2) The claim form shall be completed in its entirety and must include the following information:

- a. Social security number or Federal Tax Identification Number, or both, of every claimant;
- b. Name, complete mailing address, telephone number and e-mail address, if applicable, of every claimant;
- c. Signature of claimant(s). If the claim includes stock(s) or safe deposit box contents, the signature must be notarized. The treasurer may set through policy a cash claim limit which requires a signature to be notarized.

9.25(3) The treasurer shall consider any claim filed under the Act.

This rule is intended to implement Iowa Code section 556.19.

781—9.26(556) Documentation of claims by individuals. A claimant may be required to provide the following supporting documentation with claims, as applicable, if the claim is being made by the person that is set forth as the apparent owner of the unclaimed property in the report filed with the division:

9.26(1) A copy of the claimant's driver's license or other government-issued identification.

9.26(2) A copy of a document verifying the claimant's social security number. Examples include a social security card and a federal Form W-2.

9.26(3) A document showing the claimant's address as it was reported to the division may be required if the holder did not report the social security number to the division. Examples of relevant documentation include a federal Form W-2, pay stub, bank statement, expired driver's license, stock certificate, college transcript, report card, marriage certificate, divorce decree, birth certificate, or an original (not a copy) of a postmarked envelope addressed to the claimant.

9.26(4) If the claimant's name has changed, copies of supporting documentation showing the name change.

9.26(5) If the property subject to claim is a joint account, each surviving claimant may be required to provide:

- a. The information in subrules 9.26(1) to 9.26(4) for each joint owner, or such alternative documentation as the division may at its sole discretion deem acceptable; or
- b. Where one or more joint owners are deceased, an official copy of the deceased joint owner's death certificate.

9.26(6) If the property subject to claim is being claimed in the capacity of a guardian or conservator or under a power of attorney, the claimant may be required to provide:

- a. A copy of the letter of appointment;
- b. Documentation identifying the guardian/custodian and the owner; and
- c. If the owner is a minor, an official copy of the owner's birth certificate and a document verifying the owner's social security number. No power of attorney filed by a finder will be recognized by the division for the purpose of making a claim.

9.26(7) If the property subject to claim is a security, in addition to the documentation required by this rule, the claimant may be required to provide the original stock certificate(s), a surety bond that is acceptable to the division, or an affidavit of lost certificate.

9.26(8) If the owner of the property subject to claim is deceased, an Affidavit of Administration must be completed by the claimant.

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a. If the property subject to claim is being claimed in the capacity of an executor or administrator, the claimant may be required to submit evidence as outlined in the Affidavit of Administration as provided by the treasurer of state. In this situation, the payment will be made to the estate of the rightful owner.

b. If the property subject to claim is being claimed by an heir (either under a valid will or under Iowa probate law), the claimant(s) may be required to submit evidence outlined in the Affidavit of Administration as provided by the division. Each heir will be paid separately. At the discretion of the division, one heir can accept payment for all heirs.

This rule is intended to implement Iowa Code section 556.19.

781—9.27(556) Documentation of claims by business entities.

9.27(1) A business may be required to provide the following supporting documentation with its claims, as applicable:

a. Proof, as deemed suitable by the division, that the person signing the claim form is an officer of the business and has the authority to conduct business on behalf of the entity, such as corporate resolution or other documentation deemed suitable by the treasurer.

b. Documentation setting forth the claimant's federal Employer Identification Number (EIN).

c. A copy of the claimant's biennial report as filed with the office of the secretary of state or a copy of a current corporate tax return.

9.27(2) Claimants filing on behalf of businesses that are no longer in existence must additionally provide documentation that the claimant is the bona fide successor in interest to the rights of the discontinued business entity with respect to the property being claimed.

This rule is intended to implement Iowa Code section 556.19.

781—9.28(556) Claims for which the apparent owner of property is an unincorporated nonprofit association that has been dissolved. A claim to property for which the apparent owner is an unincorporated nonprofit association that has been dissolved may be made by a person authorized to claim the property in accordance with the dissolved association's bylaws or governing principles or as proven by other documentation as deemed suitable by the division.

This rule is intended to implement Iowa Code section 556.20.

781—9.29(556) Certification of entitlement by claimant. The claimant shall affirmatively certify that the claimant is the true owner of the unclaimed property and agree to hold harmless and indemnify the division, its employees, and the state in the event of a superior claim to such property by another claimant or person.

This rule is intended to implement Iowa Code section 556.19.

781—9.30(556) Claims by holders for owner reimbursements. A holder may request payment from the division under the circumstances set forth below. Regardless of whether the holder is represented by a bona fide third party, the claim must be signed by an officer of the holder. A third party may not act on behalf of the holder to request payment from the division unless such third party provides evidence satisfactory to the division in its sole discretion that such third party is acting as the holder's bona fide representative through general power of attorney, court designation, or similar legal authority. The division may, in its sole discretion, establish a policy which allows a transfer agent or a reporting agent to sign a holder reimbursement subject to meeting all the requirements set forth by the division under that policy. The establishment of such a policy shall not be construed as creating any right or entitlement of transfer or of reporting agents to sign holder reimbursements, and any such policy may be rescinded or modified at any time at the sole discretion of the division.

9.30(1) The holder has made payment to the apparent owner and filed proof of payment with the division for such a reclaimed asset. As a condition precedent to receiving reimbursement from the division, the holder shall assume liability for the reclaimed assets and indemnify and hold harmless the division from all future claims related to the reclaimed assets.

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9.30(2) The holder directs the division to make payment directly to the rightful owner. The holder shall assume liability for the claimed asset and indemnify and hold harmless the division from all future claims related to the claimed asset.

9.30(3) The holder reported the asset in error. As a condition for receiving reimbursement from the division, the holder shall assume liability for the reclaimed asset and indemnify and hold harmless the division from all future claims related to the reclaimed asset.

This rule is intended to implement Iowa Code section 556.19.

781—9.31(556) Claims to custodial property under the Iowa UTMA or similar Acts.

9.31(1) A claim to custodial property may be made by the custodian of the property, or the legal representative thereof, provided that the minor has not yet reached the age of 21 years.

9.31(2) Upon reaching the age of 21 years, a minor may file a claim to custodial property.

This rule is intended to implement Iowa Code section 556.19.

781—9.32(556) Claim of another state to property in the custody of the treasurer of state.

9.32(1) If property is received by the division and the division is aware that the property is subject to a superior claim of another state, the division may:

- a. Report and deliver the property to the other state; or
- b. Return the property to the holder so that the property may be paid or delivered to the other state.

9.32(2) Except for an agreement to indemnify the state of Iowa, no formal agreement shall be required of the division to undertake such transfer to the correct state.

This rule is intended to implement Iowa Code section 556.20.

781—9.33(556) Claimant interest in unclaimed property.

9.33(1) The division shall have the exclusive authority to determine a claimant's interest in unclaimed property.

9.33(2) Absent an order of a court of competent jurisdiction or by operation of the Iowa probate code or other applicable law, an owner's interest in unclaimed property held by the division may not be transferred to a third party except in the following circumstances:

- a. As a remnant asset in bankruptcy;
- b. Under an agreement that assigns the apparent owner's interest in the unclaimed property where the agreement is otherwise valid and meets the following criteria:
 - (1) The agreement is made at least 24 months after the date payment or delivery is made under Iowa Code section 556.13;
 - (2) The agreement is in writing and signed by the apparent owner; and
 - (3) The agreement discloses the nature and value of the property and the name and address of the person in possession of the property.

9.33(3) For the purposes of the Act, a money judgment against an apparent owner does not create an interest in the specific property held by the division on behalf of the apparent owner.

This rule is intended to implement Iowa Code section 556.19.

781—9.34(556) Approval of claims. Each claim submitted to the division is subject to the approval process outlined below. Claims over a cash value of \$5,000 must be authenticated either electronically or through such other or additional approval process as may be determined by the division. The treasurer may enter into a contract with a suitable third party that provides identity authentication. Claims over a cash value of \$5,000 must receive an additional level of approval from a division manager.

9.34(1) Cash claims that pass electronic authentication will be considered approved. The treasurer may implement a dollar threshold which would require a review by a division staff person.

9.34(2) Cash claims not subject to the dollar limit threshold that do not pass electronic authentication will be subject to one level of approval by division staff authorized to approve claims at this level. If the claimant does not provide adequate documentation, division staff will communicate with the claimant

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explaining what documentation is missing. Level One approval shall then be applied only if all required documentation is subsequently submitted by the claimant.

9.34(3) Cash claims subject to the dollar limit threshold, claims involving the transfer of stock or mutual fund share, or claims involving the delivery of safe deposit box contents will be subject to two levels of approval by division staff authorized to approve claims. If the claimant does not provide adequate documentation, division staff will communicate with the claimant explaining what documentation is missing. Level One approval shall then be applied only if all required documentation is subsequently submitted by the claimant. Level Two approval shall be obtained from the division staff person(s) designated to approve claims at this level.

This rule is intended to implement Iowa Code section 556.19.

781—9.35(556) Process for payment of claims.

9.35(1) Claims shall be paid as follows:

a. In the case of cash claims, final approval shall cause the claim to become part of the settlement process. The settlement file will be submitted to the department of administrative services for payment. State warrants will be mailed or may be obtained from the treasurer's office. At the treasurer's discretion, the division may electronically deliver funds to a claimant's financial institution account.

b. In the case of a claim requiring the transfer of securities, final approval shall result in the division's sending a letter to a third-party agent responsible for the transfer of ownership of the stocks/mutual funds, instructing the agent to have ownership of the appropriate number of shares of the property reregistered in the name of the claimant.

9.35(2) In the case of safe deposit box contents that have not been liquidated, the claimant may assume physical custody of the contents from the division. The claimant may also request that the contents be mailed to the claimant. Any contents mailed to claimants will be sent via the United States Postal Service (USPS) or other suitable delivery service. The division is not responsible for items lost, damaged, or not delivered by the delivery service.

9.35(3) Payment for all claims made to an owner who has been assisted by a finder shall be made only to the owner and in no instance to the finder.

This rule is intended to implement Iowa Code section 556.19.

781—9.36(556) Surety bonds. If the property subject to claim is a security and the original stock certificate is not available, in addition to the documentation required by rules 781—9.25(556) and 781—9.26(556), the claimant may be required to complete the Affidavit of Lost Certificate. The treasurer of state may require the claimant to furnish the treasurer with a surety bond containing terms and provisions acceptable to the treasurer and issued by a corporate surety. The claimant shall be responsible for all premiums, costs, fees or other expenses associated with any such surety bond.

This rule is intended to implement Iowa Code section 556.20.

781—9.37(556) Examination of holders. The division may conduct an examination of a holder if the division has reason to believe a holder has failed to report or has underreported unclaimed property pursuant to the Act.

9.37(1) *Examination and review.* The treasurer may authorize employees of the treasurer and contract auditors to conduct examinations and review records in the course of an examination.

9.37(2) *Examination entrance letter.* The division shall send an examination entrance letter to holders selected for examination.

9.37(3) *Examination records request.* Holders subject to examination are required to comply with any and all requests for records that are made by the division or any contract auditor conducting an examination.

9.37(4) *Examination entrance conference.* The division, at its option, shall conduct an examination entrance conference with a holder prior to the commencement of an examination, at which the division shall identify the examination period and describe the general examination methods that will be used including, but not limited to, any estimation techniques that may be utilized.

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This rule is intended to implement Iowa Code section 556.23.

781—9.38(556) Estimation. The division may use estimation techniques where no holder records exist or the records are insufficient to determine the holder's obligation due pursuant to the Act.

9.38(1) *Report of the examination findings.* Upon completion of an examination, the division shall provide a written report reflecting the total unclaimed property reporting liability and, pursuant to the Act, any interest due on amounts due and owing for failure to report and deliver property due and payable for prior years. The division has the discretion to hold a conference with the holder to provide the written report.

9.38(2) *Delivery of examination findings by the holder.* The holder shall deliver to the division within 30 calendar days any unclaimed property and interest due to the division based upon the examination findings.

9.38(3) *Examination closure letter.* Upon receipt of the examination report and delivery of unclaimed property resulting from the examination, the division shall issue an examination closure letter informing the holder that the examination is closed.

This rule is intended to implement Iowa Code section 556.23.

781—9.39(556) Appeal of examination findings. A holder may appeal the examination findings of the division.

9.39(1) The holder may utilize the appeals process after receipt of the examination report from the division.

9.39(2) Failure to submit the appeal request within 30 calendar days shall constitute an acceptance of the total unclaimed property reporting liability findings.

9.39(3) The holder shall submit to the division a written request for an appeal along with all supporting documentation.

9.39(4) The division shall contact the holder and schedule an appeal meeting within 20 calendar days of receipt of the holder's appeal request.

9.39(5) An appeal review shall be conducted at which time the holder shall present evidence supporting the holder's basis for the appeal.

9.39(6) Based on the evidence and additional information presented during the appeal, the division will render a decision. Such final decision will be written and sent to the holder within 30 calendar days of the appeal meeting.

9.39(7) The holder shall file a report with the division and deliver unclaimed property to the division reflecting the unclaimed property reporting liability and interest due on amounts due and owing as determined by the division within 30 calendar days.

This rule is intended to implement Iowa Code section 556.23.

781—9.40(556) Entering into contracts with contract auditors. The treasurer may enter into contracts with persons, pursuant to procedures prescribed by the treasurer, for the sole purpose of examining the records of holders to determine compliance with the Act. The treasurer may consider any relevant factors when entering into a contract for services requested in the performance of an unclaimed property examination.

This rule is intended to implement Iowa Code chapter 556.

781—9.41(556) Guidelines. Contract auditors shall adhere to the following guidelines.

9.41(1) Contract auditors shall not participate in examinations in which such participation could be construed or perceived as a conflict of interest. Should the contract auditor believe that the contract auditor could not conduct an assigned examination due to a conflict of interest or for any other reason, the contract auditor shall notify the division. The division shall then determine whether recusal of the contract auditor from the assignment is appropriate or necessary. If the contract auditor is recused from conducting the examination of a holder, another contract auditor may be assigned.

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9.41(2) Contract auditors shall maintain strict confidentiality of any nonpublic records or documents gathered during the course of an examination in accordance with the auditors' contract.

9.41(3) Contract auditors shall properly document their review and make their working papers gathered during examinations available on demand for review by the treasurer and the attorney general's office.

9.41(4) Upon request, contract auditors shall provide the holder with relevant copies of working papers supporting any calculation made of unclaimed property reportable and deliverable to the treasurer.

9.41(5) Contract auditors shall maintain working papers for a minimum of seven years following the completion of the examination assignment, the delivery of unclaimed property, the resolution of any appeal, or the finality of judgment in any litigation, whichever is later.

9.41(6) Contract auditors shall conduct examinations consistent with the Act and other applicable law, policies of the treasurer, generally accepted accounting principles, generally accepted auditing standards, and any relevant examination rules promulgated pursuant to the Act as they relate to the reporting and delivery of unclaimed property from holders or persons.

This rule is intended to implement Iowa Code chapter 556.

781—9.42(556) Holder voluntary disclosure of unreported property.

9.42(1) The division may offer a holder Voluntary Compliance Self-Audit (VCSA) program in order to facilitate compliance by holders that have never reported unclaimed property or have substantially underreported unclaimed property.

9.42(2) The operation of the VCSA program process will be conducted as follows. The division will promulgate terms, conditions and forms for the VCSA program. A holder shall provide all required information in the format determined by the division in order to participate in the VCSA program. The division will have the discretion to approve or reject a VCSA submission. An incomplete VCSA submission will result in disapproval of the submission.

9.42(3) The division will not impose any interest or penalties for property reported under an approved VCSA submission.

This rule is intended to implement Iowa Code chapter 556.

781—9.43(556) Holder amnesty program. The division may offer a holder amnesty program in order to facilitate compliance by holders that have never reported unclaimed property or have not reported in the last three years. The treasurer may provide notification of an amnesty program via the treasurer's Web site. The treasurer may waive interest and penalties for the amnesty program.

This rule is intended to implement Iowa Code chapter 556.

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